

# OWOX Terms of Service

THIS OWOX Terms of Service (“Terms”) are valid and effective from March 31, 2020 — for current Clients and from the publication date — for the new Clients. The Terms shall apply to any OWOX BI Project from the moment when:

1. The Trial has started, and/or
2. The credit / debit card details are entered, and/or
3. The invoice, issued by OWOX, has been settled.

These Terms shall be legally binding to any user of such OWOX BI Project (Client), except when such user enters into an agreement with another reseller or agent for OWOX BI Services.

These Terms completely replace any prior version of OWOX terms of service.

The Services under these Terms are provided by OWOX, Inc. ("OWOX"), registered address: United States 340 S Lemon Ave Ste 2021 Walnut CA 91789, contact email address: [bi@owox.com](mailto:bi@owox.com).

The Services include Software, that belongs to OWOX Limited, Cyprus. Thus, by using the Services you are agreeing to OWOX Cyprus terms of use, available at [https://i.owox.com/owox\\_com/OWOX\\_cyprus\\_terms\\_of\\_use\\_en.pdf](https://i.owox.com/owox_com/OWOX_cyprus_terms_of_use_en.pdf).

## 1. Services

- 1.1. OWOX shall make available to the Client services, according to the Plan chosen in the OWOX BI Project and packaged according to <https://www.owox.com/compare-plans-table/> or the other services (consulting, set up and onboarding, training) agreed by the Parties in writing (hereinafter — Services), solely for the Client's internal business operations and in exchange for timely payments. Services are provided at [www.owox.com](http://www.owox.com) or via Client email.
- 1.2. *Help-Desk*. OWOX operates the HelpDesk every Business Day between 9 a.m. and 6 p.m. Eastern European Summer Time (EEST). The Client may initiate this support by writing to OWOX email or online chat. OWOX will use commercially reasonable efforts to respond to such HelpDesk tickets within 3 business hours — for High priority tickets, 1 business day — for medium priority tickets, and 3 business days — for low priority tickets.
- 1.3. For the provision of Services, Client shall:

- 1.3.1. provide OWOX with access to Client's Google Analytics, Google Tag Manager accounts;
  - 1.3.2. follow the negotiated roadmap terms and provide informational support to OWOX (changes in Web-object design, new pages and/or functionality, etc);
  - 1.3.3. correctly install and maintain OWOX JavaScript code in web-browsers and in Web-objects, if this is technically applicable;
  - 1.3.4. if the Client has not ordered OWOX BI Onboarding, the Client is fully responsible for setting up Google Analytics and Google Tag Manager on its Web-objects, as well as for the quality of the collected data in Google Analytics while using OWOX BI services.
- 1.4. *SLA*. The OWOX shall provide the Client with the OWOX BI service within usage limitation in accordance with the terms of the SLA, available at <https://support.owox.com/hc/en-us/articles/222225328-Service-Level-Agreement>.
- 1.4.1. Methods for counting scope of Services:
  - 1.4.2. Unique Users — The quantity of unique users of Client's Web-Objects, whose data has been processed in a calendar month, is calculated by the OWOX in accordance with its methods and with the use of Google BigQuery data. The number is rounded to the whole number of thousands if less.
  - 1.4.3. Pipelines — The Pipeline is considered active if it was connected to the Project and at least 1 Kb of data was transferred through it.
  - 1.4.4. Hours — Hours for consultancy are counted based on OWOX internal counting procedures and rounded to 30 minutes if less.
- 1.5. Business usage. OWOX provides Services only to legal entities and/or sole traders for the purpose of internal business operations. As long as Client uses Services on behalf of a business, that business accepts these terms. It will hold harmless and indemnify OWOX and its affiliates, officers, agents, and employees from any claim, suit or action arising from or related to the use of the Services or violation of these Terms, including any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and attorney's fees.
- 1.6. In case the Client orders Services on behalf of and for the benefit of the third party, the Client shall confirm its authority to act on behalf of the third party.

## 2. Payment

- 2.1. *Price*. The price for the Services is indicated at <https://www.owox.com/pricing-details/>. The Plans Cost data, OWOX BI Basic or OWOX BI Business are available for further purchase for the Projects, that have been using these Plans before 22 December 2019, these Projects can stay within their current Plan's limit or change it to Marketing Data or Reports & Attribution.
- The Price for the one-time service or project service could be a one-off fee plus an additional fee for the out of scope services if any.

The Price for the recurring Services consists of the monthly fee and additional fee for the out-of-scope usage if any.

Unless agreed otherwise, the payment obligations are non-cancellable and the fees paid are non-refundable.

- 2.2. *Trial.* OWOX can, at its sole discretion, make available a free trial version of the Services to the Client for limited use. The provision of the trial version of the Services shall last 14 (fourteen) days. The Client agrees that during the trial period only limited Services shall be provided to the Client and for the sole purpose of testing and trying the Services. After the lapse of the 14-day trial period, the Client shall pay for the next period of Services provision, or (b) the Client shall cease to use the Services for any purpose. If the Client does not cease to use the Services after the lapse of the 14-day trial period, the Client shall be obliged to pay for the Services. OWOX shall have the right at any time during and/or after the 14-day trial period to stop providing the Trial Services to the Client.
- 2.3. *USD Currency.* The price for the Services shall be payable in US dollars.
- 2.4. *Terms.* The Services shall be paid on a prepayment basis by credit / debit card through the Stripe payment processing system before the start of the prepayment period. Any out of scope services shall be paid by the credit / debit card on a monthly post-payment basis.  
If agreed by the Parties in writing, OWOX may issue an invoice for payment for the Services. In this case, the Services shall be paid on the prepayment basis within 5 working days from the invoice date, and on a monthly post-payment basis within 5 business days from the invoice date — for any out of scope services.
- 2.5. *Delay in payment.* OWOX shall have the right to postpone the Services provision until they are fully paid by the Client.
- 2.6. *Taxes are not included.* All prices are indicated without taxes, including all business, sales, value-added, withholding, stamp, and all other similar taxes or duties. Every Party will be responsible for taxes on its own. In the event that taxes must be withheld from payments to OWOX, the Client will increase the payment to OWOX so that the amount received by OWOX is the same as it would have been if no taxes were withheld.
- 2.7. *Bank commissions.* Bank costs on the territory of the Client are borne by the Client, bank costs on the territory of OWOX are borne by OWOX, bank costs of the foreign correspondent banks are paid by the Client.
- 2.8. The Google Cloud Platform services are not included in the price for the Services and shall be paid directly to Google.

### 3. Definitions

In these Terms the definitions shall have the following meaning:

*Account* is a Google account that provides access to the OWOX BI system (a set of data about the Client stored in a computer system that is necessary for Client's identification (authentication) and providing access to Projects, data, settings and services).

*Beta* means any Alpha, Beta version or any other preliminary version of OWOX BI services marked as such in the documentation, in the Project or on OWOX's Website. Beta is not a final version, there is no fee for its usage and OWOX does not guarantee its stable and correct operation and at any time may change or stop the operation of such an OWOX BI service without prior notice to the Client.

*Confidential information* means all information disclosed by one Party to another Party which is in the tangible (in written or electronic) form and labeled "confidential" (or with a similar legend) or which a reasonable person would understand to be confidential given the nature of the information and circumstances of disclosure (including information provided verbally) or "trade secret". Notwithstanding the foregoing, Confidential Information shall not include information that (a) was already known to the receiving party at the time of disclosure by the disclosing party; (b) was or is obtained by the receiving party from a third party not known by the receiving party to be under an obligation of confidentiality with respect to such information; and (c) is or becomes generally available to the public other than by violation of these Terms; (d) independently developed by the other Party.

*OWOX BI Services* is a complex of tools and services for collecting and converting raw data from the web-objects into information, and information into knowledge for their further use for business analysis, and depending on the amount agreed by OWOX for the particular Project include the following services: OWOX BI, OWOX BI Attribution, OWOX BI Pipeline, OWOX BI Smart Data.

*OWOX BI* is a cloud solution consisting of a set of services for the integration of Google products, web-objects, and third-party services to increase the efficiency of analytical tools.

*OWOX BI Attribution* is a service that gives an opportunity to evaluate the contribution of each User session that led to the purchase of a product, taking into account its influence on the promotion of the User through the conversion funnel. A detailed description of OWOX BI Attribution is available at the link: <https://www.owox.com/products/bi/attribution/>, the content, and URL may change from time to time.

*OWOX BI Pipeline* is a service that allows to set up and manage data flows (for example, it integrates into Google's BigQuery's Users' actions on Web-objects, anonymized data from CRM and / or ERP, and Cost Data from advertising services into Google Analytics, etc.). A detailed description of the OWOX BI Pipeline is available at the link: <https://www.owox.com/products/bi/pipeline/>, the content and URL may change from time to time.

*OWOX BI Smart Data* is a service for sending requests to data in natural language. A detailed description of OWOX BI Smart Data is available at the link: <https://www.owox.ru/products/bi/smart-data/>, the content and URL may change from time to time.

*OWOX BI Streaming code* is a part of code that needs to be put on the Web-objects for sending data to Google BigQuery.

*Representatives* mean individuals or companies who are authorised to act on behalf of a Party or provide support on behalf of or for a Party, including but not limited to officers, employees, consultants or any professionals or advisers, as well as in relation to a Party – its affiliates, which are any subsidiary undertaking or parent undertaking of that Party and any subsidiary undertaking of any such parent undertaking.

*Session* means the period of time a User is active on the Web-object (s).

*Pipeline* means Pipelines for Google Analytics/Google BigQuery Cost Data Import, import of data on expenses, clicks and views from an advertising service into Google Analytics / Google BigQuery.

*Plan* means the scope of OWOX BI features and other services that are provided by OWOX.

*Project* is a set of data about the Client, the Services rendered, mutual settlements, personal settings, that is stored in the OWOX BI system and to which a limited number of Accounts have access.

*User* means a visitor of Web-object, who is associated with a unique identifier and whose Google BigQuery data has been processed in OWOX BI Project within one month.

*Web-object* means any website, mobile version of the website, application or other web-object controlled by the Client and in respect of which the Services are provided by OWOX. The specific web-object in respect of which OWOX renders the Services is determined by the Client in the Project.

If the Web-object belongs to a third party, the Client bears all responsibility for obtaining the consent of such third party for Services renderence before adding these Web-object to OWOX BI Project. In this case, by adding these Web-object to OWOX BI Project, the Client confirms and guarantees that he has received the corresponding consent from the Web-object owner for the renderence of the Services by OWOX.

References to '*writing*' in these Terms include any electronic communications between the Parties.

## 4. Client data

4.1. Some of OWOX BI Services allow the Client to process data. The Client retains ownership of any rights that the Client holds in that data.

4.2. OWOX and its contractors may only use the data to which the Client grants access in the Project, for the following purposes:

(i) to provide the OWOX BI Services and technical support, in accordance with the settings in the Project;

- (ii) to collect the OWOX BI Service statistics (which will not include personally identifiable information or information that identifies or would reasonably be expected to identify the Client);
- (iii) to improve and enhance the OWOX BI Services (the data is collected in anonymized form, e.g. in the form of derived metrics and coefficients),
- (iv) to showcase the results of using OWOX BI services, only upon prior agreement with the Client and to the agreed extent;
- (v) if and as required by court order, law or governmental or regulatory agency (after, if permitted, notifying the Client within a reasonable time and taking all commercially reasonable efforts to provide the Client with the opportunity to receive a protective order or its equivalent at Client's interest and expense).

## 5. Confidentiality

- 5.1. Confidentiality Obligations. The Party must keep any Confidential Information it becomes aware of strictly confidential and must not without the express prior written consent of the other Party use or disclose such information to any third party.
- 5.2. Use solely for the purpose. The Party must only use Confidential Information of which it becomes aware of for the proper and legitimate purposes of carrying out the Services and implementation of these Terms (Purpose).
- 5.3. Upon a Party's request, all copies of Confidential Information (including copies in written, paper or electronic form) and any summaries of Confidential Information will be promptly destroyed or returned to the Party.
- 5.4. Each Party may disclose Confidential Information to its Representatives who in the Party's reasonable judgment have the need to know such information in connection with the Purpose. The Party will maintain records of the persons to whom Confidential Information is distributed, will inform all such persons of the confidential nature of the Confidential Information, will direct them to treat such information in accordance with these Terms, will exercise such measures as may be reasonable in the circumstances to prevent improper use of Confidential Information by them, and will be responsible for any breaches by them of the provisions of these Terms.
- 5.5. In the event that the Party (or any of the Party's Representatives) are requested or required by law or legal process to disclose any of the Confidential Information, the party required to disclose such information shall provide the Party, that is the owner of such information, with prompt written notice before making any disclosure. In addition, Confidential Information may only be disclosed: (i) to the extent required, and (ii) the Party will notify the Party, that is the owner of such information, promptly upon such disclosure.
- 5.6. The terms of the Section shall survive termination of these Terms for the 5 years upon the last day of Services provision and in respect to any trade secrets — for an undefined period of time.

## 6. Publicity

- 6.1. OWOX shall be entitled to publicly refer to the Client as a user of the Services. Client hereby grants OWOX with a sub-licensable, non-exclusive, fully paid, worldwide and limited license to use and display Client's names, logos, and trademarks solely for identifying Client as a client of OWOX.
- 6.2. The Parties shall negotiate the case study, based on the results of the Services successfully rendered to the Client under these Terms. The Client has the right not to disclose any confidential information relevant to the Client's business in the case study. The Client hereby authorizes the OWOX to use the negotiated case study in OWOX business activities.
- 6.3. The client is not obliged to give feedback on the Services. However, if the Client gives feedback on the Services than OWOX may use this feedback in its business activities for improving the Services and publish Client's feedback for marketing purposes.

## 7. Personal data

- 7.1. The Parties hereof warrant that all personal data transferred by the Parties to each other for the purpose of the performance of the obligations hereunder, have been received, are processed and transferred in full compliance with the effective personal data legislation (including receipt of consent from the subject of personal information to international transfer of information, i.e. to the countries that do not ensure an adequate level of protection). OWOX acts strictly as a data intermediary and processor (subprocessor) in providing the Services.
- 7.2. Each Party undertakes to provide the same level of protection of personal data received from the other Party within the frame of these Terms, as this Party provides to its own personal databases, but not less than a reasonable level of protection of personal data.

## 8. Term

- 8.1. These Terms shall be effective from March 31, 2020 for the current Clients and from the publication date — for the new Clients.
- 8.2. These Terms (including its future versions and updates) shall be valid for a period, prepaid by the Client (Initial Term), and shall be automatically extended for the same period or periods (Renewal Term) thereafter unless and until any Party provides written notice to the other Party about non-renewal of the Terms for the next period for at least one month before the expiration of the prepaid period.

## 9. Termination

- 9.1. The Party may terminate these Terms by giving written notice to the other Party if the following events occur:

- 9.1.1. if the other Party commits a material failure in the performance of its obligations under these Terms, that cannot be cured or was not cured within thirty (30) calendar days after being notified or within any further period as the Parties may have subsequently approved in writing;
- 9.1.2. if the other Party initiates a procedure to become insolvent or bankrupt (or equivalent);
- 9.1.3. if the other Party has engaged in corrupt or fraudulent practices in competing for or in executing these Terms.

For the purpose of this clause:

“corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the actions of a public official in the selection process or in agreement execution.

“fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of an agreement to the detriment of the Party, and includes collusive practice among the other Party (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Party of the benefits of free and open competition.

- 9.2. Early unilateral termination of these Terms is not allowed, unless otherwise set up in these Terms or agreed by the Parties in writing.
- 9.3. Upon termination of these Terms for any reason, the Client shall pay to OWOX remuneration pursuant to Clause 2 for Services satisfactorily performed up to the effective date of termination, and OWOX stops the provision of Services under these Terms.
- 9.4. The Section 4 Client data, Section 5 Confidentiality, Section 6 Publicity and Section 11 Intellectual Property shall survive the termination of these Terms.

## 10. Change of terms

- 10.1. OWOX has the right to unilaterally:
  - (1) amend the name, content and scope of the Plan;
  - (2) make changes to the URL of the links specified in the Terms;
  - (3) modify or issue updates to OWOX BI services and / or Services, add new properties or functionalities that increase efficiency or otherwise improve the characteristics of OWOX BI services and / or Services, including in order to meet the requirements of the applicable legislation, deactivate some deprecated features;
  - (4) change the price for Services for the next prepayment periods — by giving the Client with the minimum 30-days advance notice to OWOX BI Project administrator's email.
- 10.2. If as a result of a change in the Price for the Services, the Client wishes not to use the Services, it may notify OWOX within 30-days period after receiving the notice from OWOX and these Terms will be considered to be terminated after the change in the Price for Services comes into effect.
- 10.3. If the Client does not agree with the deactivation of deprecated feature or features, the Client shall have the right to terminate these Terms in respect to the particular substantially deprecated part of the Services by delivering a



termination notice to OWOX within thirty (30) days after the deactivation of Substantial Deprecation. For the avoidance of doubt, the following situations shall be considered as Substantial Deprecation of the Services — the feature has been deleted or has been replaced by a less powerful alternative feature. In such a case, these Terms are terminated with respect to the particular part of the Services at the end of the thirty (30) day period provided for the delivery of the termination notice. In case the price is stipulated in the manner that it cannot be divided into parts, the Parties undertake to negotiate about alternative services, that OWOX can offer to the Client instead of the substantially deprecated part. If no termination notice of the Client is served and delivered to OWOX within the thirty (30) day deadline, the Client is deemed to have accepted the deactivation of deprecated feature or features.

- 10.4. OWOX may from time to time at its sole discretion issue new version of these Terms. In such a case, OWOX shall notify the Client on the email address of OWOX BI Project administrator. If the Client does not agree with a new version of these Terms, the Client shall notify OWOX within 14 (fourteen) days of being notified by OWOX about the new version of these Terms, that it does not wish to be bound by the new version of the Terms. In such case, subject to clause 10.3, the Terms remain to be governed by the actual version of these Terms until the end of the current prepayment period. Once a new Renewal Term commences, the new version of the Terms comes into legal effect regardless of any objection given by the Client against the new version of the Terms.

## 11. Intellectual property

Each Party retains all rights, title in and to all its intellectual property rights including without limitation goodwill, copyrights and moral rights. Other than the rights granted herein, nothing in these Terms shall grant the other Party any right, title or interest in any of the Party's intellectual property.

## 12. Limitation of Liability

- 12.1. Other than as expressly set out in these Terms, OWOX doesn't make any specific promises about the services OWOX provides. To the extent permitted by law, OWOX excludes all warranties.
- 12.2. OWOX does not make any commitments about the functionality of the Services, or their reliability, availability, or ability to meet the Client's needs. OWOX provides the services "as is".
- 12.3. OWOX will have no liability arising out of or related to Beta features.
- 12.4. OWOX shall not be responsible for the consequences of the decision, made based on the Services provided.
- 12.5. In case of breach of these Terms, OWOX is liable to the Client in the amount of actual direct damages caused, limited to 70% of the last annual amount of fees for the Services paid (or to be paid) to OWOX by virtue of these Terms. The Parties agree that this clause represents a reasonable allocation of risks.

- 12.6. OWOX will not be responsible for indirect losses, including lost profits, revenue, data, financial losses, whether direct, or indirect, special, consequential, exemplary, or punitive damages.

## 13. Subcontracting

The Client shall not assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms. OWOX may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Terms.

## 14. Set-off

- 14.1. The Client is not authorized to offset any of its claims with any claims of OWOX nor is it authorized to retain payments, in any manner, intended for OWOX regardless of their nature and/or purpose of such possible intention.
- 14.2. OWOX is authorized to offset its claims with claims of the Client if the Client is informed in advance of such intention of offsetting by OWOX as well as provided with the identification of claims to which the offsetting will apply, their amounts and their due dates.

## 15. Law and Jurisdiction

- 15.1. *Law.* These Terms will be governed by and construed in accordance with the laws of California, without regard to its conflict-of-laws principles.
- 15.2. *Jurisdiction.* All disputes arising out of or in connection with these Terms (including a dispute regarding the existence, validity or termination of these Terms) shall be referred to be exclusively resolved by the courts of Los Angeles County California USA, and both Parties hereby consent to such jurisdiction for this purpose.
- 15.3. *Export.* The Services provision is governed by all applicable export and re-export control laws and regulations, including: (i) the Export Administration Regulations (“EAR”) maintained by the U.S. Department of Commerce; (ii) trade and economic sanctions maintained by the U.S. Treasury Department's Office of Foreign Assets Control; and (iii) the International Traffic in Arms Regulations (“ITAR”) maintained by the U.S. Department of State.

## 16. Force-majeure

- 16.1. Either Party shall not be held liable for non-performance or undue performance of the obligations under these Terms, should it be caused by such circumstances as a fire, flood, hostilities, any computer, communication, Internet, hosting failures and/or delays associated with equipment, software, power supply or other systems that are beyond the reasonable control of the Party, or cybercrimes, hacker and virus attacks, restrictions or prohibitive

measures of the state or state bodies, the prohibition of trade and other operations, including with individual countries, due to the adoption of international sanctions, and other circumstances beyond the control of the Parties interfering the performance of these Terms.

16.2. Should such circumstances continue for more than 30 calendar days, either Party shall have the right to terminate the further performance of the obligations under this Terms.

16.3. Parties agreed to inform each other in writing about the occurrence of circumstances beyond the Party's control and about the probable date of termination of such circumstances.

## 17. The Entirety of the Terms

These Terms thereto constitute the entire agreement between the Parties with respect to the Services to be provided pursuant to the Terms and supersede all prior negotiations, understandings or agreements (oral or written), between the Parties concerning its subject matter.

## 18. Waiver

The failure of either Party to enforce its rights under these Terms at any time for any period will not be construed as a waiver of such rights.

## 19. Severability

In the event that any provision of these Terms will be, for any reason, determined by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will be interpreted as closely as possible so as to not affect any other provision of these Terms, and such provision will further be modified by said court to permit its enforcement to the maximum extent permitted by law.

## 20. Language

If these Terms are translated to any other language and there are discrepancies between English version and the translated version, the English version of the Terms shall prevail.