

OpenDDS Commercial Support

Terms and Conditions

Your purchase includes ad-hoc support and related assistance for OpenDDS®. If you are interested in more comprehensive support options, please contact us to set up a consultation.

TERM OF AGREEMENT

This support agreement shall commence as of the purchase date and will continue until completion of the services as stipulated in the agreement, unless terminated/canceled at an earlier time pursuant to the termination clause below. The term shall be effective for a maximum of twelve (12) months from the date you place an order for services from this website.

TERMINATION

Either party may terminate this Agreement with or without cause by providing fourteen (14) days advance notice in writing to the other party. Client agrees to pay the OpenDDS Foundation for all work performed up to the effective date of such termination.

DESCRIPTION OF SERVICES

The OpenDDS Foundation, a subsidiary of Unity Foundation NP, shall provide to Client up to the agreed upon amount of ad-hoc advisory technical assistance (e.g., code support and troubleshooting, error diagnosis and resolution, programming, or configuration related issues) in collaboration with Client.

SCOPE OF WORK

The scope of work under this Agreement is as follows: Ad-hoc support is available between 8 a.m. and 5 p.m., U.S. Central Time Zone, rendered on a best-effort basis. Ad-hoc hours are consumed in 30-minute increments based on actual usage. We will work up to two (2) concurrent support requests. If more than two (2) support requests are reported by the Client, Foundation will work with you to prioritize support requests.

Foundation will assign an available engineer to work the support request, however, Foundation cannot promise that a particular individual will be available; or the same individual will be available every time.

The Foundation will do its best to work with the Client and support the project needs. Foundation will use its discretion to determine the amount of time needed to attempt to resolve any specific support request and will let you know if a request looks like it will be a significant use of hours and get your approval before starting.

NO MODIFICATION

This Agreement may only be amended by the subsequent written mutual agreement of the Client and the OpenDDS Foundation.

Terms & Conditions:

By purchasing support hours, you are entering into a contractual agreement. Please read the terms and conditions of this agreement carefully. We will email you a copy of the agreement upon purchase.

TERMS AND CONDITIONS FOR THE ONLINE SALE OF GOODS AND SERVICES

THESE TERMS AND CONDITIONS FOR THE ONLINE SALE OF GOODS AND SERVICES (“TERMS”) CONTAIN IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ THESE TERMS CAREFULLY.

THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

BY PLACING AN ORDER FOR SERVICES FROM THIS WEBSITE, YOU AFFIRM THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT, AND YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS. YOU AFFIRM THAT IF YOU PLACE AN ORDER ON BEHALF OF AN ORGANIZATION OR COMPANY, YOU HAVE THE LEGAL AUTHORITY TO BIND ANY SUCH ORGANIZATION OR COMPANY TO THESE TERMS AND CONDITIONS.

YOU MAY NOT ORDER OR OBTAIN SERVICES FROM THIS WEBSITE IF YOU (A) DO NOT AGREE TO THESE TERMS, (B) ARE NOT THE OLDER OF (1) AT LEAST 18 YEARS OF AGE OR (2) LEGAL AGE TO FORM A BINDING CONTRACT WITH THE OPENDDS FOUNDATION, OR (C) ARE PROHIBITED FROM ACCESSING OR USING THIS WEBSITE OR ANY OF THIS WEBSITE'S CONTENTS, GOODS, OR SERVICES BY APPLICABLE LAW.

These Terms apply to the purchase and sale of services from the OpenDDS Foundation (Foundation) through this website (the “Site”). These Terms are subject to change by Foundation (referred to herein as “us”, “we”, or “our” as the context may require) without prior written notice at any time in our sole discretion. Any changes to the Terms will be in effect as of the “Last Updated Date” listed below. You should review these Terms prior to purchasing any services that are available through this Site. Your

continued use of this Site after the “Last Updated Date” will constitute your acceptance of and agreement to such changes.

These Terms are an integral part of the Site’s Terms of Use that apply generally to the use of this Site. You should also carefully review our [Privacy Policy](#) before placing an order for products or services through this Site (see Section 7).

1. Order Acceptance and Cancellation. You agree that your order is an offer to buy, under these Terms, all services listed in your order. All orders must be accepted by us, or we will not be obligated to sell the services to you. We may choose not to accept orders at our sole discretion, even after we send you a confirmation email with your order number and details of the items you have ordered.

2. Prices and Payment Terms.

A. Ad-hoc support hours purchased from this Site will expire twelve (12) months from the date of purchase.

B. All prices, discounts, and promotions posted on this Site are subject to change without notice. The price charged for a service will be the price in effect at the time the order is placed and will be set out in your order confirmation email. Price increases will apply only to orders placed after such changes. Posted prices do not include taxes. If applicable, all such taxes and charges will be added to your total due and will be itemized in your shopping cart and in your order confirmation email. We strive to display accurate price information; however, we may, on occasion, make inadvertent typographical errors, inaccuracies, or omissions related to pricing and availability. We reserve the right to correct any errors, inaccuracies, or omissions at any time and to cancel any orders arising from such occurrences.

C. Payment for the Goods and/or Services governed by these Terms must be received by us before our acceptance of an order. We accept American Express, MasterCard, Visa, and Discover cards, as well as Apple Pay, Google Pay, cashiers' and corporate checks, wire transfers, electronic funds transfers, and ACH for all purchases. You represent and warrant that, if applicable, (1) the credit card information you supply to us is true, correct, and complete, (2) you are duly authorized to use such credit card for the subject purchase, (3) charges incurred by you will be honored by your credit card company, and (4) you will pay charges incurred by you at the posted prices, including shipping and handling charges and all applicable taxes, if any.

3. Customer's Acts or Omissions. If Foundation's performance of its obligations under these Terms is prevented or delayed by any act or omission of you, the customer, your agents, subcontractors, consultants, employees, or the like, Foundation shall not be deemed in breach of its obligations under these Terms or otherwise liable for any costs, charges, or losses sustained or incurred by You, in each case, to the extent arising directly or indirectly from such prevention or delay.

4. Intellectual Property.

A. Ownership of Deliverables. All tangible material, including data, specifications, designs, and programs, either written or in electronic form, that are prepared by Foundation specifically for You, the Customer ("Deliverables"), shall be the sole property of the Customer. Foundation acknowledges and agrees that any and all Deliverables that may qualify as "work made for hire" as defined in the Copyright Act of 1976 (17 U.S.C. § 101) are hereby deemed "work made for hire" for Customer, and all copyrights therein shall automatically and immediately vest in the Customer. To the extent that any Deliverable does not constitute "work made for hire," Foundation hereby irrevocably assigns to the Customer and its successors and assigns, for no additional consideration, Foundation's entire right, title, and interest in and to such Deliverables. Source code will be provided by Foundation to Customer for the software to which Customer is expressly granted title pursuant to these Terms, except for software that is not owned by Foundation and distributed to Customer under any licensing/reselling arrangements, including licenses for Open Source Components and Third-Party Materials (as each term is defined below). At Customer's expense, Foundation shall execute all documents and perform all acts that Customer may reasonably request to assist Customer in perfecting its rights, including but not limited to patent, copyright, and trademark rights, in and to such Deliverables, if applicable.

B. Use of Deliverables and Customer Materials. Customer hereby grants to Foundation a fully paid-up and royalty-free, non-exclusive right and license to all materials and information, including documents, data, specifications, software, content, and technology that are hereafter provided to Foundation by or on behalf of Customer in connection with these Terms ("Customer Materials"). The License permits Foundation to use, reproduce, perform, display, distribute, modify, and create derivative works and improvements of the Customer Materials for the sole purpose of developing and delivering the Deliverables and otherwise as necessary to perform its obligations under these Terms and any applicable work order or agreement between Foundation and Customer. Subject to the foregoing license, Customer reserves all rights in the Customer Materials.

C. Pre-Existing Materials and Foundation Materials.

1. Foundation is, and shall remain, the sole and exclusive owner of all right, title, and interest in and to all documents, data, know-how, methodologies, software, and other materials developed or acquired by Foundation prior to the date hereof or independently of the performance of Foundation under this Agreement, including but not limited to general software libraries and their contents owned or licensed by Foundation and not specifically created for Customer, or modified versions thereof, that are used in providing the Services and incorporated into the Deliverables ("Pre-Existing Materials"), including all intellectual property rights therein.

2. Foundation is, and shall remain, the sole and exclusive owner of all right, title, and interest in and be free to use any general knowledge, experience, skills, and know-how, as well as any knowledge retained in unaided human memories, including discoveries, methods, inventions, works, processes, ideas, concepts, algorithms, skill, tools, techniques, and other intellectual property rights learned or developed by Foundation in performing the Services hereunder, including but not limited to (a) data processing ideas, (b) programming techniques, (c) consulting methodologies, and (d) systems

integration techniques (“Foundation Materials”). Foundation may acquire, license, market, distribute, develop for itself or others, or have others develop for it, similar technology performing the same or similar functions as the technology and Deliverables contemplated by this Agreement; provided that in doing so, Foundation does not breach its confidentiality obligations specified in this Agreement or infringe the intellectual property rights of Customer.

3. To the extent that any Pre-Existing Materials or Foundation Materials are incorporated in or combined with any Deliverable or otherwise necessary for the use or exploitation thereof, Foundation hereby irrevocably grants to the Company a royalty-free, fully paid-up, worldwide, non-exclusive license to use such Pre-Existing Materials as part of or in connection with such Deliverables. All other rights in and to the Pre-Existing Materials are expressly reserved by Foundation.

D. Third Party Materials. The Deliverables may include or operate in conjunction with materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content, and technology, in any form or media, in which any Person other than Customer or Foundation owns any intellectual property right, but specifically excluding Open Source Components (“Third-Party Materials”). All Third-Party Materials are provided pursuant to the terms and conditions of the applicable third-party license agreement. Customer shall comply with all such third-party license agreements and any breach by Customer thereof will be deemed a breach of this Agreement. Ownership of all Third-Party Materials, and all intellectual property rights therein, is and will remain with the respective owners thereof.

E. Open Source Components. Any use of any software component that is subject to any open source copyright license agreement, including software available under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or any other license that is approved by the Open Source Initiative (“Open Source Components”) by the Customer will be governed by, and subject to, the terms and conditions of the applicable Open Source licenses. Modifications to Open Source Components developed and/or employed in connection with the services performed for Customer under this Agreement may be submitted for incorporation into the Open Source Components code base, unless Customer expressly withholds permission for such submission. Such permission will not be withheld by Customer if disclosure of the modifications is required under the applicable open source licensing terms.

5. Representation and Warranty. We will perform and deliver the subject goods and/or services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under these Terms. We are not liable for a breach of the warranty set forth in this section unless you give written notice of the defective services, reasonably described, to us within 30 days of the time when you discover or ought to have discovered that the goods and/or services were defective.

A. Subject to this section, Foundation shall, in its sole discretion, either (1) repair or re-perform such goods and/or services (or the defective part) or (2) credit or refund the price of such goods and/or services at the pro rata contract rate.

THE REMEDIES SET FORTH IN SECTION 5 SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY AND OUR ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 5.

EXCEPT FOR THE WARRANTY SET FORTH IN SECTION 5, WE MAKE NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS AND/OR SERVICES SUBJECT TO THESE TERMS, INCLUDING ANY (1) WARRANTY OF MERCHANTABILITY, OR (2) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR (3) WARRANTY OF TITLE, OR (4) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

6. Limitation of Liability. IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH ANY BREACH OF THESE TERMS, REGARDLESS OF (1) WHETHER SUCH DAMAGES WERE FORESEEABLE, (2) WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (3) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.

OUR SOLE AND ENTIRE MAXIMUM LIABILITY, FOR ANY REASON, AND YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY YOU FOR THE GOODS AND/OR SERVICES THAT ARE THE SUBJECT OF THESE TERMS.

The limitation of liability set forth above shall apply only to the extent permitted by law.

7. Privacy. We respect your privacy and are committed to protecting it. The [Privacy Policy](#) governs the processing of all personal data collected from you in connection with your purchase of products and/or services that are the subject of these Terms.

8. Force Majeure. We will not be liable or responsible to you, nor be deemed to have defaulted or breached these Terms, for any failure or delay in our performance under these Terms when and to the extent such failure or delay is caused by or results from acts or circumstances beyond our reasonable control, including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lockouts, strikes or other labor disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

9. Governing Law and Jurisdiction. This Site is operated from the United States. All matters arising out of or relating to these Terms are governed by and construed in accordance with the internal laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule (whether of the State of Missouri or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Missouri. Subject to Section 10, any action or proceeding by either party concerning these Terms shall be brought only in Circuit Court of Saint Louis County, Missouri, or the District Court of the Eastern District of Missouri, if federal jurisdiction exists.

10. Dispute Resolution and Binding Arbitration.

ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN YOU AND US ARISING FROM OR RELATING IN ANY WAY TO YOUR PURCHASE OF PRODUCTS OR SERVICES THROUGH THE SITE ("CLAIM(S)"), WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.

YOU AND FOUNDATION ARE AGREEING TO WAIVE ANY RIGHTS TO LITIGATE CLAIM(S) IN A COURT OR BEFORE A JURY, OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO ANY CLAIM(S). OTHER RIGHTS THAT YOU MAY HAVE HAD IF YOU WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION.

A. The arbitration will be administered by the American Arbitration Association ("AAA") in accordance with the Consumer Arbitration Rules (the "Rules") then in effect, except as modified by this Section 10. (The Rules are available at www.adr.org/arb_med or by calling the AAA at 800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this Section.

B. The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability and/or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or the agreement is void, voidable, or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction.

C. You agree to arbitration on an individual basis. In any dispute, NEITHER YOU NOR FOUNDATION WILL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS IN COURT OR IN ARBITRATION OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER, OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. The arbitral tribunal may not consolidate more than one person's claims and may not otherwise preside over any form of a representative or class proceeding. The arbitral tribunal has no power to consider the enforceability of this class arbitration waiver, and any challenge to the class arbitration waiver may be raised only in a court of competent jurisdiction.

D. If any provision of this Section 10 is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced.

11. Assignment. You may not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this Section 11 is null and void. No assignment or delegation relieves you of any of your obligations under these Terms.

12. No Waivers. The failure by us to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any right or provision will be effective only if in writing and signed by a current Director of Foundation.

13. No Third-Party Beneficiaries. These Terms do not and are not intended to confer any rights or remedies upon any person other than you.

14. Notices.

A. To You. We may provide any notice to you under these Terms by: (1) sending a message to the email address you provide or (2) posting to the Site. Notices sent by email will be effective when we send the email, and notices we provide by posting will be effective upon posting. It is your responsibility to keep your email address current.

B. To Us. To give us notice under these Terms, you must contact us as follows: (1) by electronic mail to contracts@opendds.org or (2) by personal delivery, overnight courier, or registered or certified mail to OpenDDS Foundation, ATTN: General Counsel, 12140 Woodcrest Executive Drive, Suite 300, St. Louis, MO 63141. We may update the email address or address for notices to us by posting a notice on the Site. Notices provided by personal delivery will be effective immediately. Notices provided by email or overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

15. Severability. If any provision of these Terms is invalid, illegal, void or unenforceable, then that provision will be deemed severed from these Terms and will not affect the validity or enforceability of the remaining provisions of these Terms.

16. Entire Agreement. Our order confirmation, these Terms, our Site Terms of Use, and our [Privacy Policy](#) will be deemed the final and integrated agreement between you and us on the matters contained in these Terms.