

# Open Text Inc. eDiscovery SaaS Terms and Conditions

## 1. DEFINITIONS

**1.1 "Authorized User"** means a single individual, employee or contractor of Customer, authorized to access and use the Services indicated in an applicable Services Order, and in each instance solely for the benefit of Customer. Each Authorized User will be identified by Customer to OT and assigned a unique login name/password before being provided access to the Services.

**1.2 "OpenText Core eDiscovery Services"** means OT's OpenText Core eDiscovery services consisting of online data hosting, processing, culling, filtering, consulting, electronic discovery, and document reproduction services and/or such other hosted eDiscovery services as Customer and OT may agree upon from time to time that are stated in the Services Order.

**1.2.1 "OpenText Core eDiscovery Active Storage and Unlimited User Review"** provides Customer on-going access and use of the data stored by the OpenText Core eDiscovery Service. If Customer Data is stored by OT at any time in a calendar month, Customer is responsible for paying the applicable storage fees for the entire calendar month. Storage fees are based on the size of all post-processed, uncompressed data that is received and processed by OT (all files, metadata, indexes as well as other files created as part of the review and production process). Data ingested but not published will be included in Storage until a specific request to delete this content is received.

**1.2.2 "OpenText Core eDiscovery Archive Storage"** means Customer Data either in an ECA, R&A, or Investigation database where the database is in a "turned off" status for the entire month (where month is measured from the first day of a calendar month through the last day of that calendar month).

**1.2.3 "OpenText Core eDiscovery Analytics"** includes ECA access, data publishing/enrichment and Predictive Coding. Data publishing/enrichment refers to the loading of data, concept identification and smart filters such as phrase extraction, foreign language identification, duplicate and near duplicate identification and thread identification. To clarify, data enriched means the size of the files that have been published to the OpenText Core eDiscovery application. Predictive Coding refers to machine learning, classification and iterations that follow OT's patented predictive coding process and technology, which can be applied to post-processed data sets and to the complete post-culled data set.

**1.2.4 "OpenText Core eDiscovery Ingestion"** includes traditional processing and extraction of metadata, full text, and the native file. Ingestion includes deNISTing and duplicate identification, but does not include near duplicate or thread identification, nor does it include entity extraction. To clarify, data ingested means the size of all uncompressed files processed. Ingestion fees will be chargeable in the calendar month the data is ingested and is subject to Active Storage and Unlimited User Review charges in the calendar month the data is ingested. If Customer has purchased OpenText Core eDiscovery ECA & Collection, Ingestion fees will not apply to data that is pre-culled in OpenText Core eDiscovery ECA. Ingestion fees do not apply to the loading of post-processed data in OpenText Core eDiscovery (for clarity, applicable analytics, storage, or production charges may apply).

**1.2.5 "OpenText Core eDiscovery Nearline Storage"** provides for ingested data that is segregated upon culling being moved to Nearline Storage status unless Customer provides written notice to OT that Customer desires to permanently remove the Customer Data or selects Archived Storage. A project will be restored to active status one (1) business day after receiving Customer's written request to return the project to active status.

**1.2.6 "OpenText Core eDiscovery Production"** includes all TIFFing, branding, bates stamping and native productions. This fee also includes unlimited non-production TIFFing and image productions, which is subject to a minimum charge of \$250 per Customer request.

**1.3 "Customer Data"** means all digital information and content that is submitted to the OpenText Core eDiscovery, OpenText Core Insight, or OpenText Core Legal Hold platform by Customer or at the direction of Customer by OT or Authorized Users.

**1.4 "Customer Representatives"** shall be the persons designated by Customer in writing, and reasonably acceptable to OT, who are authorized to request Standard Technical Support.

**1.5 "Documentation"** means the user manuals, training manuals, operator instructions and other written material furnished by OT in conjunction with the Services.

**1.6 "OpenText Core Insight Services"** means the OT proprietary OpenText Core Insight SaaS offering providing online data hosting, processing, search, review, redaction, analytics, production and site administration services and/or such other hosted eDiscovery services as Customer and OT may agree upon from time to time that are stated in the Services Order.

**1.7 "OpenText Core Legal Hold Service(s)"** means the OT SaaS offering for OpenText Core Legal Hold notifications and related management storage, as further defined below, used by Customer.

**1.7.1 "OpenText Core Legal Hold"** is a Legal Hold Service that provides Customer with access and use of the SaaS platform to place an unlimited number of legal holds and send legal hold notifications at the fee indicated in the Services Order.

**1.8 "Service Fees"** means the fees payable for Services as set forth in the Services Order.

**1.9 "Services Order" or "Order"** means the order form executed by the authorized representatives of each party pursuant to which Customer orders Services from OT, and OT provides Services.

**1.10 "Services"** collectively means those particular the OpenText Core eDiscovery Services, OpenText Core Insight Services, OpenText Core Legal Hold Services, and/or any other services purchased pursuant to a fully executed Services Order between the parties.

**1.11 "Standard Technical Support"** means OT's standard technical support that is detailed at the following sites based on the Service purchased and as amended from time to time.

**1.11.1** OpenText Core eDiscovery Services:

[https://www.opentext.com/file\\_source/OpenText/en\\_US/PDF/opentext-inc-discovery-axcelerate-on-demand-standard-technical-support-2018.pdf](https://www.opentext.com/file_source/OpenText/en_US/PDF/opentext-inc-discovery-axcelerate-on-demand-standard-technical-support-2018.pdf)

**1.11.2** OpenText Core Legal Hold Services:

<https://www.opentext.com/assets/documents/en-US/pdf/opentext-sla-standard-technical-support-policy-en.pdf>

**1.11.3** OpenText Core Insight Services: <https://www.opentext.com/assets/documents/en-US/pdf/opentext-sla-standard-technical-support-policy-insight-services-en.pdf>

**1.12 "Standard Terms"** refers to the Open Text Inc. eDiscovery SaaS Terms and Conditions.

## 2. SCOPE OF THE AGREEMENT

### 2.1 Services

OT shall perform the Services in accordance with the Standard Terms. OT reserves the right to engage third parties to perform services. Third parties shall comply, and OT shall cause third parties to comply with the Standard Terms.

### 2.2 Limited Use of Services and Documentation

a) Subject to the payment of Service Fees and compliance with all other provisions of the Order and Standard Terms, OT hereby grants to Customer a non-exclusive, non-transferable, non-assignable and limited subscription to access and use the Services and Documentation, only in connection with its legal matters ("Matter" if specified in the Services Order). Customer agrees that neither Customer or its Authorized Users shall provide access to the Services or the Documentation to managed service, eDiscovery or any other document review company or consultant without OT's prior written consent. The parties acknowledge and agree that OT shall provide Services only in connection with Matter(s) for which OT's conflicts check has been successfully completed, as contemplated in the applicable Services Order.

b) In connection with such use, Customer shall not modify, alter or cause or permit the reverse engineering, disassembly, or decompilation of the Services, or use the Services to provide or allow any third party to provide the same or similar services, commercial timesharing, rental, or any similar sharing arrangement to others.

c) Documentation may not be copied except for a reasonable number of copies as reasonably necessary for Customer's use of the Services as permitted hereunder.

d) Customer shall maintain adequate records concerning its compliance with its activities under the Standard Terms. During the Term and for two (2) years thereafter, at OT's request, Customer shall provide copies of these records to OT. In the event there is a discrepancy between Customer's and OT's records, OT may audit Customer's compliance with the Services Form and the Standard Terms. Any such audit shall be conducted during regular business hours at Customer's offices, shall be subject to the confidentiality obligations in the Standard Terms and shall not interfere unreasonably with Customer's business activities.

e) Each party reserves all rights not expressly granted in the Standard Terms and disclaims all implied licenses, including implied licenses to trademarks, copyrights, trade secrets and patents.

**2.3 Restrictions on Use.** Only Authorized Users are permitted to access the Services. Customer is responsible for the acts and omissions of its Authorized Users. Customer may

only use the Services as specifically permitted under the Agreement and shall ensure that Customer and its Authorized Users adhere to the OT Acceptable Use Policy located here: [https://www.opentext.com/file\\_source/OpenText/en\\_US/PDF/opentext-acceptable-use-policy.pdf](https://www.opentext.com/file_source/OpenText/en_US/PDF/opentext-acceptable-use-policy.pdf).

### 3. INVOICING, PAYMENT AND TAXES

**3.1 Invoicing and Payment.** Service Fees are due and payable within thirty (30) days of the date of the invoice. Any invoice rendered to Customer by OT shall be conclusive as to the correctness of all items therein set forth and shall constitute an account stated unless Customer objects to such invoice, in writing, within five (5) days from the rendering thereof. All overdue amounts shall bear interest at the rate of one and one-half percent (1-1/2%) per month or the maximum legal rate, if less, however; nothing herein shall limit OT's right to terminate the Services Order under Section 6. OT shall provide Customer with notice of any fees that remain overdue for a period of greater than sixty (60) days with an opportunity to make payment within five (5) days (the "Cure Period") prior to termination of Services or the Services Order. If the outstanding fees remain unpaid after the end of the Cure Period, then OT may suspend its Services and access thereto. Customer shall reimburse OT for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts.

**3.2 Taxes.** The fees listed in the Services Order do not include taxes. Customer shall pay or reimburse OT for all sales, use, excise, personal property, value-added, or other federal, state or local taxes or any documentary taxes, stamps or duties, or any similar assessments based on the rights granted or the services provided under the Services Order or on Customer's use of the Services; other than taxes based on OT's income. Unless otherwise notified by Customer, OT shall utilize the billing information address for purposes of tax reporting and compliance.

### 4. SERVICES

**4.1 Standard Technical Support Services.** During the Term and provided Customer is not delinquent on any payments to OT, OT will provide Standard Technical Support. Any additional technical support shall be provided on a time and materials basis. All items delivered by OT in providing such support, including error corrections shall be deemed to become a part of the applicable Services and shall be subject to the Standard Terms.

**4.2 Professional Services.** OT will provide professional services as requested by Customer under a separate statement of work. To the extent that there is a separate SOW, such SOW shall be governed by the terms of the Professional Services Agreement located here: <https://www.opentext.com/agreements>.

### 5. OWNERSHIP, NONDISCLOSURE, AND PRIVACY

#### 5.1 Ownership

a) Customer acquires only the right to use the Services and Documentation for its internal business operations and does not acquire any rights of ownership. Services may contain or express intellectual property or materials licensed by OT from third parties (the "OT Licensors"). OT and OT Licensors retain the Intellectual Property rights in and to the Services and any use of the Services beyond the scope permitted by the Standard Terms shall constitute a material breach of the Standard Terms. All right, title, and interest in and to the Services shall at all times remain with OT and OT Licensors. OT Licensors shall be intended third party beneficiaries to the Services Order. Customer is prohibited from removing or modifying any OT or OT Licensor program marking or any notice of ownership and proprietary rights.

b) The Services may include the cloud infrastructure or other services ("AWS") of Amazon Web Services, Inc. or its affiliated Amazon entity (an "OT Licensor"). Customer's access and use of AWS is governed by the AWS Customer Agreement as set forth in and as amended from time to time by OT Licensor in its discretion and currently located at <http://aws.amazon.com/agreement/> ("EULA"). All legal rights and remedies related to Customer's use of AWS shall be set forth exclusively in the EULA. The Parties hereto understand and agree that Customer's use of any AWS through the Standard Terms will be done as an end user under OT's license and as such, 1) nothing about Customer's use of the AWS under the terms of the EULA shall in any way alter or affect or supersede the Standard Terms, including all of OT's responsibilities hereunder, 2) only the terms of the EULA that reasonably apply to end users (i.e., the appropriate ways for end users to use the AWS) shall apply to Customer, and 3) as between Customer and OT, all other terms of the EULA shall apply to OT.

c) Specific portions or files in the software used in the Services may incorporate free or open source software code (collectively "FOSS"). OT will obtain the appropriate authorization to permit Customer to use the FOSS with the Services. Additionally, third party technology may be appropriate or necessary for use within the Services as specified in the application package documentation or as otherwise notified by OT.

d) Any ideas, know-how, or techniques concerning the Services or their use which may be developed, conceived or reduced to practice by OT in the course of providing Services, including without limitation enhancements or modifications made to Services (collectively, "Developments"), shall be the exclusive property of OT. OT may in its sole discretion, develop, use, market, and license any Developments or any specifications, designs, software or data processing material that is similar or related to what was developed by OT for Customer. OT shall not be required to disclose information concerning any Developments that OT deems proprietary and confidential. Any and all elements of the Developments that are eligible to become "works made for hire" under the U.S. Copyright Act shall be considered the exclusive property of OT unless the parties expressly state otherwise in a fully signed Services Order.

e) As between the parties, Customer owns all Customer Data and materials provided to OT and/or stored in the Services. Customer Data are and shall remain Customer's sole and exclusive property. Notwithstanding the foregoing, Customer's rights shall in no way limit OT's right to suspend or otherwise deny Customer and its Authorized Users access to the Services as permitted within this Agreement.

#### 5.2 Non-Disclosure

a) The parties may have access to or wish to exchange certain information as defined in Section 5.2(b) below that each party considers secret and desires to protect from unauthorized disclosure or use. This exchange shall include all communication of Information between the parties in any form whatsoever, including oral, written and machine readable form. OT and Customer are willing to disclose Information (as "Disclosing Party") and receive Information (as "Receiving Party") on the terms and conditions set forth herein. Therefore, OT and Customer agree as follows:

b) Information Specified. "Information" of a party hereto shall include all information subject to the exceptions set forth in Section 5.2(c) below of such party which is identified or labeled as "Confidential" (or its equivalent), or which is the type of information that a reasonably prudent recipient would know or have reason to know was the type of information that was reasonably expected to be treated confidentially under the circumstances. Information shall include, but is not limited to, the Disclosing Party's technology, information, data, processes, techniques, programs, computer software, designs, drawings, formulas, algorithms, test data, work-in-process, future development, engineering, manufacturing, marketing, financial, pricing, or personnel information relating to the Disclosing Party, its research, development, present or future products, sales, customers, employees, opportunities, markets or business, whether in written, oral, graphic, computer data base or electronic form and any derivative form thereof.

c) Excluded Information. "Information" shall not include information which (i) was in Receiving Party's possession or was independently developed by Receiving Party before receipt from Disclosing Party; (ii) is or becomes a matter of general public knowledge through no action or fault of Receiving Party; (iii) is rightfully received by Receiving Party from a third party without a duty of confidentiality with respect to the information; (iv) was independently developed by persons under the control of Receiving Party who had no access to the Information; or (v) is required to be disclosed by Receiving Party under court order, subpoena or other valid and applicable compulsion of law, provided that Disclosing Party is given prompt notice of such requirement and a reasonable opportunity to intervene on its own behalf or on behalf of Receiving Party to protest or contest such requirement at Disclosing Party's expense.

d) As between the parties hereto, the Information is and shall remain the sole property of the Disclosing Party, the disclosure of which by the Disclosing Party is in strictest confidence and thus the Receiving party shall:

i) Use the Information only for the above purpose and restrict disclosure of the Information solely to those employees of Receiving Party having a need to know such Information in order to accomplish the purpose stated above;

ii) Advise each such employee, before he or she receives access to the Information, of the obligations of Receiving Party under the Services Order and the Standard Terms, and require each such employee to maintain those obligations;

iii) Use at least the same degree of care to keep the Information confidential as Receiving Party uses in maintaining its own confidential information, but always at least a reasonable degree of care; and

iv) Within fifteen (15) days following a written request from Disclosing Party, return to Disclosing Party all materials containing any portion of the Information or confirm to Disclosing Party in writing the destruction of any such materials.

e) In the event disclosure of the Information is required of Receiving Party under provisions of any judicial or administrative proceeding, Receiving Party shall (i) promptly

notify Disclosing Party of the obligation to make such disclosure; and (ii) assert the confidentiality of such Information on Disclosing party's behalf.

f) Results of any benchmark tests run by Customer may not be disclosed unless OT consents to such disclosure in writing.

g) The parties agree, both during the Term and thereafter to hold each other's Information in confidence. The parties agree not to make each other's Information available in any form to any third party or to use each other's Information for any purpose other than the implementation of the Services Order. Each party agrees to take all reasonable steps to ensure that Information is not disclosed or distributed by its employees, contractors or agents in violation of the provisions of the Services Order or the Standard Terms.

## 5.3 PRIVACY

OT will comply with the requirements of applicable data protection legislation in its role as vendor and expects Customer to also comply with its obligations. OT will use reasonable care and maintain adequate technical and organizational measures to protect the personal information in its custody against physical damage or unauthorized access. Customer's personal information shall not be used by OT, its affiliates or its vendors for any other purpose other than as required under this Agreement and permitted or required by law. In the event of a breach, OT shall comply with its legal requirements and promptly notify the Customer.

## 6. TERM AND TERMINATION

**6.1 Term.** The term of the Services Order starts on the Effective Date and continues until terminated pursuant to Section 6.2 ("Term").

**6.2 Termination.** OT may terminate the Services Order upon written notice if Customer breaches the terms of the Services Order or the Standard Terms and fails to correct the breach within thirty (30) days following written notice specifying the breach. Customer may terminate the Services Order, without refund, and subject to payment of all fees incurred prior to termination with five (5) business days written notice to OT prior to the end of each month without incurring another month of fees.

**6.3 Effect of Termination.** Termination of the Services Order shall not limit either party from pursuing any other remedies available to it, including injunctive relief, nor shall such termination relieve Customer's obligation to pay all fees that accrued prior to such termination.

**6.4 Return of Documentation.** Upon termination of the Services Order, Customer shall (i) cease accessing and using Services; and (ii) represent in writing within thirty (30) days after termination that Customer has destroyed or has returned to OT the Documentation and all copies. The foregoing applies to copies and storage in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials.

**6.5 Return of Customer Data.** Customer shall advise OT on return or destroy preference with regards to Customer Data prior to the end of the Term. Provided Customer is not in material breach of the Agreement and is current with payment obligations, OT will provide a one-time data return service to Customer as described in a separate statement of work, if Customer requests the data return service prior to termination of the Agreement; and Customer pays OT the applicable fee.

### 6.6 Suspension of Service.

a) OT will have the right to immediately suspend Customer's or an Authorized User's right to access or use any portion of the Service upon written notice to Customer if OT determines that:

- i) Customer or an Authorized User (if applicable) has violated any of Customer's obligations as set forth in Section 2.3 (Restrictions on Use);
- ii) Customer's Authorized User accounts have been compromised; or
- iii) activity under Customer or an Authorized User account may adversely impact the Service or OT's security practices.

OT shall not delete any Customer Data residing within the Service during any suspension period. OT shall restore access to the Services upon Customer's cure under Section 6.6.a(i) above, or upon OT's reasonable determination that the security of the Services is no longer compromised under Sections 6.6.a(ii) or (iii).

## 7. INDEMNITY; WARRANTIES AND LIMITATIONS OF LIABILITY

### 7.1 Indemnity

a) OT will defend and indemnify Customer against all costs (including reasonable attorneys' fees and subject to provisions of Section 7.4) arising from a third party claim that

the Services or Documentation furnished and used within the scope of the Services Order infringe a United States copyright or United States patent provided that (i) Customer notifies OT in writing within thirty (30) days of the claim; (ii) OT has sole control of the defense and all related settlement negotiations; and (iii) Customer provides OT with the assistance, information and authority necessary to perform the above; reasonable out-of-pocket expenses incurred by Customer in providing such assistance will be reimbursed by OT.

b) OT shall have no liability for any claim of infringement based on (i) use of a superseded or altered release of Services or Documentation if such infringement would have been avoided by the use of a current unaltered release of the Services or Documentation that OT provides to Customer; (ii) the combination, operation, or use of any Services furnished hereunder with programs or data not furnished by OT if such infringement would have been avoided by the use of the Services without such programs or data; or (iii) any unauthorized use, reproduction, modification or distribution of the Services.

c) In the event that OT reasonably believes that a claim of infringement under Section 7.1(a) is likely to occur, OT shall have the option, at its expense, to (i) modify the Services or Documentation to be non-infringing; (ii) obtain for Customer a subscription to continue using the Services or Documentation; (iii) substitute the Services or Documentation with other components reasonably suitable to Customer; or (iv) terminate the infringing Services or Documentation and refund any prepaid fees paid by Customer for Services that have not been provided as of the date of termination. This Section 7.1 states OT's entire liability for infringement.

d) Customer shall, at its own expense, defend and indemnify OT against all claims, damages, losses, liabilities, costs, expenses, and reasonable attorneys' fees (subject to provisions of Section 7.4) arising from Customer's breach of Section 2.3 (Restrictions on Use) or any third party claims of legal malpractice, or content-related claims (such as but not limited to invasion of privacy) arising out of Customer's use of the Services and applicable Services.

**7.2 Warranties.** OT warrants that the Services, unless modified by Customer, will perform according to the functions described in the associated Documentation when operated in accordance with the Documentation from the Effective Date through the Term. OT does not warrant that the Services will meet Customer's requirements; that the Services will operate in the combinations that Customer may select for use, nor that the use of the Services will be uninterrupted or error-free. As detailed in applicable Standard Technical Support, OT will use commercially reasonable efforts to correct any reported error condition. If OT is unable to make the Services operate as warranted, Customer shall be entitled to recover the fees paid to OT under the Services Order for the ninety (90) day period preceding the event that gave rise to the claim. Such recovery shall be Customer's sole and exclusive remedy for such breach of this warranty.

**7.3 Limitations of Warranty. THE WARRANTY ABOVE IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.**

**7.4 Limitation of Liability. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO COSTS OF PROCUREMENT OF SUBSTITUTE SERVICES, LOSS OF PROFITS OR REVENUE, OR LOSS OF DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, EVEN IF THE OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. DURING EACH TWELVE (12)-MONTH PERIOD OF THIS SERVICES ORDER, OT'S AGGREGATE PER ORDER LIABILITY TO CUSTOMER WILL NOT EXCEED FIFTY PERCENT (50%) OF TOTAL AMOUNT OF SERVICE FEES INVOICED BY OT TO CUSTOMER FOR THE ORDER DURING SUCH TWELVE (12)-MONTH PERIOD, WITH A MAXIMUM AGGREGATE AMOUNT OF LIABILITY TO CUSTOMER OF THE TOTAL AMOUNT OF FEES INVOICED BY OT TO CUSTOMER DURING THE TWELVE (12) MONTHS PRECEDING THE MOST RECENT EVENT WHICH IS THE CAUSE OF LIABILITY FOR ALL CLAIMS DURING THE ENTIRE TERM OF THIS SERVICES ORDER.**

The provisions of this Section 7 allocate the risks under the Services Order between OT and Customer. OT's pricing reflects this allocation of risk and the limitation of liability specified herein.

## 8. GENERAL TERMS

**8.1 Governing Law and Jurisdiction.** Any dispute or action related to the Services Order shall be governed, controlled, interpreted, and defined by and under the laws of the State of Delaware, without giving effect to any conflicts of laws principles that require the application of the law of a different state. Except for a request by OT for injunctive relief,

any dispute arising out of this Services Order will be subject to the exclusive jurisdiction of the courts located in the State of Delaware and the party's consent to the personal jurisdiction and exclusive venue of these courts. The United Nations Convention on Contracts for the International Sale of Goods shall have no application whatsoever to the Services Order.

**8.2 Notice.** All notices, including notices of address change, required to be sent hereunder shall be in English and in writing and shall be deemed to have been received ten (10) days after have been properly mailed, postage prepaid, to the address of a party as listed in the applicable Services Order.

**8.3 Severability.** In the event any provision of the Services Order or the Standard Terms is held to be invalid or unenforceable, the remaining provisions of the Services Order and the Standard Terms will remain in full force and effect.

**8.4 Export.** Customer agrees that it will not export or re-export the Services or Documentation without the appropriate United States Government or any other government licenses. Customer shall comply with such laws and agrees not to knowingly export, re-export or transfer data or other information without first obtaining all required United States authorizations or licenses.

**8.5 Government Rights.** The Services and Documentation are commercial computer software and documentation developed exclusively at private expense, and in all respects are proprietary data belonging solely to OT.

**8.6 Uniform Computer Information Transactions Act.** The Uniform Computer Information Transactions Act does not apply to the Services Order.

**8.7 Nonassignability and Binding Effect.** The rights granted herein are restricted for use solely by Customer and may not be assigned or transferred to a third party by operation of law or otherwise without the prior written permission of OT. Notwithstanding the foregoing, upon written notice to the other party, a party hereunder may assign or otherwise transfer the Services Order to the surviving entity as a result of a merger, acquisition or reorganization of such party or a sale of substantially all of such party's assets or stock, provided that such surviving entity is not reasonably deemed by the other party to be its direct competitor. In the case of any assignment or transfer permitted under the Standard Terms, the Services Order or the relevant provisions shall be binding upon, and inure to the benefit of, the successors, executors, heirs, representatives, administrators and assigns of the parties hereto.

**8.8 Force Majeure.** Neither party shall be liable to the other for its failure to perform any of its obligations under the Services Order or the Standard Terms, except for payment obligations, during any period in which such performance is delayed because rendered impracticable or impossible due to circumstances beyond its reasonable control, provided that the party experiencing the delay promptly notifies the other of the delay.

**8.9 Customer List.** In consideration of the Services rendered, OT may refer to Customer as an OT customer in advertising and promotional materials.

**8.10 Marketing Support.** Customer agrees to provide quotes and other support as appropriate for the issuance of press release(s) announcing the Services and the development of a case study that will be subject to the review and approval of both parties.

**8.11 Remedies.** The parties stipulate that the legal remedies of OT in the event of any default or threatened default by Customer in the performance of or compliance with any of the terms herein are not and shall not be adequate, and that such terms may be specifically enforced by a decree for specific performance or by an injunction against a violation of any of the terms of the Services Order or the Standard Terms or otherwise. No remedies herein are exclusive of any other remedies but shall be cumulative and shall include all remedies available hereunder or under any other written agreement or in law or equity, including rights of offset.

**8.12 No Legal Advice.** Customer acknowledges that OT does not and shall not provide legal advice in connection with the provision of Services. Customer has the final decision-making authority with respect to the utilization of the Services in connection with the Matter(s).

**8.13 Entire Agreement.** These Standard Terms along with the Services Order(s) and any attachments hereto ("Agreement") represents the entire agreement of the parties, and supersedes any prior or current understandings, whether written or oral. In the event of a conflict between the components of this Agreement and unless to the contrary in the Services Order, the following order of precedence shall apply: (i) Services Order, (ii) Standard Terms, (iii) any other document referenced in this Agreement. In the event that OT signs and returns an acknowledgement copy of a Customer purchase order, the parties agree that OT's signature thereon is being provided solely as an accommodation to Customer for Customer's internal purposes and does not signify OT's agreement to any terms or conditions contained therein which vary, conflict with, or impose additional obligations to the Standard Terms.

**8.14 Survival.** Sections 2, 3.2, 5, 6, 7 and 8 herein shall survive termination or expiration of the Services Order.