

Conference Participation Terms and Conditions

This Conference Participation Terms and Conditions (“Terms”) is made and entered between Operation Technology, Inc., a California corporation, with principal business offices at 17 Goodyear, Irvine, CA 92618 (“OTI”), and you, the Participant (“Participant”).

1. Purpose. These Terms govern the receipt and handling of Confidential information (as defined below) by Participant and Participant’s consent to use of his or her likeness by OTI. These Terms does not constitute, impose or create any obligation on OTI, its contractors, representatives or agents to provide any Confidential Information or other information to the Participant, but merely defines the rights, duties and obligations of the Participant with respect to the Confidential Information to the extent it may be disclosed or made available to the Participant.

Disclosure of any information, which may be confidential or proprietary to ETAP during the course of the Conference, shall not change the nature of that information to non-confidential or non-proprietary. Members, guests, and others present at the ETAP Nuclear Utility User Group (“Conference”) affirm that they will not use any information obtained at said Conference in any manner which may be harmful to the business of ETAP or which could cause disclosure of ETAP’s proprietary information to any third party and to any present or future competitor of ETAP as further stated in these Terms.

2. Confidential Information. For purposes of these Terms, “Confidential Information” shall mean all tangible and intangible information or material disclosed by OTI to the Participant during the course of the Conference in a formal class setting or otherwise made available or accessible to the Participant whether intentionally or inadvertently regardless of the manner or medium of disclosure or access (e.g. visual, oral, writing, electronic form) that is described as proprietary or confidential or considered as proprietary or confidential by OTI and shall include, but is not limited to, the following types of information and other information of a similar nature: Trade secrets, plans, discoveries, ideas, concepts, papers, software and software in various stages of development, database rights, inventions, designs, drawings, products, mask works, semiconductor topography rights, utility models, specifications, techniques, models, prototypes, data, source code, object code, algorithms, documentation, manuals, diagrams, flow charts, schematics, research, processes, procedures, functions, “know-how”, registered and unregistered design rights, manufacturing processes, procedures and related technology, all aspects of manufacture related to products or other related services, materials and equipment, capacities, marking techniques and materials, all marketing and development plans, all business plans and services (past, existing and future and any resolution thereto), business process information, customer names and other information related to customers or patients, prices and pricing policies, budgets, financial information, information related to manufacturing, production and training information, licensing and/or distribution arrangements, the terms of or existence of any business discussions between the parties, feedback, information regarding the skills and/or compensation of employees or contractors of OTI, information disclosed by any third party which information OTI is obligated to treat as confidential or proprietary information, and any copies, compilations, summaries or other information or material produced by OTI or any third party that is based on or includes any part of the Confidential Information referenced above. Notwithstanding the foregoing, Participant expressly agrees that the failure by OTI to designate any information as Confidential Information shall not give the Participant the right to treat such information as free from the restrictions imposed by these Terms. All Confidential Information is owned by OTI. For the purposes of these Terms, any and all pricing provided by OTI is agreed to be treated as Confidential Information.

3. Permitted Use and Confidentiality Obligations. Participant shall use the Confidential Information solely for the stated purpose of the Conference, and to evaluate whether to enter into a business transaction. The Participant shall treat all Confidential Information with utmost care, and in any event with the same degree of care he or she accords his or her own Confidential Information of like nature, but not less than reasonable care. The Participant may not reverse engineer, disassemble, or decompile any prototypes, software or other tangible objects which embody Confidential Information and which are provided to the Participant hereunder. Recording, copying, photographing, or any other reproduction is prohibited without the prior written approval of an authorized representative of OTI.

The Participants’ obligations under these Terms with respect to any portion of the Confidential Information shall cease to thereafter apply to the extent that the Participant can document to OTI’s complete satisfaction that the Confidential Information: (i) is now or subsequently becomes publicly known through no act or fault on the part of the Participant; (ii) was rightfully in the possession of the Participant prior to receipt or access from OTI; (iii) is hereafter rightfully furnished to the Participant by a third party without breach of any direct or indirect obligation of confidence to OTI or a party in privity to OTI; or (iv) was developed by the Participant independently and without reference to such Confidential Information.

4. Term. The Participant shall continue to fulfill his or her obligations hereunder and to maintain the confidentiality of the Confidential Information for a period of ten (10) years from the last date of disclosure, except for source code which shall remain subject to these Terms until and if it becomes publicly known and made generally available by OTI.

5. Return of Confidential Information. All Confidential Information, existing in written form or recorded in any other tangible medium, shall be returned to OTI or irretrievably destroyed including non-tangible forms of Confidential Information, together with any reproductions or copies thereof upon the termination or expiration of these Terms, or as may be requested by OTI in writing at any time. OTI reserves the right to inspect all items at any time while on OTI’s facilities for cameras, recording instruments and the presence of any OTI Confidential Information.

6. No License. All Confidential Information disclosed by OTI shall remain the property of OTI. OTI is not hereby granting or extending to the Participant any rights of any kind under any patent, copyright, trademark, trade secret or other intellectual property right which OTI may now have or may hereby obtain with respect to the Confidential Information.

7. Non-Competition. The Participant hereby warrants and represents that he or she will not and have no intention to disclose any information received from OTI (including, but not limited to Confidential Information, any trade secrets, software codes and impressions, security keys, passwords, access keys and ability in any way to access OTI software products, marketing materials, descriptions, personal recollection and impressions of look and feel for OTI software products) to any of the OTI’s competitors, as shall be determined by OTI in its sole discretion.

8. Release. The Participant understands that OTI will be producing various audiovisual works, including but not limited to websites, video footage, blogs, photographs and other marketing materials to publicize its products and services (collectively, “Material”) and that photographic, written text, video image or sound recordings of the Participant, his or her name and/or likeness will be obtained in order to appear in the Material. The Participant also understand that OTI may create marketing and promotional materials describing the Participant’s use of, and experience with, OTI products and/or services and containing information or materials that the Participant supplies to OTI (“Content”).

The Participant gives his or her permission for OTI and its agents to photograph and record the Participant’s name, voice, spoken word, presentation, video, or other reproduction, as well as all or parts of any related written or other materials such as Content, slides, PowerPoint presentations, written materials, and/or videos and to use the Participant’s likeness. The Participant hereby grants to OTI the irrevocable, worldwide, transferable and sub licensable right to use, reference, sell, distribute, market, promote, publish and display the Material and Content, in whole or in part, in any form, format or media now known or later devised. OTI will own all copyrights and other intellectual property rights to the materials it produces or creates as a result of this Release.

The Participant understands that he or she will not be compensated by OTI for any use made of these Materials or Content. The Participant understands that OTI is under no obligation to exercise any of the rights or privileges granted herein. The Participant hereby releases OTI and its affiliates, subsidiaries, contractors, agents, representatives and employees from any claims, causes, damages, actions or proceedings arising from, or relating to, the use of the Materials and Content as contemplated by these Terms. The Participant confirms that he or she holds the rights to the Content or materials the Participant provides or have obtained the necessary permissions and licenses to use any materials for which the Participant does not hold the rights, that presenting this material does not infringe on any rights of others, and that the Participant have full right and authority to execute these Terms.

9. Remedies. The Participant agrees that OTI may suffer irreparable harm if the Participant fails to comply with his or her obligations set forth herein and further agrees that monetary damages may be inadequate to compensate OTI for any such breach. Accordingly, the Participant agrees that OTI will, in addition to any other remedies available to it at law or in equity, be entitled to the issuance of injunctive relief to enforce the provisions hereof.

10. Warranty. OTI warrants that it has the right to make disclosures under these Terms. OTI DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, TITLE, MERCHANTABILITY, AND NON-INFRINGEMENT REGARDING THE CONFIDENTIAL INFORMATION. ALL CONFIDENTIAL INFORMATION IS PROVIDED “AS IS.” Any action taken in reliance of information obtained directly or indirectly from the Conference shall be taken at the risk of the individual or entity using said information. ETAP is an affiliated member of the ETAP Nuclear Utility User Group and shall take no responsibility for the quality, correctness, or validity of any information obtained directly or indirectly through the Conference.

11. Assignment. Neither party shall have the right to assign these Terms (or any portion hereof) without the prior written consent of OTI. Any assignment without such consent shall be void and is a material breach hereof.

12. No Waiver of Rights. Under no circumstances has either party waived any rights or remedies it may have with respect to any Confidential Information and each party expressly reserves all rights and remedies which it may have with respect to the Confidential Information. The failure of any party to insist upon or enforce strict performance of any of the provisions of these Terms or to exercise any rights or remedies under these Terms shall not be construed as a waiver or relinquishment to any extent of such party’s rights to assert or rely upon any such provisions, rights or remedies in that or any other instance; rather the same shall remain in full force and effect.

13. Severability. If any provision of these Terms is held by a court of competent jurisdiction to be contrary to law or invalid, such provision shall be changed by the court and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions shall remain in full force and effect.

14. Miscellaneous. These Terms shall be governed by and interpreted in accordance with the laws of the State of California, excluding its conflicts of law rules. These Terms constitute the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior Terms, negotiations and understandings, whether oral or written. These Terms may not be amended, except by a writing signed by both parties.