

Microsoft Azure Terms of Service

The Optimus Tech Services Inc. (“**OTS**”) services are provided in connection with Microsoft Windows Azure MA Services (the “**MA Service Provider**”) and its licensors including, where applicable, Microsoft. In order to receive the services, you must agree to the following terms and condition prior to activation of your account.

BY ACCEPTING THIS AGREEMENT, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE “**MA AGREEMENT**”) GOVERNING YOUR USE OF SERVICE PROVIDER’S MICROSOFT AZURE SERVICES (THE “**MA SERVICE**”). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST SELECT THE “I DECLINE” BUTTON AND MAY NOT USE THE SERVICE.

General (i) This MA Agreement, including any and all documents incorporated herein by reference, constitutes the entire MA Agreement between the Customer and OTS relating to provision of MA Services. (ii) Headings are used throughout this MA Agreement for convenience only and no provision, term or condition of this MA Agreement shall be construed by reference to any heading of this MA Agreement. (iii) OTS’s failure to insist on or enforce strict performance of any provision of this MA Agreement shall not be construed as a waiver of any provision, term, condition or right of OTS contained in this MA Agreement. (iv) If any of the terms, conditions or provisions of this MA Agreement is determined to be void, invalid or otherwise unenforceable by any court of competent jurisdiction, the same shall be severable from the rest of this MA Agreement and such determination shall not affect the remaining provisions contained in this MA Agreement. (v) This MA Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and the courts of such province shall have exclusive jurisdiction to adjudicate any claim or dispute relating to this MA Agreement. (vi) Customer may not make any re-sale of any of the MA Services provided hereunder. (vii) OTS shall not be liable for any delay or failure in performance of MA Services due to war, riot, embargoes, strikes, casualties, accidents, fire, earthquake, flood, acts of God, supplier or vendor failure, or other occurrence beyond 360’s direct control.

OTS (and its licensors, where applicable) shall own all right, title and interest, including all related intellectual property rights, in and to the MA Service and any ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the MA Service. This MA Agreement is not a sale and does not convey to you any rights of ownership in or related to the MA Service or the intellectual property rights owned by OTS.

The Customer shall indemnify and hold OTS and the MA Service Provider, its licensors and each such party’s parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys’ fees and costs) arising out of or in connection with a claim arising from the breach by you or your users of this MA Agreement, provided in any such case that OTS and the MA Service Provider (a) gives written notice of the claim promptly to you; (b) gives you sole control of the defense and settlement of the claim (provided that you may not settle or defend any claim unless you unconditionally release OTS and the MA Service Provider of all liability and such settlement does not

affect OTS and the MA Service Provider's business or MA Service); (c) provides to you all available information and assistance; and (d) has not compromised or settled such claim.

MA SERVICE PROVIDER AND OTS AND LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE. MA SERVICE PROVIDER AND OTS AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE MA SERVICE OR THE SERVER(S) THAT MAKE THE MA SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE MA SERVICE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY OTS AND THE MA SERVICE PROVIDER AND ITS LICENSORS.

IN NO EVENT SHALL OTS OR THE MA SERVICE PROVIDER'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY YOU FOR USE OF THE SERVICE IN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS MA SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE MA SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE MA SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

OTS and the MA Service Provider reserves the right to modify the terms and conditions of this MA Agreement or its policies relating to the MA Service at any time, by providing notice by means of an email message to your administrator e-mail address on record in OTS's Customer Account Contact Information, or by written communication sent by first class mail or pre-paid post to your address on record in OTS's Customer Account Contact Information. Continued use of the MA Service after any such changes shall constitute your consent to such changes.

This MA Agreement shall be governed by Ontario law and applicable Canadian federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this MA Agreement or the MA Service shall be resolved as provided for in the OTS Terms and Conditions posted [here](#). If any provision of this MA Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture,

partnership, employment, or agency relationship exists between the Customer and OTS or the MA Service Provider as a result of this agreement or use of the MA Service. The failure of OTS and the MA Service Provider to enforce any right or provision in this MA Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by OTS in writing. This MA Agreement comprises the entire agreement between the Customer and OTS and the MA Service Provider and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.