The following Terms and Conditions ("T&C") govern your use of the Service. Use of this OverNite Software, Inc. ("Company") Website constitutes your acceptance of, and agreement to these Terms and Conditions.

1. **Registration**
   a. You must be a registered user to enjoy any rights under this agreement. However, even if you are using the Website as an unregistered user, such use does not void any reserved rights, nor are you exempt from compliance with these T&C.
   b. Company will only knowingly provide the Service to parties that can lawfully enter into and form contracts under applicable law. If you are under the age of 18, but at least 13 years of age, you may use the Service only under the supervision of a parent or legal guardian who agrees to be bound by these T&C. Use of this Website is not intended for children under the age of 13.
   c. You agree to provide true, accurate, current and complete information about yourself during the registration process (your Personal Profile). You further agree that, in providing such Personal Profile, you will not knowingly omit or misrepresent any material facts or information and that you will promptly correct the Personal Profile via the Service. You further authorize us to verify your Personal Profile as required for your use of the Service, as applicable.
   d. A personal identifier and password are used to access your account on the Website (Login Data). You agree that you will not allow another person to use your Login Data to access the Service. You are solely and entirely responsible for maintaining the confidentiality of your Login Data and for any charges, damages, liabilities or losses incurred or suffered as a result of your failure to do so. We are not liable for any harm caused by or related to the theft of your Login Data, your disclosure of your Login Data, or your authorization to allow another person to access and use the Service using your Login Data. Furthermore, you are solely and entirely responsible for any and all activities that occur under your account. You agree to immediately notify us of any unauthorized use of your account or any other breach of security known to you. You acknowledge that the complete privacy of your data and messages transmitted while using the Service cannot be guaranteed.

2. **Prohibited Use**
   a. You may not upload material for which you do not have rights.
   b. You may only use the Service as expressly permitted by the Company. You may not cause harm to the Website or the Service. Specifically, but not by way of limitation, you may not:
      i. Interfere with the Service by using viruses or any other programs or technology designed to disrupt or damage any software or hardware;
      ii. Modify, create derivative works from, reverse engineer, decompile or disassemble any technology used to provide the Service;
      iii. Use a robot, spider or other device or process to monitor the activity on or copy pages from the Website, except in the operation or use of an internet "search engine," hit counters or similar technology;
      iv. Impersonate another person or entity;
      v. Engage in any activity that interferes with another user's ability to use or enjoy the Service; or
vi. Assist or encourage any third party in engaging in any activity prohibited by these T&C.

3. **Privacy Policy**
   a. By entering into these T&C, you agree to Company's collection, use and disclosure of your personal information in accordance with the Privacy Policy.

4. **Links to Third-Party Websites and Services**
   a. Third party websites and services may be accessible through the Website from links provided by Company. Additionally, users of the Service may provide links to third party websites and services. Company does not control those third parties or their services, and you agree that Company will not be liable to you in any way for your use of such services or websites.

5. **Intellectual Property Rights**
   a. Company owned Content made available through the Service is protected by copyright and other intellectual property laws. You agree not to reproduce, retransmit, distribute, disseminate, sell, broadcast, perform, make available to third parties or circulate the Content received through the Service to anyone or to exploit any such Content for commercial or noncommercial purposes without the express prior written consent of the Company.
   b. You acknowledge that Company solely and exclusively owns all intellectual property and other rights, title and interest in and to the Service and Website, except as expressly provided for in these T&C. For example and without limitation, Company owns the copyrights in and to the Website, and certain technology used in providing the Service. You will not acquire any right, title or interest therein under these T&C or otherwise to any intellectual property owned by Company.
   c. You shall promptly notify Company in writing upon your discovery of any unauthorized use or infringement of the Service or Content.

6. **Reservation of Rights**
   a. Company reserves the right, without obligation, to monitor data and communications that occur through the Website. If Company determines, in its sole and absolute discretion, that you will breach or are breaching a term or condition of these T&C or that such data or communication is inappropriate, Company may cancel such data or take any other action to restrict access to or the availability of any material that may be considered objectionable, without any liability to you or any third party.

7. **Modification of Service**
   a. Company reserves the right to modify the organization, structure or "look and feel" of the Website or Service at any time without any liability to you or any third party.
   b. Company reserves the right at any time, to change its fees and billing methods, limits, supplemental fees, product offerings, and pricing structures. While Company may make efforts to notify you of such changes, it is your responsibility to check these T&C frequently to be aware of such changes.
   c. Your continued use of the Service following the Effective Date will constitute your binding acceptance of, and agreement to, the changes specified therein. You should check back frequently and review these T&C regularly. If any new products or services become available, they will be considered a part of the Service and your use of them will be governed by these T&C unless we notify you that different terms and conditions apply.

8. **Removal of Improper Material**
   a. If you discover Content or a link to Content for which you have a provable claim to copyright, please notify Company immediately. Use our contact form, email, or postal mail to send the following information:
      - Your Full Name and Contact Information
      - Your affiliation to the copyright owner
      - Content Description
      - Name and Owner of the copyrighted work
      - Disclaimer stating that you have the authority to enforce the owner’s rights, and that the information you have provided is accurate.
Company will use reasonable means to verify a claim on infringement and reserves the
right to remove infringing Content.

9. Technological and Use Limitations
   a. In order to use the Service, you must obtain access to the Internet and pay any service
      fees associated with such access. In addition, you must provide all equipment necessary
      to make such connection to the Internet and to be able to download and listen to and/or
      view the Content.
   b. Company will make reasonable efforts to keep the Website operational. However, certain
      technical difficulties, routine site maintenance/upgrades and other events outside the
      control of Company may, from time to time, result in temporary service interruptions.
      Company also reserves the right at any time and from time to time to modify or
      discontinue, temporarily or permanently, functions of the Service with or without notice.
      You agree that Company shall not be liable to you or to any third party for any of the
      direct or indirect consequences of any modification, suspension, discontinuance of or
      interruption of the Service.
   c. You may not upload, distribute, transmit, communicate, link to, publish or access any
      data, information or material through, using or otherwise in connection with the Service,
      that: (i) is libelous, defamatory, vulgar or obscene, pornographic, sexually offensive or
      explicit, harmful or harassing, threatening, hateful, racially, culturally, ethnically or
      otherwise objectionable or offensive, discriminatory or abusive; (ii) violates any law or
      regulation or the rights of others; (iii) causes duress, distress or discomfort to another or
      is likely to deter or discourage others from using the Service; and/or (iv) infringes any
      intellectual property, proprietary rights or confidentiality obligations of others. You are
      solely responsible and liable for any such activity, behavior, use and conduct. Company
      reserves the right to remove without notice any Content determined to be in violation of
      these terms.
   d. You also may not use, nor allow others to use, your Login Data, the Service, directly or
      indirectly, to: (i) attempt to or actually disrupt, impair or interfere with, alter or modify
      the Service or any information, data or materials posted and/or displayed by us or anyone
      else; (ii) act in a way that affects or reflects negatively on us, the Service, or anyone else;
      (iii) collect or attempt to collect any information from others including, without limitation,
      personally identifiable information, without such party's prior consent. You agree to
      comply with all local, state, federal laws, statutes, rules and regulations, as well as any
      international treaties, which are applicable to your use of the Service.
   e. You are prohibited from violating or attempting to violate the security of the Service,
      including, without limitation: (i) accessing data not intended for you or logging onto a
      processor, communications or access device or account which you are not authorized to
      access; (ii) attempting to probe, scan or test the vulnerability of the Service or to breach
      security or authentication measures, regardless of your motives or intent; (iii) attempting
      to interfere with or disrupt the Service or service to any user, processor, host or network,
      including, without limitation, by submitting a virus, worm or Trojan horse; or (iv) sending
      unsolicited e-mail or other information, including promotions or advertising. Violations of
      system or network security or this Agreement may result in civil or criminal liability. We
      have the right to investigate occurrences, which may involve such violations and we may
      involve, provide information to and cooperate with, law enforcement authorities in
      prosecuting users who are involved in such violations.

10. Representations and Warranties
   a. Mutual Representations and Warranties. You represent and warrant to Company and
      Company represents and warrants to you: (i) that you or it has the full power and
      authority to enter into and perform under these T&C, (ii) the execution and performance
      of your or its obligations under these T&C does not constitute a breach of or conflict with
      any other agreement or arrangement by which you or it is bound, and (iii) these T&C are
      a legal, valid and binding obligation of the party entering into these T&C, enforceable in
      accordance with its terms and conditions.
b. **By You.** You represent and warrant to Company that, in your use of the Service, you: (i) will not infringe the copyright, trademark, patent, trade secret, right of privacy, right of publicity or other legal right of any third party, and (ii) will comply with all applicable laws, rules, and regulations. You further represent and warrant to Company that: (i) there are no claims, demands or any form of litigation pending, or to the best of your knowledge, threatened with respect to any of your Content; (ii) Company will not be required to make any payments to any third party in connection with its use of your Content, except for the expenses that Company incurs in providing the Service; (iii) the use of any instructions, formulae, recommendations, or the like contained in your Content will not cause injury to any third party; and (iv) your Content does not contain viruses or any other programs or technology designed to disrupt or damage any software or hardware.

11. **Disclaimers and Exclusions**
   a. **YOU EXPRESSLY AGREE THAT COMPANY PROVIDES THE WEBSITE AND SERVICE ON AN "AS IS" AND "AS AVAILABLE" BASIS. COMPANY DOES NOT REPRESENT OR WARRANT THAT THE WEBSITE, SERVICE OR ITS USE: (i) WILL BE UNINTERRUPTED, (ii) WILL BE FREE OF INACCURACIES OR ERRORS, (iii) WILL MEET YOUR REQUIREMENTS, OR (iv) WILL OPERATE IN THE CONFIGURATION OR WITH THE HARDWARE OR SOFTWARE YOU USE. COMPANY MAKES NO WARRANTIES OTHER THAN THOSE MADE EXPRESSLY IN THESE T&C, AND HEREBY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT.

12. **Limitation of Liability**
   a. **COMPANY WILL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES (INCLUDING DAMAGES RELATING TO LOST PROFITS, LOST DATA OR LOSS OF GOODWILL) ARISING OUT OF, RELATING TO OR CONNECTED WITH THE USE OF THE SERVICE OR THESE T&C, BASED ON ANY CAUSE OF ACTION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR A BREACH OF A PARTY'S REPRESENTATIONS AND WARRANTIES UNDER THESE T&C OR IN CONNECTION WITH YOUR INDEMNITY OBLIGATIONS UNDER THESE T&C. IN NO EVENT WILL THE LIABILITY OF EITHER PARTY IN CONNECTION WITH THESE T&C EXCEED $100.**

13. **Indemnification**
   a. You agree to defend, indemnify and hold us harmless against any losses, expenses, costs or damages (including our reasonable attorneys' fees, expert fees' and other reasonable costs of litigation or proceedings) arising from, incurred as a result of, or in any manner related to any claim or action based upon (i) your breach of, or failure to comply with, these T&C, (ii) your use of the Service, and/or (iii) the use of the Service by any other person using your Login Data. We may, in our discretion, participate in the defense of any such claim or action and any negotiations for its settlement or compromise. No settlement which may adversely affect our rights or obligations shall be made without our prior written approval. We reserve the right, at our own expense and on notice to you, to assume exclusive defense and control of any such claim or action and then your corresponding indemnification obligation will end.

14. **Notice**
   a. All notices required or permitted to be given under these T&C will be in writing and delivered to the other party by any of the following methods: (i) U.S. mail, (ii) overnight courier, or (iii) electronic mail. If you give notice to Company, you must use the following addresses: OverNite Software, Inc., 1212 N. Velasco St., Suite 110, Angleton, TX 77515 or isp@overnitecbt.com.

b. If Company provides notice to you, Company will use the contact information provided by you or Company’s Customer. All notices will be deemed received as follows: (i) if by delivery by U.S. mail, seven (7) business days after dispatch, (ii) if by overnight courier, on the date receipt is confirmed by such courier service, or (iii) if by electronic mail, 24
hours after the message was sent, provided no "system error" or other notice of non-delivery is generated.

c. If applicable law requires that a given communication be "in writing," you agree that email communication will satisfy this requirement.

15. **Dispute Resolution**
a. These T&C, and all matters arising out of or relating to these T&C, shall be governed by the laws of the State of Texas.

b. Any legal action or proceeding relating to these T&C shall be instituted in a state or federal court in Houston or Brazoria County, Texas. As a party to these T&C, each party agrees to submit to the jurisdiction of and agrees that venue is proper in these courts in any such legal action or proceeding.

16. **Severability**
a. If any part of these T&C is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these T&C shall continue in effect.

b. Any provision which must survive in order to allow us to enforce its meaning shall survive the termination of these T&C; provided, however, no action arising out of these T&C or your use of the Service, regardless of form or the basis of the claim, may be brought by you more than one (1) year after the cause of action has arisen (or if multiple causes, from the date the first such cause arose) and you hereby waive any longer statute of limitations that may be permitted by law.

c. To the extent it may be applicable, you agree with us to opt out from and expressly exclude any applicability of the Uniform Computer Information Transactions Act.

17. **Applicability**
a. Terms and conditions as stated in a valid Software License and Service Agreement between Company and Company’s Customer supersede any conflicting terms and conditions stated herein.