

OTX Systems Terms of Service (TOS)
Version 1.2
November 19, 2009

OTX Systems Ltd. ("the Company") agrees to furnish services to the Customer ("the Customer"), subject to the following TOS (Terms of Service).

Use of the Company's service constitutes acceptance and agreement to the Company's AUP (Acceptable Use Policy) as well as the Company's TOS (Terms of Service).

All provisions of this contract are subject to the TOS (Terms of Service) of the Company and AUP (Acceptable Use Policy). The AUP may be changed from time to time at the discretion of the Company. The Customer understands that change to the AUP by the Company shall not be grounds for early contract termination or non-payment.

This Agreement shall be construed in all respects in accordance with the applicable laws of the province of Alberta, Canada.

1. Compliance with laws: The Customer agrees to comply with all applicable international and domestic laws. Therefore, the Customer agrees that the Company may disclose any and all customer information including assigned IP numbers, account history, account use, etc. as per judicial or duly authorized government order without further consent or notification to the Customer. In addition the Company shall have the right to terminate all service set forth in this Agreement.
2. Service Rates: The Customer acknowledges that the nature of the service furnished and the initial rates and charges have been communicated to the Customer. The Customer is aware that the Company may change the specified rates and charges without notice. The Company will provide 90 days notice of rate changes to existing Customers.
3. Payment: This service is dependent upon receipt by the Company of payment of stated charges within 30 days. Subsequent payments are due on the anniversary date of the month for that month's service.
4. Payments and Fees: Service will be interrupted on accounts that reach 30 days past due. Past due accounts are subject to a 15% per annum late fee. If the Customer desires to cancel his account, please follow the proper procedure to do this as outlined in this TOS.
5. Refund and Disputes: All billing disputes and errors must be reported within 30 days of the time the dispute occurred. If the Customer disputes a charge made to the Customer's credit card the Company maintains it is a valid charge under the provisions of the TOS and/or AUP, the Customer agrees to pay the Company an "Administrative Fee" of \$100 plus the original charge.
6. Failure to Pay: The Company may suspend service or terminate this Agreement at its sole discretion upon the failure of the Customer to pay charges when due. Such termination or denial will not relieve the Customer of responsibility for the payment of all accrued charges, plus reasonable interest and any collection fees.
7. Account Cancellation: Requests for canceling accounts may be made by email at any time to sales@otxsystems.com.
8. Warranty and Liability:
 - a. Neither the Company or Customer shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay

or default is caused by conditions beyond its control including, but not limited to Acts of God, wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

- b. The Customer acknowledges that the Company's liability may not in any event exceed an amount equivalent to charges payable by the Customer for services during the period damages occurred. In no event shall the Company be liable for any special or consequential damages, loss or injury.
 - c. The Company takes no responsibility for any material input by others and not posted by the Company. The Company is not responsible for the content of any other websites linked to the Company network; links are provided as Internet navigation tools only. The Company disclaims any responsibility for any such inappropriate use and any liability to any person or party for any other person or party's violation of the TOS and AUP.
 - d. The Company does not make implied or written warranties for any of our services. The Company denies any warranty or merchantability for a specific purpose. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by The Company.
9. Support: The Company provides email technical support with response times as stated in the Service Plan. The following is our support guideline: The Company provides support related to the Customer accounts initial setup. The Company provides technical support for network and virtual machine connectivity, uptime issues, and automated backup. Any other support requests are considered billable services.
10. Services: As stated by the Service Plan, the Company provides regular security patches and application support for the Customer's web server and web applications. Application support includes PHP, .Net, and Java script debugging. The Customer acknowledges that these services are billable at the hourly rate posted on the website.
11. SPAM and Unsolicited Commercial Email (UCE):
 - a. The Company takes a zero tolerance approach to the sending of Unsolicited Commercial Email (UCE) or SPAM over our network. If a Customer is found to be in violation of our SPAM policy, the Company may, at its sole discretion, restrict, suspend or terminate the Customer's account. The Company will notify law enforcement officials if the violation is believed to be a criminal offense.
 - b. As our Customers are ultimately responsible for the actions of their clients over the Company resources, it is advisable that Customers develop a similar, or stricter, policy for their clients.
12. Network
 - a. Bandwidth and Disk Usage: The Customer agrees that bandwidth and disk usage shall not exceed the number of gigabytes per month for the Services ordered by the Customer. The Company will monitor the Customer's bandwidth and disk usage. The Company will assess additional charges for exceeding bandwidth limits.
 - b. System and Network Security: Users are prohibited from violating or attempting to violate the security of the Company servers. Violations of system or network security may result in account termination, civil or criminal liability. The Company will investigate occurrences, which may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting Users who are involved in such violations.
13. Notification of Violation:

- a. The Company is under no duty to look at each Customer's or user's activities to determine if a violation of the AUP has occurred, nor do we assume any responsibility through our AUP to monitor or police Internet-related activities.
 - b. First violation: Any Customer, which the Company determines to have violated any element of this Acceptable Use Policy, shall receive an email, warning them of the violation. The service may be subject at the Company's discretion to a temporary suspension pending a Customer's agreement in writing, to refrain from any further violations.
 - c. Second Violation: Customers that the Company determines to have committed a second violation of any element of this Acceptable Use Policy shall be subject to immediate suspension or termination of service without further notice.
14. Suspension of Service or Cancellation: The Company reserves the right to suspend network access to any Customer if in the judgment of the the Company network administrators The Customer's account is the source or target of the violation of any of the other terms of the AUP or for any other reason which The Company chooses. If inappropriate activity is detected, all accounts of the Customer in question will be deactivated until an investigation is complete. Prior notification to the Customer is not assured. In extreme cases, law enforcement will be contacted regarding the activity. The Customer will not be credited for the time the Customer's accounts were suspended.
15. The Company reserves the right to amend its policies at any time. Updated policies will be posted on the website.
16. Indemnification: The Company wishes to emphasize that in agreeing to the Company Acceptable Use Policy (AUP) and Terms of Service (TOS), The Customer indemnifies The Company for any violation of the Acceptable Use Policy (AUP) and Terms of Service (TOS) that results in loss or claim against The Company.
17. The Customer shall not transfer or assign this Agreement without the prior written consent of the Company. The Company may assign Agreement at anytime without consent from or notice to the Customer. The Company reserves the right to cancel customers rights under this contract at anytime without further obligation.
18. Responsibility for Content: The Customer is solely responsible for the content stored on and served by the Customer's account.
19. Piracy: The Customer will not engage in the manufacture, distribution or transfer of counterfeit, pirated or illegal software.
20. Use of Microsoft® Software: The Company provides access to Microsoft Software under the terms of the Microsoft SPLA licensing agreement. The Customer is required to follow the conditions set out in Service Provider Use Rights (SPUR) downloadable from <http://www.microsoftvolumelicensing.com/userights/Downloader.aspx?DocumentId=2530>
21. Use of LGPL software, including MapGuide Open Source:
 - a. Use of LGPL'd software is governed by the GNU Lesser General Public License available here <http://mapguide.osgeo.org/lgpl.html>
22. Trademarks
 - a. Microsoft® is a registered trademark of Microsoft Corporation in the United States and other countries.