

## **Third-Party Services Terms for End Users**

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The use of certain third-party services or software ("Third-Party Services") resold by Open Text, Inc., or any of its affiliate entities ("Open Text") directly or through an authorized partner of Open Text is governed by the following terms and conditions: (a) any order documentation provided by Open Text ("Order"); and (b) the terms and conditions found below (these "Terms", and together with the Order, the "Agreement"). In the event of any conflict between the Terms and the Order, the language of the Order will govern and control.

The term of the Agreement shall be contemporaneous with the subscription term of the Order to the Third-Party Services and any renewals related thereto. Open Text may modify these Terms from time to time, in which case the modified Terms will supersede prior versions. If Open Text makes any material changes to these Terms, as determined by Open Text at its sole discretion, Open Text will provide you with prior notice via a posting on Open Text's website and/or other communication to you. Your continued use of Third-Party Services after the date of the revised Terms shall constitute your acceptance of such revised Terms.

### **1. Applicability**

With respect to any Third-Party Services purchased directly from Open Text, all provisions of the Agreement shall apply. With respect to any Third-Party Services purchased from an authorized partner of OpenText, only Sections 2, 5, 6, 7, and 8 of these Terms and no other Sections of the Terms shall apply.

### **2. Third-Party Terms and Conditions**

Notwithstanding anything contained in the Agreement, you acknowledge that you are receiving the Third-Party Services directly from a third-party service provider of those services ("Third-Party Service Provider"). The Third-Party Services are subject to the Third-Party Service Provider's standard terms and conditions ("Third-Party Terms and Conditions"). Accordingly, you will look solely to the Third-Party Service Provider for any loss, claims or damages arising from or related to the provision and use of the Third-Party Services.

### **3. Payment**

Notwithstanding anything to the contrary contained herein, all payment obligations are non-cancellable and all amounts paid are non-refundable, and quantities purchased cannot be decreased during the relevant subscription term.

### **4. Renewal**

Unless otherwise agreed in writing, all subscriptions shall automatically renew unless Open Text receives written notice of intent not to renew 90 days prior to the end of the then-current term. If no renewal term is identified in the Order, the renewal term will be the same length of time as the subscription term specified in the Order.

### **5. Warranties**

You acknowledge that Open Text is not the provider of the Third-Party Services purchased by you and the only warranties offered, if any, are those of the Third-Party Services Provider. You acknowledge and agree that your decision to purchase Third-Party Services did not rely on any statements, specifications, or service descriptions of the Third-Party Services provided by Open Text.

OPEN TEXT MAKES NO, AND EXPRESSLY DISCLAIMS, ANY AND ALL WARRANTIES AND

REPRESENTATIONS OF ANY KIND, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, FUNCTIONALITY, MERCHANTABILITY, SATISFACTORY QUALITY, DURABILITY, ACCURACY AND/OR SYSTEM INTEGRATION, WHETHER EXPRESS, IMPLIED OR STATUTORY, ARISING OUT OF, OR RELATED TO, THE THIRD-PARTY SERVICES OR THE HARDWARE OR SOFTWARE USED TO DELIVER THE THIRD-PARTY SERVICES. FURTHERMORE, OPEN TEXT DOES NOT WARRANT THAT THE THIRD-PARTY SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR FREE, THAT ALL ERRORS WILL BE CORRECTED, OR THAT THE THIRD-PARTY SERVICES WILL MEET YOUR REQUIREMENTS. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY THIRD-PARTY SERVICE PROVIDER'S WARRANTY. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE. YOU ACKNOWLEDGE THAT NO REPRESENTATIVE OF OPEN TEXT IS AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY THAT IS NOT IN THE AGREEMENT.

## **6. Limitation of Liability**

YOU EXPRESSLY WAIVE ANY CLAIM THAT YOU MAY HAVE AGAINST OPEN TEXT BASED ON ANY PRODUCT LIABILITY OR INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS WITH RESPECT TO THE THIRD-PARTY SERVICES AND ALSO WAIVE ANY RIGHT TO INDEMNIFICATION FROM OPEN TEXT AGAINST ANY SUCH CLAIM MADE AGAINST YOU BY A THIRD PARTY.

UNDER NO CIRCUMSTANCES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH HEREIN, WILL OPEN TEXT, ITS AFFILIATES OR ITS OR THEIR SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: ANY INCREASED COSTS; DIMINUTION IN VALUE; LOSS OF PROFITS; LOSS OF SALES OR TURNOVER; LOSS OR DAMAGE TO REPUTATION, GOODWILL, BUSINESS, PRODUCTION, REVENUES OR SAVINGS; LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA; SOFTWARE OR SYSTEM SECURITY; COST OF REPLACEMENT GOODS OR SERVICES; OR ANY INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, PUNITIVE OR CONSEQUENTIAL DAMAGES, EVEN IF OPEN TEXT HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES OR IF SUCH DAMAGES ARE OTHERWISE FORESEEABLE, IN EACH CASE, AND WHETHER A CLAIM FOR ANY SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY OF LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY OF OPEN TEXT AND ITS DIRECTORS, OFFICERS, EMPLOYEES AND REPRESENTATIVES, FOR DAMAGES ARISING OUT OF OR RELATED TO THE THIRD-PARTY SERVICES EXCEED \$1,000.

ALL EXCLUSIONS AND LIMITATIONS IN THE AGREEMENT SHALL ONLY APPLY SO FAR AS PERMITTED BY APPLICABLE LAW.

## **7. Personal Data**

The Third-Party Services may collect certain personal data from you or your authorized users. You acknowledge and agree that Open Text has no liability or control over the personal data collected by the Third-Party Service Provider and, further, the processing of any personal data collected by the Third-Party Service Provider is solely subject to the Third-Party Services Terms and Conditions and any other terms and conditions agreed between you and the Third-Party Service Provider.

If Open Text collects any personal data from you or your authorized users arising from your purchase of the Third-Party Services, Open Text will process such personal data in accordance with Open Text's Privacy Policy.

## **8. Miscellaneous**

Neither party to this Agreement may assign this Agreement without the prior written consent of the other party, which will not be unreasonably withheld; provided however, that Open Text may assign this Agreement or assign or transfer its rights or obligations hereunder without consent to any affiliate or any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization, or otherwise. Any attempted assignment in violation of this Section is void. No provision of this Agreement will be deemed waived unless the waiver is in writing and signed by Open Text. This Agreement is the complete and exclusive statement of the mutual understanding between you and Open Text and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. No provision of any purchase order or other business form employed by you or on your behalf will supersede the terms and conditions of this Agreement, and any such document issued by you or on your behalf will be for administrative purposes only and will have no legal effect with regard to the modification of this Agreement or the Third-Party Terms and Conditions.