

ThoughtBus™ Service Terms and Conditions

This agreement is between you the subscriber to the ThoughtBus™ services, and NOMIA Inc. (hereafter referred to as 'we' or 'us') who hosts the ThoughtBus email and collaboration services. We reserve the right to modify this document from time to time, and the latest version will be made available at <http://www.ThoughtBus.com/ThoughtBusServiceTerms.pdf>.

As a subscriber, it is your responsibility to keep us notified of any changes to your billing and contact information. This information can be updated by emailing updates to support@thoughtbus.com.

Free Introductory Period

The ThoughtBus free trial lasts 30 days from the day of sign-up and is applicable to the base Hosted Exchange and Hosted SharePoint services. If you do not wish to continue either service, cancel within the 30 days by sending an email to support@thoughtbus.com or calling 1-800-385-0474. You will need to supply your primary domain name and customer number, the service you are canceling, and the reason you are canceling.

Monthly Renewals

After the free introductory period, your account will be automatically renewed monthly, and your credit card will be charged the monthly fee based on the services to which you are subscribed. Service is billed at the start of each service month for the following month, and for pro-rated use of services you initially subscribed to during the previous month. There is no minimum service term; cancel a service at any time by sending an email to support@thoughtbus.com, from your organization's designated administrator, with your primary domain name, customer number, the service you are canceling, and reason for canceling. Note that no refunds are given for a partial month's service. Any pricing increases will be communicated to you at least six weeks prior to the change taking effect. Other than for New York state customers, sales tax or other taxes owed by you on the purchase of the ThoughtBus service are your responsibility.

Use of Microsoft® Outlook® 2003 Software

The ThoughtBus Hosted Exchange service includes licensing for Outlook Client Software. The license fee is included with the monthly ThoughtBus service fee; however we may charge for delivery of the media to you. See <http://www.ThoughtBus.com/pricing/index.html> for delivery costs. Clients are allowed to install the software once on one PC for each registered ThoughtBus Hosted Exchange user, who receives an individual Subscriber Access License (SAL) permitting them to use Microsoft Outlook and the services of Microsoft Exchange®. If you cancel your ThoughtBus account you are required to uninstall any Outlook client software that is licensed as part of the ThoughtBus service.

ThoughtBus Support Policy

ThoughtBus toll-free live technical support is available for all users from 8:00 AM to 8:00 PM Eastern Time, Monday through Friday. During these hours, technical support

via email is also available for all users with a 1-hour response guarantee. Emails and telephone calls received after-hours will be responded to as availability permits.

The ThoughtBus support policy includes support for:

- Hosted Exchange service:
 - Installing Outlook Software – working with the end-user to install Microsoft Outlook 2000, 2002, or 2003 for Windows PCs.
 - Connectivity to the ThoughtBus service including working with the end-user to configure the Microsoft Outlook, Outlook Web Access, Outlook Express, Entourage, or Ximian/Novell Evolution client, connect to the ThoughtBus email server from the above client, and receive/send email.
 - Setup of additional ThoughtBus users (mailboxes).
 - Public Folders issues.
 - Security issues in the Exchange Server environment.
 - DNS configuration issues.
 - Setup of Exchange ActiveSync connectivity to Windows Mobile and Treo devices.
 - Setup of BlackBerry, GoodLink, and Pylon Anywhere connectivity for subscribers to these optional services.
 - Setup of optional ‘Ultimate Anti-Spam Protector’ service.
- Hosted SharePoint service:
 - End-user access to your ThoughtBus-hosted SharePoint web site, from client computer running Microsoft Internet Explorer 5.5 or greater, or running Netscape 7.1 or greater.

The following areas are outside the normal scope of ThoughtBus support:

- Configuring of customer firewall software and/or hardware.
- Problems with customer connection to the Internet.
- Configuration of customer anti-virus software (such as Norton Antivirus).
- Configuration of customer email client software to support other email accounts or personal folders not hosted by ThoughtBus.
- General use of Microsoft Outlook, Outlook Web Access, Outlook Express, Entourage, or Ximian/Novell Evolution software.
- Software development assistance.
- Configuration of email client software other than Microsoft Outlook, Outlook Web Access, Outlook Express, Entourage, and Ximian Evolution.
- Use of ThoughtBus service on a non-Windows, non-Macintosh OS X, or non-Linux computer.

Service Level Agreement

We strive to provide our customers with 99.9% service availability.

- “Service Availability” for the Hosted Exchange service is defined as the ability for ThoughtBus customers to send and receive email via their ThoughtBus mailboxes outside of scheduled service downtime.

- “Service Availability” for the Hosted SharePoint service is defined as the ability for ThoughtBus customers to access their SharePoint web site outside of scheduled service downtime.

We have a policy of discounting 5% of the associated monthly service charge for the first full two hours per month without ThoughtBus service availability, and 5% for each additional four hours per month without ThoughtBus service availability, with a maximum discount of 50%. The discount will apply to your organization’s next month of ThoughtBus service. Note that determination of service availability is not affected by:

- Customer Internet connection or firewall issues
- Outages elsewhere on the Internet that hinder customer access to services
- DNS (Domain Name System) issues outside the direct control of us
- DNS propagation delays
- Failure of automatic system software updates
- Acts or omissions (or acts or omissions of others engaged or authorized by customer), including negligence, willful misconduct, or use of the service in breach of these Terms and Conditions
- Attacks (including denial of service attacks and virus/worm attacks) and hackers
- War, insurrection, sabotage, armed conflict, embargo, or terrorist attack
- Unavailability, interruption, or delay of telecommunications or third party services
- Acts of God

We reserve the right to plan scheduled downtime with 48 hours advance notice.

Notification of scheduled downtime is sent via e-mail to the designated administrator of each customer. We will use commercially reasonable efforts to schedule these outages for late-night or early-morning weekend hours, minimize their duration, and limit their occurrence to strictly necessary upgrades and required maintenance.

Appropriate Use

Licensing of the ThoughtBus Hosted Exchange service and Hosted SharePoint service is based on each individual person who has access to them. Sharing of a single mailbox is not allowed unless each person accessing the mailbox is a registered ThoughtBus Hosted Exchange service user. Similarly, each person accessing the Hosted SharePoint service must be a registered user of this service.

The ThoughtBus Hosted SharePoint service is intended for online interactive use by registered people within the customer organization, not as a data repository providing automated access from other computer systems. We reserve the right to monitor customer usage of this service and to take action when it is detected that an organization is making excessive automated use of their ThoughtBus SharePoint website. Depending on the severity of the issue, this action may include issuing a warning to the customer or suspending their use of the service. (In conjunction with this, we may establish monthly network usage limits for specific SharePoint service levels at a future date, similar to the current disk storage quotas.)

Reliability and Security

We are very committed to the reliability and security of the ThoughtBus email and collaboration services. We are dedicated to maintaining a consistent, issue-free service. However, some issues outside of our control can adversely affect reliability, including the issues affecting availability in the above Service Level Agreement section, as well as general Internet congestion.

You specifically agree that we cannot be held liable for any missing data, corrupted data, incorrect transmission of data, failure to provide service, delay of service provision or anything in any way connected to the ThoughtBus services beyond the cost of services provided. Cumulative liability cannot exceed the total monthly service fee for the most recent month.

Transmission of Data

We are not responsible for any unauthorized access or modification of your data stored by or transmitted via the ThoughtBus service. You also specifically agree that we are not responsible or liable for any content sent using or received from the ThoughtBus service including that which may be illegal, obscene, defamatory, threatening or that may violate any trademark or copyright.

ThoughtBus Virus Policy

The ThoughtBus Hosted Exchange service provides virus protection against incoming and outgoing email viruses sent to and from your ThoughtBus addresses. All incoming and outgoing messages to and from your ThoughtBus mailbox are scanned. It is our policy to delete or repair affected attachments prior to delivery to your ThoughtBus mailbox. ThoughtBus virus protection uses the latest technologies to help ensure your protection. Our server software is updated with the latest virus definitions hourly. While we make these efforts to drastically reduce the rate of virus penetration, no one technology is 100% successful in eliminating transmission of viruses. Therefore, we cannot be held responsible for viruses that are not detected by our servers. Clients are responsible for protecting their computers and ensuring they are free of viruses. We recommend that each client computer run anti-virus software for an improved level of protection. We will not be held responsible if your domain name is blocked by Internet service providers (ISPs) or providers of SMTP block lists for sending virus-infected emails.

Outgoing Spam Mail Policy

Sending 'spam' (unsolicited bulk email) or non-spam bulk email through ThoughtBus services is not permitted. We define 'spamming' as the sending of email to mailboxes outside your organization that have not agreed to receive the sender's messages. We define 'bulk email' as the sending by a ThoughtBus user of more than 500 emails in a 24-hour period to mailboxes outside your organization. We are not responsible if your domain name is blocked by Internet service providers (ISPs) or by providers of anti-spam block lists for sending spam or bulk emails. We reserve the right to immediately suspend or cancel ThoughtBus accounts that send bulk email or spam.

Incoming Spam Mail Policy

The ThoughtBus service includes technology to reduce the occurrence of incoming spam. However, no available anti-spam technology is 100% successful. We do not warrant that our service will reject all unwanted/offensive content sent to your ThoughtBus account, and we are not liable for inadvertently rejecting non-spam email.

Mailbox Size

Each ThoughtBus mailbox has a storage quota. This is done to protect your account and others from service outages that would be caused if our servers used all their disk space. Additional storage can be purchased by updating the mailbox via the ThoughtBus Administration Console. It is the end-user's responsibility to ensure that his/her mailbox does not completely fill, as we are not responsible for email lost due to full mailboxes.

SharePoint Web Site Size

Each ThoughtBus SharePoint web site has a storage quota. This is done to protect your account and others from service outages that would be caused if our servers used all their disk space. Additional storage can be purchased by emailing support@thoughtbus.com.

Passwords

Each ThoughtBus end-user account has a password. It is the end-user's responsibility to keep their password a secret, and to change the password periodically. We are not responsible for any data losses or security issues due to compromised passwords. We highly recommend that your passwords be at least 8 characters long and contain numbers and/or punctuation. This helps to prevent unauthorized users from guessing common passwords (such as birthdates, "password", "123456", etc.). ThoughtBus support cannot view current passwords; they can only reset passwords.

Backups

We make commercially reasonable efforts to backup end-user data nightly. We do this using backup software and devices, and off-site storage services. We store at least four weeks of nightly mailbox and public folder backups. It is the end-user's responsibility to request that we restore lost data within this time window. We are not responsible for data that is not stored on our servers, including data moved by end-users from ThoughtBus server(s) for storage elsewhere. We will make commercially reasonable efforts to ensure the integrity and security of backed-up data.

Cancelled Accounts

After you cancel your account, your ThoughtBus mailbox and public folder data stored on the ThoughtBus servers may no longer be available. It is your responsibility to retrieve this data prior to service cancellation. We cannot guarantee retrieval of data once an account is cancelled.

Additional Microsoft Terms

Use of Microsoft Client and Server Software Products:

- You may not remove, modify, or obscure any copyright, trademark, or other proprietary rights notices that appear on, or during the use of, the Microsoft Products.
- You may not reverse engineer, decompile, or disassemble the Microsoft Products.

Microsoft disclaims, to the extent permitted by applicable law, all warranties by Microsoft and any liability by Microsoft for any damages, whether direct, indirect, or consequential, arising from the use of ThoughtBus services. Product support for ThoughtBus services are provided by NOMIA Inc., and are not provided by Microsoft. For ThoughtBus customers who receive Microsoft Outlook Client Software from NOMIA Inc., the included 'Customer License Terms' and 'Other Rights and Limitations' documents are incorporated into this document.

Limited Liability

In no event will we be liable for any indirect, special, incidental or consequential damages, whether in an action in contract or tort, even if advised of the possibility of such damages. The total liability of us for any claims arising from or in connection with this agreement or service, regardless of the form of action, shall not exceed the amount of services fees paid by the customer either directly to us or through a reseller for services rendered for the prior month.

Miscellaneous

This offer of service is expressly conditioned upon your acceptance of these Terms and Conditions ("Terms"). Your use of or access to ThoughtBus services constitutes your Agreement to these Terms. This offer and your acceptance thereof represents the entire agreement between you and NOMIA Inc., and supersedes any and all other communications, prior, contemporaneous or subsequent, except as modified by revisions of this posting by us or by written agreement by an authorized officer of NOMIA Inc. (provided, however, that any such revised posting shall take effect prospectively from the date of the posting). The Terms and the relationship between you and us shall be governed by and interpreted in accordance with the laws of the State of New York, United States of America, without reference to its principles of conflicts of law. We reserve the right to send notices to its subscribers of changes to these Terms, or of any material changes affecting their subscription.

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