

The OpenText Cloud General Terms and Conditions and applicable Transaction Documents (defined below) form the complete agreement (together, the “**Agreement**”) regarding each transaction under which Client may order the Services (defined below). The Agreement is effective on the earlier of: (i) the date of the last signature on the applicable Transaction Document; or (ii) the date of Client’s online acceptance of the applicable Transaction Document (“**Effective Date**”). 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 Transaction Document.

1. **Definitions.**

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

1.2 “**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.

1.3 “**Authorized User**” means any employee or contractor of Client or other individual or entity who is authorized by Client to access and use the Services. Client may designate employees of its Affiliates as Authorized Users.

1.4 “**Confidential Information**” means any information disclosed by one party to the other party which: (i) is identified as confidential at time of disclosure; or (ii) if the circumstances of disclosure reasonably indicate such information should be treated as confidential.

1.5 “**Content**” means Client’s data (text, sound, video, or image files), materials, content, or any Client-provided applications or code uploaded, generated, stored, or transmitted by or on behalf of Client, or that Client derives from that data or code, as a part of Client’s use of the Services.

1.6 “**Client**” means the legal entity or individual that accepts the Agreement and is identified in the applicable TD.

1.7 “**Documentation**” means the user documentation provided or made available by OT for use of the Services. Documentation may include service descriptions that have additional terms or conditions applicable to a given Service (“**Service Description**”) and may be either integrated in a TD or can be found by accessing an OT website.

1.8 “**Infringement Claim**” means claims, suits, actions, or proceedings brought against Client in a court of competent jurisdiction by a third-party that allege an infringement by the Services of a third-party’s patent or copyright.

1.9 “**Services**” means the service offerings and professional services (e.g. implementation and training services) that OT provides and delivers to Client using cloud computing technology as purchased pursuant to a TD.

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

1.11 “**Transaction Document**” or “**TD**” means one or more documents providing the specifics of the transaction for the provision of Services, such as charges and a description of and information about the Services which: (i) is agreed by the parties; (ii) may be titled “Order”, “Order Form”, “Services Order Form”, “Schedule”, “Service Supplement” or comparable title; (iii) includes Documentation and may include other documents which are attached or incorporated by reference by the applicable TD; and (iv) is governed by the Agreement, including by incorporation by reference to a URL on an OT website.

2. **Ordering.** An order for Services may be placed by Client or a Client Affiliate. Client or the Affiliate accepts the applicable TD for Services by signing, ordering, enrolling, using, or making a payment. OT accepts the order by confirming the order or enabling access to the applicable Services.

3. **Services Term.** The initial term (“**Initial Term**”) of a Service 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 periods (each a “**Renewal Term**”), unless the Agreement is earlier terminated. 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.

4. **Services.**

4.1 **Provision of Services.** OT will provide the Services to Client pursuant to the Agreement. OT may employ its Affiliates and third parties worldwide in the performance of the Services and Support, and OT shall remain primarily responsible to Client in respect thereof.

4.2 **Changes.** If OT needs to make changes to its business, technology or services that require modifications to its rules of operation, access procedures, software, the Services, or the Documentation, OT will notify Client of such changes by email or by notification directly through the Services (e.g., on a Services login page or Client portal). If a change is anticipated to have a material effect on the documented functionality of the Services, OT: (i) will give reasonable advance notice identifying expected impact prior to implementing such change; and (ii) can discuss with Client ways to mitigate the impact of any such change.

5. **Client Responsibilities.**

5.1 **Usage.** During the applicable Services term, Client and its Authorized Users may access and use the Services in accordance with the Agreement and the Documentation. Usage is limited to the usage metrics and volumes stated in the applicable TD. Client is responsible for ensuring that it and its Authorized Users comply with these terms. Authorized Users will be identified by Client to OT.

5.2 **Connectivity.** Client is solely responsible for: (i) obtaining, installing, and maintaining the equipment, communication lines, and related support services necessary to access the Services; (ii) ensuring that its internet and telecommunications connections, hardware, devices, and software are secure and compatible with the Services; and (iii) any work performed by, and any acts or omissions of, its third-party contractors, as well as any defect or issue with the Services to the extent resulting from a third-party contractor’s work.

5.3 **Client Responsibilities.** Client shall be responsible for: (i) acts or omissions by its Affiliates and Authorized Users; (ii) maintaining the confidentiality of access credentials (including usernames, passwords, and keys) used by Client or its Authorized Users; (iii) ensuring compliance with the Agreement by each Authorized User; 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. Client is responsible for obtaining all necessary rights and permissions to permit processing of Content in the Service. Upon written notice to Client, OT may require Client's assistance in verifying usage of the Services in compliance with the terms of the Agreement.

6. Restrictions on Use.

6.1 Scope. Client and its Authorized Users shall only use the Services for Client's internal business operations and not for commercialization or to provide services or benefit to any third party. Only Client's Authorized Users may access and use the Services.

6.2 Use Restrictions. Client shall not: (i) exceed any usage limitations identified in the TD; (ii) assign, sell, resell, license, rent, lease, lend, sublicense, outsource or otherwise transfer rights to use or access the Services to third parties except as specifically permitted in the Agreement and applicable TD; (iii) create multiple free accounts under different or fake identities or otherwise that enables Client to exceed usage limits; (iv) 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 Client; (v) modify, reverse engineer, decompile, or otherwise attempt to discover the source code of any of OT's or its third-party vendors' software that may be included in the Services.

6.3 Exclusion. Client does not have any rights 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.

7. Evaluations. OT may provide the Services to Client for a limited time to try available functionality on a "Trial" basis (such as beta, evaluation, no-charge, or pre-release previews). Trial Services are provided for internal evaluation and testing purposes only, and not for any development, production, distribution or commercial purpose. The term of a Trial will be 30 days starting from the date access is provided, unless OT authorizes a different period in writing. Trial Services are provided "as is" and there are no warranties, service level agreements, or support provided. Client agrees to promptly report to OT all problems (including errors, failures, nonconforming results, and unexpected performances) with the Trial, and to timely respond to queries from OT regarding the outcomes of Client's Trial. OT may choose not to release a final version of the Trial Services or, even if released, to alter prices or Services characteristics. OT's entire liability for all claims related to the Trial will not exceed the amount of any actual direct damages incurred by Client up to U.S. \$5,000.00 (or equivalent in local currency), regardless of the basis of the claim.

8. Ownership.

8.1 Ownership Rights. Each party will retain all ownership rights to its previously existing intellectual property (including but not limited to trademarks, copyrights, patent rights and trade secrets). As between OT and Client, OT owns all right, title, and interest, in and to the Services and the Documentation. Client's only rights to the Services and Documentation are the rights and licenses expressly stated in the Agreement and no other rights are implied or granted. OT's copyright or other proprietary notices must remain on the Documentation and the Services.

8.2 Content. As between Client and OT, the Content belongs to Client and OT makes no claim to any right of ownership in the Content.

9. Content.

9.1 Controls. OT maintains organizational, technical, and physical security controls and procedures as provided in the TD and will safeguard the Content in accordance with such requirements. Content will not be disclosed other than to OT employees, affiliates, contractors, and suppliers, who will access and use the Content to the extent necessary and solely for the purpose of providing and managing the applicable Services or as otherwise required by law.

9.2 Data Transmission. Where OT transmits Content to third parties on behalf of Client in the course of the performance of the Services in accordance with the Agreement, OT is not responsible for any disclosure of Content by any such third parties.

9.3 Client Obligations. Client 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 Client. Client 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 included in the Services; and (iv) for ensuring that OT has the right to use the Content for the purpose of performing the Services.

9.4 Additional Measures. If any Content may be subject to governmental regulation or may require security measures beyond those specified by OT for the Services, Client 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.

9.5 Retention. Any applicable retention period and/or any return service for Content provided with the Services and any fees payable by Client therefor will be as specified in the applicable TD. Except as expressly provided in the applicable TD, OT has no obligation to retain, delete, or return any Content upon the expiry or termination of the Services. 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.

10. Professional Services.

10.1 Professional Services. Client and OT shall cooperate in good faith to complete professional Services in a timely and professional manner. Client's failure to adhere to schedules or complete tasks within Client's control, or failure to provide timely access to facilities, equipment, environments, staff, technology or complete and accurate information may delay completion of the Services and OT shall not be liable for any delays or inability to complete the Services to the extent caused by Client's non-compliance with this Section.

10.2 Work Product. OT will retain all ownership rights to any work product created in and to the Services and the Documentation and any deliverables created as part of professional services.

10.3 Acceptance Testing. If a TD specifies an acceptance test, OT will notify Client when a deliverable is ready for review. Client and OT will then perform an agreed acceptance test ("**Acceptance Test**") within the agreed time period defined in the TD ("**Acceptance Period**"). Acceptance will occur when the deliverable meets all material requirements defined in the TD for the Acceptance Test. Client will notify OT promptly in writing of Client's acceptance. If Client 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. If Client notifies OT in writing within the Acceptance Period that the deliverable does not meet in all material requirements of the written specifications in the TD and describes the deficiencies in sufficient detail for OT to identify or reproduce them, OT will work diligently to correct and redeliver the affected deliverable.

11. Data Protection.

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

11.2 Technical and Organizational Measures. If and to the extent that OT processes personal data on behalf of Client 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 Client, OT shall forward these requests to the named Client's email address on file with OT as soon as reasonably practicable.

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

12. Suspension.

12.1 Suspension. OT may suspend or limit in time or scope, Client's use of the Services or Content to the extent necessary, if OT reasonably determines there is: (i) a material breach of Client's access, usage, Content, data protection, payment, or export obligations; (ii) a security breach or regulatory concern, or any portion of the Content contains material that is harmful to OT's systems (e.g., a virus), or other reasonable belief that Client's use poses a threat to the Service's security or integrity; or (iii) a violation of law. OT may suspend access and use rights where Client fails to make payments when due and such failure continues for thirty (30) days after written notice from OT of such failure.

12.2 Notice; Remediation. OT will provide written notice prior to a suspension as commercially reasonable, appropriate, and lawfully permitted. If the cause of a suspension can reasonably be remedied, OT will (i) provide notice of the actions Client must take to reinstate the Services; (ii) use commercially reasonable efforts to suspend for the shortest duration reasonably necessary; (iii) as practical, coordinate with Client in good faith to mitigate or resolve the issues identified that required suspension; and (iv) resume the Services after issue resolution substantially as they existed at the time of suspension. If Client fails to take such actions within a reasonable time, OT may terminate the Services.

13. Termination of the Agreement.

13.1 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 5 (Client responsibilities), 6 (Restrictions on use), 8 (Intellectual property), 9 (Content), 11 (Data protection), or 18 (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 Services term.

13.2 Actions Upon Termination. Upon any termination of the Agreement or the effective date of expiration of a TD: (i) OT shall cease to perform the Services; (ii) Client's right to use the Services will end and Client shall immediately pay all accrued fees and charges; (iii) Client will immediately either return to OT or destroy all copies of the Documentation; (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 9 (Content) above.

13.3 Survival. The following provisions shall survive termination or expiration of the Agreement: Sections 5 (Client responsibilities), 6 (Restrictions on Use), 8 (Ownership), 9 (Content), 11 (Data Protection), 14 (Fees, Payment and Taxes), 15 (Warranties), 16 (Indemnification), 17 (Limitation of Liability), 18 (Confidentiality), and any provisions that by their nature should survive termination.

14. Fees, Payment and Taxes.

14.1 Fees. Client shall pay OT the fees and charges specified in the TD for its use of the Services as recorded by OT's systems, including any applicable overage and other charges and fees; plus 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 ("**Applicable Taxes**"). Except as otherwise provided in the Agreement, all fees are non-refundable.

14.2 Invoicing. 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 annual increase of up to ten percent (10%) after the first year of the Initial Term, which will be applied annually during the Initial Term and Renewal Terms.

14.3 Payments. 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 Client and not paid when due shall accrue interest at the rate of one and one-half percent (1.5%) per month or, if lower, the highest rate permitted by the governing law defined in Section 20.2.2. If Client has a bona fide dispute with any charge, it will make timely payment of all undisputed charges pending resolution of the disputed charge, which the parties agree to undertake promptly. If undisputed invoiced amounts remain unpaid following at least 10 days written notice by OT, and if the invoiced amounts remain unpaid for 30 days after such notice, OT may (reserving all other legal remedies and rights) terminate the Agreement without further prior notice. Client shall bear all of OT's costs of collection of overdue fees, including reasonable attorneys' fees.

14.4 Taxes. All prices, fees and charges are exclusive of Applicable Taxes which shall be assumed and paid by Client on provision of a tax invoice. Client is responsible for providing OT with all Tax Registration Numbers and copies of applicable Registration Certificates. Client is responsible for self-assessing any Applicable Taxes in accordance with applicable laws. Client is responsible for applying withholding tax, and/or similar taxes on payment to OT. Client 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. Client 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 Client will withhold for such reasons.

15. Warranties.

15.1 Limited Warranty. OT warrants that the Services will be performed using commercially reasonable care and skill and in substantial conformance with the TD.

15.2 Warranty Disclaimer. THE FOREGOING IS A LIMITED WARRANTY, AND EXCEPT AS SET FORTH HEREIN AND TO THE EXTENT PERMITTED BY LAW, OT DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, OF SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF USAGE, TRADE PRACTICE, PERFORMANCE OR COURSE OF DEALING. OT DOES NOT WARRANT THAT THE SERVICES WILL MEET CLIENT'S REQUIREMENTS, THAT OPERATION WILL BE UNINTERRUPTED, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE, OR WORK IN COMBINATION WITH ANY OTHER SOFTWARE, APPLICATIONS, OR SYSTEMS, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. CLIENT ASSUMES THE RESPONSIBILITY TO TAKE ADEQUATE PRECAUTIONS IN HIGH RISK APPLICATIONS AGAINST DAMAGE TO ITS CONTENT OR OPERATIONS THAT COULD BE CAUSED BY SERVICES DEFECTS, INTERRUPTIONS, OR MALFUNCTIONS.

15.3 Warranty Remedy. Client's sole remedy under the foregoing warranty is the correction of errors in the affected Services after written notice from Client to OT describing such errors in detail or, at the election of OT, a pro rata refund of the fees paid by Client for the particular portion of the Services which is in error.

16. Indemnification.

16.1 Indemnification. OT will defend Client from any Infringement Claim to the extent it arises from Client's use of the Services in accordance with the provisions of the Agreement, and pay amounts finally awarded by a court against Client or included in a settlement approved by OT, and reasonable Infringement Claim defense costs incurred which have been pre-approved prior to notifying OT in writing.

16.2 Requirements. To obtain OT's defense against and payment of Infringement Claims, Client must: (i) notify OT in writing promptly after Client becoming aware of an Infringement Claim; (ii) supply information reasonably requested by OT and provide reasonable assistance to OT in connection with the defense of the Infringement Claim; (iii) allow OT to control the defense and settlement of the Infringement Claim; (iv) not agree to any settlement without OT's written pre-approval or make any admission against OT's interests; and (v) not be in material breach of the Agreement to the extent the breach caused the claim. OT will obtain Client's prior consent for any settlement that includes an admission of Client's liability.

16.3 Remedies. If the Services become, or in OT's opinion may become, the subject of an Infringement Claim, OT may replace or modify the affected Service to be non-infringing and have materially equivalent functionality or procure for Client the right to continue using it through the end of the current Services term. If neither alternative is reasonably available, OT may terminate the Services and refund the balance of any pre-paid amount for the affected Services not available for Client's continued access and use. OT's entire liability and Client's sole and exclusive remedy with respect to any Infringement Claim shall be limited to OT's defense obligations and remedies set forth in this Section 16.

16.4 Exclusions. OT has no responsibility for Infringement Claims to the extent based on: (i) any Content, materials, data or information that an Authorized User uses with a Service or derives from its use of the Service; (ii) modification of a Service by any party other than OT; (iii) the combination or use of a Service with items not provided by OT; (iv) Client's unauthorized use of a Service; (v) OT's proper use of any Client-specified third party product or service; or (vi) open-source software embedded in a Service.

16.5 Client Indemnification. Client shall defend 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) customized configurations or designs provided by Client or performed at Client's direction; or (iii) Client's or any Authorized User's breach of the Agreement or the AUP.

17. Limitation of liability.

17.1 Limitation on Indirect Liability. To the extent permitted by applicable law and subjects to Section 17.3, neither party will be liable for: (i) indirect, incidental, special, consequential, or punitive damages; or (ii) lost revenues, profits, savings, or goodwill, or costs of recovery or replacement of data or services cost of substitute services.

17.2 Limitation on Amount of Liability. Except as set forth in Section 7 (Evaluations) and Section 17.3 (Unlimited Liabilities), the maximum aggregate liability of either party for all events (or series of connected events) arising in any 12-month period will not exceed the annual fees paid for the applicable Service associated with the damages for that 12-month period. Any "12-month period" commences on the Initial Term start date or any of its yearly anniversaries.

17.3 Unlimited Liabilities. Nothing in the Agreement shall exclude or limit either party's liability for: (i) its willful misconduct or fraudulent misrepresentations; (ii) its obligations under Section 16 (Indemnification); (iii) its infringement or unauthorized use of the other party's intellectual property rights; (iv) its payment obligations under the Agreement; or (v) matters for which liability cannot be excluded or limited by applicable law.

17.4 Scope. The limitations and disclaimers in this Section 17 apply to all causes of action, including but not limited to, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and other torts. The remedies specified in the Agreement are the parties' exclusive remedies regardless of the basis of the claim.

18. Confidentiality. Confidential Information exchanged between the parties in connection with the Agreement may only be used for the purpose of fulfilling obligations or exercising rights under or in connection with the Agreement, and without the disclosing party's consent may only be shared with Affiliates, professional advisers, agents, or contractors with a need to know such information to support that purpose, and who are contractually bound to protect its confidentiality. Confidential Information will be protected using a reasonable degree of care to prevent unauthorized use or disclosure for three (3) years from date of receipt. These obligations do not cover information that: (i) becomes publicly available without breach of the Agreement; (ii) was known or becomes known to the receiving party without a duty of confidentiality; (iii) is disclosed with the disclosing party's prior written consent; (iv) is Content, which is governed by Section 9 (Content) above; (v) is independently developed by the receiving party; or (vi) where disclosure is required by law, by a court or a regulatory body. Should the receiving party be required to reveal Confidential Information under legal or governmental process, the receiving party will provide reasonable prior notice to the disclosing party (where lawfully permitted) so that disclosing party may request a protective order, if available. Each receiving party is responsible for any actions of its employees, Affiliates, professional advisers, agents and contractors in breach of this Section 18.

19. 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 Client regarding the portions of the Service they provide). Access to such reports or other audit activities requested by Client, or any data protection authorities having jurisdiction over Client 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 Client. If Client 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 Client requires functionality that 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.

20. Miscellaneous.

20.1 Entire Agreement; Amendment; Waiver. The Agreement represents the entire agreement of the parties, and supersedes any course of dealing, discussions, or representations between the parties. Client's purchase orders do not supersede or amend the Agreement or any TD. Any amendment of the Agreement must be in writing and signed by both parties. No waiver constitutes a waiver of any prior or subsequent breach.

20.2 OT Contracting Entity; Governing Law; Venue.

20.2.1 Governing law; venue. The Agreement is governed by the laws of the applicable jurisdiction of the OT Contracting Entity as specified below 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.

<u>If the OT Contracting Entity is domiciled in:</u>	<u>The governing Law is:</u>	<u>Venue lies exclusively in courts sitting in:</u>
The United States of America	Delaware and controlling United States federal law	Delaware, USA
Canada	Ontario and controlling Canada federal law	Toronto, Ontario, Canada
Mexico	Mexico	City of Mexico, Mexico
Brazil	Brazil	City of São Paulo, São Paulo, Brazil.
Any country in the Americas except where otherwise listed in this table	Delaware and controlling United States federal law	Delaware, USA
England	England and Wales	England and Wales
France	France	Tribunal De Commerce De Nanterre, France
Germany	Germany	Munich, Germany
Any country in Europe, the Middle East, or Africa except where otherwise listed in this table	England and Wales	England and Wales
Australia or New Zealand	New South Wales, Australia and controlling Australian federal law	New South Wales, Australia
India	India	Bengaluru (Bangalore), India
Japan	Japan	Tokyo, Japan
Any country in Asia, East Asia or South Asia (other than India, Japan, Australia, or New Zealand)	Singapore	Singapore
All other countries	Delaware and controlling United States federal law	Delaware, USA

20.2.2 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).

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

20.3 Governing Law Specific Terms. The Governing Law Supplemental Terms found at Exhibit A specifies certain country-specific terms that modify and/or add to this Agreement.

20.4 Interpretation. In the event of any conflict or inconsistency among the documents that constitute the Agreement, the following order of precedence applies: (i) the TD; (ii) other documents incorporated by the applicable TD; and (iii) these Cloud General Terms and Conditions.

20.5 Relationship of the Parties. The relationship of the parties created by the Agreement is that of independent contractor and not that of employer/employee, principal/agent, partnership, joint venture or representative of the other. Neither party is authorized to make any representation, contract or commitment on behalf of the other party.

20.6 Services Statistics. OT may use statistical information related to the Services ("**Services Statistics**") (excluding any Client personal data) for service improvement, to provide Client with reports on its use of the Services, and to compile statistics and usage patterns by clients using the Services.

20.7 Artificial Intelligence. To the extent Client uses any artificial intelligence features or components made available by OT as part of the Services, the additional terms available at www.opentext.com/en/media/documentation/opentext-artificial-intelligence-documentation-en.pdf shall apply to such use.

20.8 Client Feedback. Client agrees that, should it provide OT with any feedback or suggestions regarding the Services or Support ("**Feedback**"), OT and its Affiliates will be free to use all such Feedback, including (but not limited to) all intellectual property rights in and to such Feedback, in their discretion and for any purpose, without obligation of any kind to Client.

20.9 Third Party Rights. No right or cause of action for any third party is created by the Agreement or any transaction under it.

20.10 Resellers. OT's obligations with respect to products or services supplied by OT and procured by Client from an authorized OT reseller are limited to the terms and conditions in this Agreement and the Documentation. With purchases from a reseller, the applicable pricing and payment terms are as set out in the separate agreement between Client and the reseller, and any terms in this Agreement related to OT pricing, invoicing, and payments shall not apply. OT is not responsible for the acts or omissions of the reseller, or for any other products or services that it supplies to Client.

20.11 Assignment. Neither party may assign or otherwise transfer the Agreement (or any of its rights or obligations) under the Agreement, in whole or in part, without the prior written consent of the other. However, transfers or assignments by OT to an Affiliate, or in conjunction with the sale of the portion of OT's business that includes a Service, are not restricted.

20.12 Publicity. Neither party will use in any advertising, publicity, promotion, marketing, or other similar activity, any name, trade name, or trademark, of the other party without that party's prior written consent.

20.13 Export Laws. The Services and Documentation may be subject to export control laws of Canada, the United States, the European Union, or other countries. Client agrees to comply with all applicable export and import regulations, including, but not limited to the Export Administration Regulations maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the U.S. Treasury Office of Foreign Assets Control and end-user and destination restrictions issued by the U.S. and other governments, and will not allow use of the Services in a manner that breaches or facilitates the breach of such regulations. Client shall not provide access to the Services, Documentation or Content to any end user or region or country where transactions are prohibited by trade control sanctions or blocking measures.

20.14 Force Majeure. Neither party will be liable for delay or failure to fulfill its non-monetary obligations due to causes beyond its reasonable control, including but not limited to acts of God, natural disasters, epidemics or other public health emergencies, terrorism, unavailability of third-party communication facilities or energy sources, riots, or war.

20.15 Notices. All notices must be in writing and given by nationally recognized courier service, or electronic transmission and addressed to the law department at the address specified in the TD unless a party designates in writing a different address and shall be effective when received.

20.16 Legal Review and Interpretation. Both parties have had an opportunity for legal review of the Agreement. The parties agree that the Agreement result from negotiation between the parties. The 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 term section refers to all subsections below a section heading (i.e. 3.0) and the term subsection refers to sequentially numbered subsections following a section (i.e. 3.1). 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, and the remaining provisions of the Agreement shall remain in effect.

20.17 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, and the remaining provisions of the Agreement shall remain in effect.

20.18 Governing Language. The Agreement shall be prepared and interpreted in the English language. Any translation is for the purpose of convenience only, and any language inconsistency or difference of interpretation arising from language translation will be resolved in favor of the English language version. (For Canada: Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents et avis qui s'y rattachent ou qui s'y rattacheront, soient rédigés en langue anglaise. (Translation: The parties confirm that this Agreement and all related documentation is and will be in the English language)).

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Exhibit A
to the OpenText Cloud GTC
Governing Law Specific Terms

This Exhibit A specifies terms that modify and/or add to the GTC when the relevant governing law specified below applies to the GTC.

Governing Law: **Laws of Germany**

1. Modification of Section 7 (Evaluations)

Section 7 Evaluations will be amended as follows:

Evaluations. OT may provide the Services to Client for a limited time to try available functionality on a “**Trial**” basis (such as beta, evaluation, no-charge, or pre-release previews). Trial Services are provided for internal evaluation and testing purposes only, and not for any development, production, distribution or commercial purpose. The term of a Trial will be 30 days starting from the date access is provided, unless OT authorizes a different period in writing. Trial Services are provided “as is” and there are no warranties (except in cases where OT fraudulently conceals a defect, or in cases where OT provides written guarantees), service level agreements, or support provided. Client agrees to promptly report to OT all problems (including errors, failures, nonconforming results, and unexpected performances) with the Trial, and to timely respond to queries from OT regarding the outcomes of Client’s Trial. OT may choose not to release a final version of the Trial Services or, even if released, to alter prices or Services characteristics. OT shall be liable without limitation (i) in the event of intentional acts; (ii) in the event of damage or loss arising from death or personal injury irrespective of the level of culpability; (iii) in case OT has issued a written guarantee; or (iv) in case of fraudulent concealment of defects. In all other cases OT’s entire liability for all claims related to the Trial will not exceed the amount of any actual direct damages incurred by Client up to U.S. \$5,000.00 (or equivalent in local currency), regardless of the basis of the claim.

2. Modification of Section 10 (Professional Services), Subsection 10.3

The following clauses are added at the end of Subsection 10.3:

“Acceptance shall only be applicable for professional 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 professional 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.”

3. Modification of Section 15 (Warranties)

Section 15 Warranties shall be entirely replaced by the following provisions:

15. Warranties.

15.1 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.

15.2 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 professional services, OT will reperform the affected portion of the professional services at no additional charge to Client, after Client has notified OT in writing of a breach of this warranty within 30 days of performance.

15.3 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 Client’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: (i) Content or the content of third parties or from services provided by third parties on behalf of Client; or (ii) Client’s failure to provide appropriate operating environment according to Section 5.2 necessary for the Services in accordance with the Documentation. In case of a default of the Services for which OT is responsible, Client shall notify OT immediately, but at the latest within 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 Client’s warranty claims and rights arising from the respective default are excluded, insofar as they are recognizable for the Client.

15.4 In response to a complaint pursuant to Section 15.3, 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 2 opportunities to effect rectification, Client may at its option: (i) demand a reduction of the Fees; or (ii) withdraw from and/or terminate solely the affected parts of respective Agreement. In case of withdrawal or termination Client may assert a claim for compensation of damages or futile expenditures suffered within the limitations of Section 17 of the Agreement. Withdrawal shall be excluded in case of insignificant defaults in the Services. All warranty claims and rights of Client 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 15.3.

15.5 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.

4. Modification of Section 16 (Indemnification)

Section 16 Indemnification shall be modified as follows:

16. Indemnification.

16.1 Indemnification. OT will defend Client from any Infringement Claim to the extent it arises from Client’s use of the Services in accordance with the provisions of the Agreement, and pay amounts finally awarded by a court against Client or included in a settlement approved by OT, and reasonable Infringement Claim defense costs incurred which have been pre-approved prior to notifying OT in writing.

16.2 Requirements. To obtain OT’s defense against and payment of Infringement Claims, Client must: (i) notify OT in writing promptly after Client becoming aware of an Infringement Claim; (ii) supply information reasonably requested by OT and provide reasonable assistance to OT in connection with the defense of the Infringement Claim; (iii) allow OT to control the defense and settlement of the Infringement Claim; (iv) not agree to any settlement without OT’s written pre-approval or make any admission against OT’s interests; and (v) not be in material breach of the Agreement to the extent the breach caused the claim. OT will obtain Client’s prior consent for any settlement that includes an admission of Client’s liability.

16.3 Remedies. If the Services become, or in OT's opinion may become, the subject of an Infringement Claim, OT may replace or modify the affected Service to be non-infringing and have materially equivalent functionality or procure for Client the right to continue using it through the end of the current Services term. If neither alternative is reasonably available, OT may terminate the Services and refund the balance of any pre-paid amount for the affected Services not available for Client's continued access and use. OT's entire liability and Client's sole and exclusive remedy with respect to any Infringement Claim shall be limited to OT's defense obligations and remedies set forth in this Section 16.

16.4 Exclusions. OT has no responsibility for Infringement Claims to the extent based on: (i) any Content, materials, data or information that an Authorized User uses with a Service or derives from its use of the Service; (ii) modification of a Service by any party other than OT; (iii) the combination or use of a Service with items not provided by OT; (iv) Client's unauthorized use of a Service; or (v) OT's proper use of any Client-specified third party product or service.

16.5 Client Indemnification. Client shall defend 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) customized configurations or designs provided by Client or performed at Client's direction; or (iii) Client's or any Authorized User's breach of the Agreement or the AUP.

16.6 Timing. Any claim by Client under this Section 16 shall become time-barred 12 months after Client becomes aware of the circumstances giving rise to the claim or would have become aware if Client had not shown gross negligence.

5. Modification of Section 17 (Limitation of liability)

Section 17 Limitation of liability shall be entirely replaced by the following provisions:

17. Limitation of liability

Either party'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:

17.1 Unlimited liability. Either party shall be liable without limitation: (i) in the event of intentional acts; or (ii) in the event of damage or loss arising from death or personal injury irrespective from the level of culpability; (iii) in case either party has issued a guarantee; (iv) in case of fraudulent misrepresentation; (v) its obligations under Section 16 (Indemnification); (vi) its infringement or unauthorized use of the other party's intellectual property rights; (vii) its payment obligations under the Agreement; or (viii) liability under the German Product Liability Act (ProdHaftG).

17.2 Cardinal obligations, gross negligence

17.2.1 Either party shall be liable in case of a material breach of contractual obligations which jeopardizes attainment of the contractual purpose (cardinal obligations) to the extent that either party acted grossly negligent.

17.2.2 The parties agree that either party's liability for cardinal obligations under Section 17.2.1 shall be limited in the aggregate to 200% of the fees paid by Client to OT during the 12 months immediately preceding the event causing the damage.

17.2.3 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 either party's liability for cardinal obligations shall be limited to 100% of the fees paid by the Client for the entire Agreement Term.

17.3 Cardinal obligations, simple negligence

17.3.1 Either party 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.

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

17.3.3 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 either party's liability for cardinal obligations shall be limited to 50% of the fees paid by the Client for the entire Agreement Term.

17.4 Other cases. Except for the liability specified in Sections 17.1, 17.2, 17.3, either party's liability shall be excluded.

17.5 Indirect and consequential damages. Either party shall not be liable for consequential and indirect damages, except where required under Sections 17.1, 17.2 or 17.3.

17.6 Data backup. The Client is responsible for regular backup of its data and to protect its operating environment according to Section 5.2 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 Client and for reconstructing the data which would have been lost even if backup copies had been created at adequate regular intervals.

17.7 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.

17.8 In the event of willful act or gross negligence of OT, in case of fraudulent misrepresentation, physical injury, guarantees (Section 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 1 year. Section 438 para. 1 No. 1 lit. a) BGB remains unaffected by this provision. All claims under Section 16 shall become time-barred in accordance with Section 16.6. 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 2 years, except that an action for non-payment or infringement of OT's intellectual property rights and trade secrets may be brought at any time. Statute of limitation shall commence at the time at which the Client has become aware of the circumstances giving rise to the claim or ought to have been aware (without acting with gross negligence).

6. Modification of Section 20.17 (Severability)

Section 20.17 Severability shall be entirely replaced by the following provision:

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.

7. Modification of Section 20.18 (Governing language)

Section 20.18 Governing language shall be entirely replaced by the following provision:

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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