



# Software Support Terms and Conditions

## 启信软件 软件支持条款与条件

(China) (中国)

Access and use of Support Services are provided by **Open Text Software Technology (Shanghai) Co., Ltd (“OT”)** in accordance with these Software Support Terms and Conditions (“**Support Agreement**”) and the then current Software Maintenance Program Handbook (“**SMPH**”) located at [www.opentext.com/agreements](http://www.opentext.com/agreements).

启信软件科技(上海)有限公司(以下简称“启信”)根据下述软件支持条款与条件(以下简称“支持协议”)以及当前版本的《软件维护计划手册》(以下简称“SMPH”)(可从网址[www.opentext.com/agreements](http://www.opentext.com/agreements)获取)提供支持服务的获取与使用。

Licensee agrees that by purchasing Support Services, the terms of this Support Agreement govern. If there is any inconsistency between the provisions of this Support Agreement and any applicable Software Maintenance schedule, quotation or Renewal Notice (“**Schedule**”), the Schedule will prevail to the extent of the inconsistency. Capitalized terms referenced herein but not defined herein shall have the meaning ascribed in the Software Maintenance Program Handbook.

被许可方同意:购买支持服务即表示其接受本支持协议条款的制约。若本支持协议的条款与任何适用的软件维护计划、报价或续约通知(以下简称“计划”)之间存在任何不一致,则该等不一致应以计划为准。本协议所引用但未定义的加引号术语应具有《软件维护计划手册》中所给出的含义。

## OT Software Support Terms and Conditions (China) English/Simplified Chinese v1.0, Aug2017

1. **Definitions.** The following terms shall have the following meaning:
  1. 定义。以下术语应具有以下含义：
    - “Covered Software” shall mean the licensed software for which maintenance services shall be provided including all documentation provided or made available;
 

“涵盖软件”是指应对其提供维护服务的已授权软件，包括已提供或可获取到的所有文件；
    - “Licensee” means either an individual, a single corporation, or other single legal entity that purchases the applicable Support Services
 

“被许可方”是指购买适用的支持服务的个人、单一公司或其他单一法律实体；
    - “Maintenance Fees” shall mean the fees and other amounts due to OT for Support Services;
 

“维护费”是指为获取支持服务而向启信支付的费用和其它款项；
    - “Support Services” means the software maintenance and support services described in the then current version of the SMPH available at [www.opentext.com/agreements](http://www.opentext.com/agreements);
 

“支持服务”是指当前版本的SMPH(可从网址[www.opentext.com/agreements](http://www.opentext.com/agreements)获取)中所述之软件维护和支持服务；
    - “Support Services Term” means each twelve (12) month period beginning on the date the Covered Software is delivered by OT to Licensee (which may be accomplished by making the Covered Software available by electronic download) or the anniversary thereof.
 

“支持服务期限”是指每个为期十二(12)个月的时间段或交付后的一周年时间，从启信将涵盖软件交付给被许可方之日开始计算(自涵盖软件可以电子方式下载之时起视为交付完成)。
  2. **Support Services.** Support Services will be provided by OT subject to Licensee’s compliance with its obligations under this Support Agreement and the applicable agreement under which Licensee licenses the Covered Software (“**License Agreement**”).
 

2. 支持服务。启信应向被许可方提供支持服务，前提是被许可方履行其在本支持协议项下之义务以及被许可方被准许使用涵盖软件之适用协议(以下简称“许可协议”)项下之义务。
  3. **Support Services Exclusions.** OT shall have no responsibility to provide Support Services to Licensee with respect to any problem with the Covered Software caused by: (a) any software, device, or other product not supplied by OT; (b) neglect,
 

3. 支持服务的除外责任。在向被许可方提供支持服务时，由以下原因导致涵盖软件出现任何问题，启信不承担任何责任:(a)非启信提供的任何软件、设备或其它产品;(b)启信之

misuse, alteration, modification, and/or enhancement to the Covered Software by any party other than OT; (c) failure of Licensee to provide a suitable installation or operating environment for the Covered Software; (d) use of the Covered Software for a purpose other than the purpose for which it was designed; (e) use of the Software on a computer platform other than the platform authorized by OT (which may be specified in the Documentation accompanying the Covered Software); or (f) failure of Licensee to install any support software provided by OT.

外的任何人员或企业忽视、误用、变更、修改和/或增强涵盖软件; (c)被许可方未能为涵盖软件提供适当的安装 或运行环境;(d)将涵盖软件用于其设计用途以 外的其它用途;(e) 在启信授权平台之外的计算 机平台上使用本软件(该等授权平台可能在涵盖 软件随附的文档中加以指定);或(f)被许可方 未能安装启信提供的任何支持软件。

4. **Determination of Support Services Term.** The initial Support Services Term shall commence on the date the Covered Software is provided by OT to Licensee. Renewal of the Support Services is automatic, unless either party provides notice ninety (90) days prior to the anniversary date. If Licensee cancels Support Services and then wishes to reinstate Support Services, Open Text may charge Licensee a reinstatement fee in addition to the Maintenance Fees.
5. **Payment of Maintenance Fees.** All amounts due are due and payable upon delivery of the applicable invoice to Licensee. Open Text shall be entitled to charge interest on all amounts overdue by more than thirty (30) days at the rate of one and one-half percent (1.5%) per month. Licensee will be obligated to pay the applicable entire annual Maintenance Fee with respect to the Covered Software licensed from OT, failing which OT may suspend some or all of the Support Services until payment has been received.
6. **Warranty.** Open Text warrants that the Support Services will be performed using reasonable skill and care consistent with generally accepted computer software industry practices. Other than the express services warranty set out above, OT

4. 支持服务期限的确定。首个支持服务期限应自启 信向被许可方提供涵盖软件之日起开始计算。除 非任何一方在期满一周年之前提前九十(90)天 发出通知, 否则支持服务将自动续约。若被许可 方在取消支持服务后希望再 次恢复支持服务, 则 启信除了向被许可方收 取维护费之外, 还可能收 取恢复费。
5. 支付维护费。所有到期的应付款项应在向被 许可 方出具适用发票后予以支付。如发生逾期三十(30 )天以上未付的情况, 启信软件有 权以每月百分 之一点五(1.5%)的费率对所有 逾期未付款项收取 利息。被许可方将有义务 为启信许可其使用的涵 盖软件支付适用的全 年维护费, 否则启信可能会 暂停部分或所有 支持服务, 直至启信收到应付款 项为止。
6. 保证。启信保证将采用与普遍认可的计算机 软件 行业惯例相一致的合理技能与谨慎方式 履行支 持服务。除了上述明确表达的服务保 证之外, 启信 在适用法律允许的最大范围内

disclaims all other express, implied or statutory warranties to the maximum extent permitted under applicable law, including but not limited to warranties related to title, compatibility with software or hardware, non-existence of errors, non-existence of viruses, merchantability or fitness for a particular purpose.

7. **Limitation of Liability.** To the maximum extent permitted under applicable law, in no event, shall OT be liable to licensee, or any other party for any loss of profits, loss of revenues, lost income, or replacement costs, nor for any indirect, incidental, special, consequential, exemplary or punitive damages of any kind, howsoever arising, whether related to the Covered Software or Support Services, even if OT has been advised of the possibility of such damages. OT's total liability during any Support Services Term, whether arising in contract, negligence, tort, strict liability, or otherwise shall not exceed the total amount of maintenance fees paid by licensee to OT during the current support services term. Nothing in this Support Agreement shall exclude or limit either party's liability for: (i) death or personal injury caused by negligence; (ii) fraud or deceit; or (iii) any other liability that cannot be excluded by local law.
8. **Covered Software.** All Covered Software provided to Licensee under this Support Agreement is licensed to Licensee on a non-exclusive, non-assignable, and non-transferable basis in accordance with the provisions of the License Agreement.
9. **Term and Termination.** The Support Agreement shall begin on the date of execution and shall continue until terminated in accordance with the provisions of this Support Agreement. If Licensee fails fully to remedy a material breach within thirty (30) days of notice by

不承认所有其它明示、暗示或法定的保证，包括但不限于与所有权、软件或硬件的兼容性、零错误、零病毒、适销性或针对特定目的之适用性相关的保证。

7. 责任限制。在适用法律所允许的最大范围之内，在任何情况之下，启信不对被许可方或任何其他方的任何利润损失、收益损失、收入损失、更换成本，或对任何形式的间接、偶发、特殊、结果性、示例性或惩罚性赔偿负责，无论上述损失或赔偿是否因涵盖软件或支持服务引起或与之相关，即使启信已被告知上述损失或赔偿的可能性。不论是由合同、疏忽、侵权行为、严格责任或其它原因所产生的责任，启信在任何支持服务期限内的总赔偿额度不应超过被许可方在当前支持服务期限内支付给启信的维护费总额。本支持协议中的任何内容均不应排除或限制协议任何一方的如下责任：(i)由于疏忽而造成的人身伤害或死亡；(ii)欺诈或欺骗；或(iii)根据当地法律无法排除的任何其它责任。
8. 涵盖软件。本支持协议项下向被许可方提供的所有涵盖软件，根据许可协议的条款，以非排他性和不可转让的方式授权给被许可方。
9. 期限与终止。本支持协议应自签署之日起生效，并延续至依照本支持协议之条款终止时为止。若被许可方未能在启信发出通知的三十(30)天内完全纠正重大违约行为(包括未能支付发票所列之款项)，启信可在向被许可方

OT, including failure to pay an invoice, OT may terminate this Support Agreement upon the provision of written notice to Licensee. OT may immediately terminate this Support Agreement in the event that the License Agreement is terminated. Either party may terminate this Support Agreement if the other party: (a) becomes insolvent; and (b) has a receiver or receiver manager appointed with respect to it or any of its assets. The provisions contained in Sections 5, 7, 9, 10, 11 and 12 of this Support Agreement shall survive any termination.

发出书面通知后 终止本支持协议。启信可在许可协议终止的情况下 立即终止本支持协议。任何一方均可终止本支持协议, 若另一方:(a)无力偿债;及(b)为其本身或其任何资产指定有接管人或接管人管理者。本支持协议第5、7、9、10、11和12条所含条款应在任何终止后继续有效。

10. **Confidentiality.** Each party (a “**Disclosing Party**”) may disclose to the other party (a “**Receiving Party**”) information that is confidential and otherwise proprietary (“**Confidential Information**”). Subject to the exceptions listed below, Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential or confirmed as confidential in writing within thirty (30) days of disclosure, as well as deliverables, Work Product and any information that, due to the circumstances under which it is disclosed, a reasonable person would infer as confidential. Confidential Information does not include any information that: (a) is or becomes a part of the public domain through no act or omission of the Receiving Party; (b) was in the Receiving Party’s lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; or (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure; or (d) is independently developed by the Receiving Party by employees or agents without access to the Disclosing Party’s Confidential Information. Each party agrees, for the period in which the Services are performed and for five (5) years after such period, to hold the other party’s Confidential Information in strict confidence,

10. 保密。任何一方(以下简称“披露方”)可能向另一方(以下简称“接收方”)披露保密信息和其它专有信息(以下简称“机密信息”)。除下文所列的例外情形之外, 保密信息应包括在披露之时以书面形式明确识别为保密信息或在披露之后三十(30)天内以书面形式确认为保密信息的任何信息, 以及交付物、工作成果和由于其披露时所处环境之原因而可由合理人员推断为保密的任何信息。保密信息不包括以下任何信息:(a)并非通过接收方的行为或疏忽而成为或变成公共领域一部分的信息;(b)在披露之前已处于接收方合法占有之下且并非由接收方直接或间接从披露方处获得的信息;或(c)由第三方在无任何披露限制的情况下披露给接收方的信息;或(d)由接收方无权访问披露方保密信息的雇员或代理人独立开发而获得的信息。本协议双方同意:在执行支持服务期限内和该等期限后的五(5)年之内, 除非经披露方授权, 双方均对所持有的对方的保密信息严格保密, 且不向第三方披露该等保密信息(向受到适当保密义务之约束的专业顾问披露除外), 且不得将该等保密信息用

not to disclose such Confidential Information to third parties (other than professional advisers who are bound by appropriate obligations of confidentiality) unless authorized to do so by the Disclosing Party, and not to use such Confidential Information for any purpose except as expressly permitted hereunder. Each party agrees to take reasonable steps to protect the other party's Confidential Information to ensure that such Confidential Information is not disclosed, distributed or used in violation of the provisions of this Section. The foregoing prohibition on disclosure of Confidential Information shall not apply to the extent Confidential Information is required to be disclosed by the Receiving Party as a matter of law or by order of a court or by a regulatory body, provided that the Receiving Party promptly notifies the Disclosing Party so that it may seek an appropriate protective order or waive compliance with this section.

于本协议中明确允许之外的任何目的。本协议双方同意采取合理措施来保护对方的保密信息，以确保该等保密信息不会以违反本条款的方式被披露、分发或使用。上述禁止披露保密信息的限制不适用于接收方根据法律或法院或监管机构的命令而要求接收方披露保密信息的情况，前提是接收方应及时通知披露方，以便披露方可寻求适当的保护令或放弃遵守本条款。

11. **General Provisions.**

11. 一般条款。

11.1 **Assignment.** Licensee shall not assign, or transfer this Support Agreement or any right or obligation hereunder, including by operation of law or otherwise, without OT's prior written consent, which consent shall not be unreasonably withheld.

11.1 转让。在未事前获得启信书面同意之前(启信不得无理拒绝该等同意)，被许可方不得转让本支持协议或本协议项下之任何权利或义务，包括有法律规定或无法律规定的权利或义务。

11.2 **Notices.** Any notice under this Support Agreement must be given in writing and is deemed effective when sent either: (a) via certified or registered mail, postage prepaid, or (b) via express mail or nationally recognized courier service to the other party's address specified in the applicable Order Form. Notices to OT should also be sent to the attention of the General Counsel.

11.2 通知。根据本支持协议所发出的任何通知必须以书面形式提供，且在满足以下要求时应视为有效:(a)通过挂号邮件、邮资预付方式发出，或(b)通过快递或国家认可的速递服务发送至适用订单中所指定的另一方地址。发送至启信的通知还应提请法律总顾问的注意。

- 11.3 **Governing Law.** This Agreement shall be governed by the laws of The People's Republic of China ("PRC") excluding its conflicts or choice of law rules. Except for injunctive relief required by either party to protect its intellectual property (which may be sought in any relevant jurisdiction), any dispute arising around of this Agreement, the parties' shall first attempt to resolve the dispute by negotiation and where necessary a supplemental agreement shall be signed in respect of the settlement of such dispute, which shall have equal legal effect to the Agreement. In case of failure to settle such dispute through negotiation within 30 (thirty) days after one Party gives notice to the other party about the existence of the dispute (or such other period as agreed between the parties), either Party has the right to submit the dispute to China International Economic and Trade Arbitration Commission ("CIETAC") for arbitration in Shanghai which shall be conducted in accordance with the CIETAC's arbitration rules in effect as the time of applying for arbitration. The arbitration shall be conducted in English. The arbitration award is final and binding on both parties. The arbitration fee should be borne by the losing party.
- 11.3 适用法律。本协议应受中华人民共和国(以下简称“中国”)法律管辖, 排除其矛盾和法律选择规范。除了本协议任何一方为保护其知识产权而要求的禁令救济之外(其可从任何相关的司法管辖中获得), 对于因本协议而引起的任何争议, 本协议双方均应首先尝试通过谈判解决, 并在必要时就该等争议的解决签订补充协议, 该等补充协议应具有与本协议同等的法律效力。若本协议一方向协议另一方就争议的存在发出通知后的三十(30)天(或本协议双方商定的其他期限)内未能通过谈判来解决该争议, 则本协议任何一方均有权将该争议提交至位于中国上海的中国国际经济贸易仲裁委员会(以下简称“CIETAC”)进行仲裁, 该等仲裁应按照申请仲裁之时有效的CIETAC仲裁规则进行。仲裁所使用的语言应为英语。仲裁裁决为终局性裁决, 且对本协议双方均具有约束力。仲裁费用应由仲裁败诉方承担。
- 11.4 **Governing Language.** This Agreement shall be prepared and interpreted in the English language. Any translation of this Agreement into another language is for the purpose of convenience only. Any inconsistency arising due to translation into another language or a difference of interpretation between two or more languages, the English language clause will prevail over any other interpretation.
- 11.4 适用语言。本协议应采用英语起草和解释。将本协议翻译成另一种语言仅出于方便理解之目的。若由于翻译成另一种语言而产生任何不一致, 或在两种或多种语言之间产生解读差异, 则英语条款应优先于任何其他任何语言解读。
- 11.5 **Waiver; Severability.** The waiver or failure of a party to exercise in any respect any right provided herein shall not
- 11.5 弃权;效力瑕疵。任何一方在任何方面如果放弃或未能行使本协议所规定的任何权

be deemed a waiver of such right. If any provision of this Support Agreement is invalid, illegal or unenforceable under any applicable statute or rule of law, such provision shall be deemed severed from this Support Agreement but all remaining provisions shall continue in full force and effect.

**11.6 Headings.** The headings contained in this Support Agreement are intended for convenience or reference only and shall not control or affect the meaning or construction of any provisions of this Support Agreement.

**11.7 Third Party Rights.** This Support Agreement does not confer a benefit on, and is not enforceable by, any person or entity who is not a party to this Support Agreement.

**11.8 Entire Agreement.** This Support Agreement and the corresponding Software Maintenance Program Handbook is the complete and exclusive statement of the agreement between OT and Licensee. This Support Agreement may not be amended, except by written agreement.

利，不应被视为放弃该等权利。若本支持协议的任何条款无效、违法或根据任何适用法令或法规不可执行，则该等条款应视为与本支持协议分离，但其余所有条款将继续完全有效。

**11.6 标题。**本协议所包含的标题旨在方便理解或仅用于参考，而不应控制或影响本支持协议任何条款的含义或解释。

**11.7 第三方权利。**本支持协议不得对非本支持协议一方的任何个人或实体提供利益，且不得由非本支持协议一方的任何个人或实体强制执行。

**11.8 完整协议。**本支持协议和相应的《软件维护计划手册》是启信和被许可方之间订立之协议的完整和排他声明。除非各方达成书面协议，否则不得对本支持协议内容进行任何修改。



## About OpenText

OpenText enables the digital world, creating a better way for organizations to work with information, on-premises or in the cloud. For more information about OpenText (NASDAQ/TSX: OTEX), visit [opentext.com](https://opentext.com).

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