

Terms of Services

Version 3.3—Effective on 12 June 2023

These Terms of Services (with any Order Forms, and any amendments, the “**TOS**”) are between the entity identified in an Order Form (“**Customer**”) and Flare Systems Inc., with a registered address at 1751 Rue Richardson, Unit 3.108, Montréal, Quebec, H3K 1G6, Canada (“**Flare**”).

The TOS enter into force at the date at which a corresponding Order Form is executed between the parties (the “**Effective Date**”) and continues to full force until the termination in accordance with the Terms, or otherwise until the end of the then-current Subscription Term (the “**Term**”). If you have any questions on these Terms, or to provide us with any legal notices, you can reach out to us by e-mail at legal@flare.systems.

To the extent that Customer procured the Services from an authorized reseller (a “**Reseller**”), Section 8 [Fees, Taxes] is not applicable, and the terms and conditions applicable between Reseller and Customer (the “**Reseller Terms**”) will find application instead. Unless indicated otherwise herein, the TOS will prevail over the Reseller Terms in case of conflict between their respective terms and conditions.

Flare is not responsible for Reseller’s representations and warranties, except as otherwise set forth herein. To the extent that Customer procured the Services from Reseller, Customer shall procure additional Services, such as Identifiers and Service Credits, directly from the Reseller. If Reseller ceases to be an approved or authorized reseller for any reasons, Flare will notify Customer in writing, and the TOS will apply in full to Customer, unless Customer is assigned, by common agreement of the parties, to another Reseller.

1. DEFINITIONS

1.1. The expressions which are not defined elsewhere in the TOS are defined below.

- “**Affiliates**” means any person or entity directly or indirectly controlling, controlled by or under common control with a party, where “control” means the legal power to direct or cause the direction of the general management of a party.
- “**Confidential Information**” means any information disclosed by a party (the “**Disclosing Party**”) to the other party or its Representatives (the “**Receiving Party**”), including, without limitation, all computer programs, codes, algorithms, know-how, processes, formulas, marketing plans, strategic plans, and other technical, business, financial and product development data, which the Receiving Party should reasonably know is confidential to the Disclosing Party.
- “**Customer Data**” means any data information or materials provided or submitted by Customer to Flare while using the Services. This may include, but is not limited to, Personal Data and Confidential Information.
- “**Data Protection Laws**” means any laws, treaties, and regulations applicable to the processing of Personal Data by either party pursuant to the TOS, including, as applicable from time to time, the *General Data Protection Regulation*, the *Data Protection Act 2018*, the *Personal Information Protection and Electronic Documents Act*, and any state or provincial privacy laws.
- “**Documentation**” means the documentation and other materials made available to Customer by Flare in connection with the Services, including the specifications available through our publicly available website <https://docs.flare.io/>.
- “**End User**” means a user authorized by Customer to use and access the Services, including the Flare Platform.
- “**Fees**” means any fees due by Customer pursuant to an Order Form for the Services, including any costs and expenses which are approved by the Customer.
- “**Flare Platform**” means the web application, mobile application, search bar, search API, application programming interface, software and other components described in the Documentation, and made available to Customer pursuant to an Order Form, as part of the Services, for the duration of the Subscription Term.

- **“Identifier”** means an asset, such as a fully qualified domain name, an IP address, keyword, brand, product, person, or any other identifier type available in the Flare Platform, which is monitored by Customer using the Services.
- **“Intelligence Data”** means insights, interpretation, threat intelligence, industry trends, and industry information which is used by Flare to supplement and augment Customer Data, including to provide context on alerts obtained from Identifiers or from the results obtained from the use of the search bar available in the Flare Platform.
- **“Improvements”** refers to any enhancements, modifications, updates, upgrades, or refinements made to the Services, including the Flare Platform, excluding any new functionalities or modules which are made available to Flare’s clients subject to additional Fees.
- **“IP”** means all intellectual property, including, without limitation, works, inventions (whether patentable or not), discoveries, improvements, trade secrets, know-how, scientific formulas, data, information, images, reports, results, analysis, software, models, research and development information, technical information, prototypes, specifications, patterns, drawings, algorithms, products, compositions, processes and protocols, methods, tests, devices, computer programs, trade-marks and any and all proprietary rights provided under patent law, copyright law, trade-mark law, design patents or industrial design law, semiconductor chip or mask work law, or any other statutory provision or civil or common law principle applicable to the protection of intangible proprietary information or rights, including trade secret law, which may provide a right in any of the foregoing as well as any and all applications, registrations or other evidence of a right in any of the foregoing.
- **“Losses”** means any claims, damages, fines, costs, and expenses, including reasonable attorney’s fees, where applicable.
- **“Monitoring Services”** means the use of the Flare Platform to monitor dark web forums, open ports, S3 buckets, ransomware blogs, public GitHub repositories, paste sites, dark web marketplaces, dark web chats, threat actors’ profiles, infected device markets, illicit markets, public forums, and similar data sources as determined by Flare from time to time (the **“Monitored Sources”**).
- **“Order Form”** means an order form, a quote, a purchase order, change order or procurement document that indicates the applicable Services, the Subscription Term, and the Fees. If the Services are procured through a Reseller, the Order Form between Reseller and Customer describes the Services, the Subscription Term, and the Fees.
- **“Personal Data”** means data that can directly or indirectly identify an individual, and which is processed by Flare on behalf of Customer, as part of the Services.
- **“PoC Services”** means any Services provided, for any period, as a proof-of-concept, beta trial, early version for evaluation, developer-only version, free trial, temporary access, or preview version. PoC Services include any temporary accesses to part, or all the Services provided for testing, sampling, demos or otherwise, as indicated in an Order Form, or otherwise in the Flare Platform.
- **“Privacy Breach”** means the processing of Personal Data in violation of this TOS or Data Protection Laws, including, a loss of Personal Data, or unauthorized use of Personal Data.
- **“Public Data”** means any data which is made available to Customer from Monitored Sources, including any data retrieved or accessed through the Retrieval Function, or otherwise publicly available data. Public Data is not Customer Data.
- **“Query Identifier”** means a type of Identifier that may be used to string multiple query words, and which are used as part of the Flare Platform, including for the Monitoring Services.
- **“Representatives”** means a Party’s Affiliates, directors, employees, agents, licensors, service providers, officers, and representatives.
- **“Retrieval Function”** means a functionality of the Flare Platform that allows for the retrieval of data, software, content, or material which is available on Monitored Sources.
- **“Security Breach”** means a breach of security safeguards resulting in the unauthorized access or disclosure of Customer Data.
- **“Service Credits”** means credits procured by Customer during the Subscription Term, pursuant to an Order Form, and which can be exchanged for authorized Services. The Service Credits value is as set forth in an Order Form.
- **“Services”** means the services provided by Flare pursuant to an Order Form, including, as applicable, access and use of the Flare Platform, Identifiers, Service Credits and

Documentation. The Services include the Technical Support, the Threat Intelligence Services, Monitoring Services, and the Take Down Services.

- **“Subscription Term”** the period during which the Services will be provided to Customer, as indicated in the Order Form, or otherwise in the Reseller Terms.
- **“Take Down Services”** means the Services provided by Flare to attempt to obtain the removal or take down of domains, social media profiles, and other permitted take downs, as described in the Documentation.
- **“Technical Support”** means technical and maintenance services, including the provision of Improvements.
- **“Third-Party Services”** means any integration partners, third-party applications, technologies, or services, including Customer’s IT systems, vendors, and partners.
- **“Threat Intelligence Services”** means professional and advisory services relating to threat intelligence provided by Flare.

2. PROVISION OF THE SERVICES

- 2.1. During the Subscription Term, Flare will provide the Services described in an Order Form, subject to the payment of the Fees. Customer shall have the right to make the Services available to its Affiliates, if agreed upon in the Reseller Terms or Order Form (the **“Authorized Affiliates”**). Customer remains liable for breaches of the TOS by Authorized Affiliates. Notwithstanding the foregoing, to the extent that the Services are procured through a Reseller, the Reseller Terms shall set forth the Services to be provided by Flare, and the Fees are paid to the Reseller in accordance with the Reseller Terms. Notwithstanding anything to the contrary in the TOS, and except as set forth otherwise in the TOS, the Fees (including any purchased Identifiers or Service Credits) are non-reimbursable and non-cancellable.
- 2.2. If Customer procures additional Identifiers and Service Credits during the Subscription Term, such Identifiers and Service Credits will be available for the remaining of then-current Subscription Term.
- 2.3. Each Identifier may only be assigned once per calendar month. Customer is solely liable for determining the number and nature of the Identifiers adequate for its needs. Identifiers can only be used on corporate assets or other assets which Customer is authorized to monitor. Customer can configure the Flare Platform to generate alerts for Identifiers. Real-time alerts are provided through the Flare Platform. Customer is responsible for monitoring the Flare Platform.
- 2.4. If Customer exchanges Service Credits for Services, Flare will inform (or, if applicable, Reseller will inform) Customer of the estimated number of Service Credits required for the request. During the Subscription Term, the Service Credits can be used monthly and renew at the beginning of each month, and at this moment, any unused Service Credits from the previous month are automatically expired. Customer cannot roll over unused Service Credits to the subsequent month. Unused Service Credits are expired and have no monetary value.
- 2.5. During the Subscription Term, Flare will provide the Technical Support in accordance with Exhibit A, including any Improvements made to the Flare Platform during the Subscription Term. The Flare Platform will be available based on the Uptime specified under Exhibit A. In case of a repetitive or material breach of Exhibit A, Customer may terminate part or all the TOS pursuant to Section 13.2. Unless agreed otherwise in the Reseller Terms or in an Order Form, Customer is responsible for provisioning End Users’ accesses to and configuring the Flare Platform. Flare is not responsible for End Users’ failure to protect the confidentiality of their credentials. Customer will promptly suspend access to compromised accounts and inform Flare of such compromise.
- 2.6. The Take Down Services are only provided for domain names and social media profiles (excluding specific posts) unless agreed otherwise in writing by Flare. Flare does not control third parties’ response time to take down requests, and a request may not be successful. Even if Take Down Services are successful, other domains and social media profiles may continue to appear or may continue to exist. Flare will keep Customer reasonably informed of the progress of any Take Down Services.
- 2.7. Notwithstanding anything to the contrary, PoC Services are provided “as is,” “where is,” and “as available,” and neither Flare nor its Representatives make no representations or warranties. PoC Services may contain bugs, errors, limited functionalities and may be interrupted or suspended at any time. Any interface, information, or content accessed or used within PoC Services is Flare’s Confidential Information. The PoC Services may be

automatically disabled upon the expiration of the designated usage period, or at Flare's discretion, with or without prior notice.

- 2.8. If Customer requests Threat Intelligence Services, Flare will deploy reasonable efforts to provide the Threat Intelligence Services without unreasonable delays. If Customer must obtain the Threat Intelligence Services within 24 hours, each Service Credit required for the request will be required twice.
- 2.9. Flare does not warrant or guarantee that the Services (including the Flare Platform) will be compatible or interoperable with Third-Party Services.

3. ACCEPTABLE USE POLICY

- 3.1. Customer will access and use the Services for lawful and internal business purposes, including for threat intelligence, information security, information privacy, monitoring and protecting corporate assets. Customer will not use the Services for unlawful monitoring, in breach of individuals' privacy, or in violation of a third party's IP. Customer will only use and authorize the use of the Services, including the collection of from Monitored Sources, in accordance with applicable laws, and the terms of the TOS.
- 3.2. Customer will only use and authorize the use of the Retrieval Function in accordance with applicable laws. Customer must have the rights to access and retrieve Public Data. Customer understands that accessing and retrieving Public Data in violation of the foregoing obligations may result in criminal sanctions. Public Data which is retrieved or accessed through the Retrieval Function may contain security issues, harmful content, and stolen properties. Flare will have no liability for Losses resulting from Customer's use of the Retrieval Function in violation of the foregoing.
- 3.3. Customer will not use or access, nor permit the use or access of, the Services for discriminatory purposes, to conduct criminal checks, for unfair and deceptive practices, or to conduct benchmarking for purposes other than for internal business purposes. Customer will not use the Services nor authorize the use of the Services in a manner that results in (a) the commercialization, licensing, distribution, reselling or selling of the Services, (b) the disruption of third parties' use or enjoyment of the Services; (c) the creation, transmission, distribution, or storage of material in violation of a third party's IP, privacy, or rights; (d) is threatening, abusive, hateful or constitutes or (e) encourages conduct that would be considered a fraud, a criminal offence or likely to give rise to civil liability.
- 3.4. Customer will not use or access, nor permit the use or access of, the Services to (a) share credentials among End Users or among End Users and third parties, to distribute, disclose or use any of the Services in any format to or by unauthorized third parties; (b) use any robot, script, spider, scraper, scraping tool, macro, bot, crawler, deep link, or other similar automated data gathering or extraction tools; (c) penetrate our security or contour our security controls; or (d) modify, reconstruct, decompile, disassemble, decipher, decrypt or otherwise reverse engineer including to discover any source code or ideas or algorithms of any portion of the Services. Using the Services for benchmarking activity or in connection with the development of any services or products that are competitive with, or derivatives of, the Services (including the Flare Platform) also is strictly prohibited.
- 3.5. Query Identifiers may only be used in accordance with the Documentation and may not be used to circumvent the number of authorized Identifiers pursuant to the TOS.
- 3.6. Customer is responsible for the acts and omissions of its End Users. In case of a violation or imminent violation of this Section 3, Flare will have the right to suspend Customer's access and use of the Services to the extent necessary to cure such breach. Flare will provide a prior notice to Customer, unless it is prevented to do so by the circumstances of the suspension, in which case, Flare will notify Customer without undue delays.

4. PERSONAL DATA

- 4.1. Flare is the processor of the Personal Data, and Customer is the controller of the Personal Data. Flare will process the Personal Data to provide the Services and in accordance with Customer's instructions (including the TOS). If Flare becomes aware that such instructions are in violation of Data Protection Laws, Flare will inform Customer without undue delays. Flare may refuse to process Personal Data based on an instruction it believes is in violation of Data Protection Laws. For clarity, Flare will not process Personal Data for marketing purposes or otherwise commercialize the Personal Data.

4.2. The processing of Personal Data by Flare is as described in the table below, and as further described in its [Privacy Policy](#).

Nature and Subject Matter of Processing	Flare provides and maintains an online web application allowing End Users to obtain Intelligence Data by processing Public Data. Threat intelligence can be obtained by assigning Identifiers and monitoring Public Data relating to these Identifiers through the Monitoring Services. Certain functionalities, such as the Retrieval Function, allow End User to extract Public Data. Flare also provides Technical Support regarding the Flare Platform End Users access the web application through accounts hosted by Flare, in the Flare Platform.
Categories of Data Subjects	End Users, as well as other concerned individuals whose Personal Data are monitored based on Customer's instructions.
Categories of Personal Data	End users, as well as other individuals who are monitored by Customer (e.g., using an Identifier).
Duration of the processing	Subscription Term

- 4.3. If Flare is required to process the Personal Data to comply with applicable laws, or the administration thereof, Flare will inform Customer of such obligation prior to processing the Personal Data, unless prevented so under such applicable laws. If the TOS must be amended to Data Protection Laws, Flare will make such modifications as required pursuant to Data Protection Laws and inform Customer in writing. Notwithstanding anything to the contrary, this modification will be deemed effective within 30 days of being notified to Customer, unless Customer provides written motives for rejecting the changes, in which case, the parties will negotiate in good faith.
- 4.4. Upon the termination or expiration of the TOS, or before, if requested by Customer or if such Personal Data no longer serves the purpose of the collection. Notwithstanding the foregoing, Customer agrees and understands that the Personal Data may continue to be stored in encrypted backups until automatic deletion based on Flare's cloud provider industry standard practices or retained longer if required under applicable laws.
- 4.5. Flare will only de-identify or anonymize Personal Data as permitted under Data Protection Laws, including in accordance with authorities' guidelines on de-identification and anonymization. Anonymized data, if any, will be anonymized using industry-standard methods and in a manner such as to prevent the re-identification of individuals as required under such Data Protection Laws.
- 4.6. If Flare receives a request from a concerned individual regarding Personal Data, Flare will promptly notify Customer in writing. Flare will cooperate with Customer, to the extent necessary to facilitate the fulfillment of this request in compliance with Data Protection Laws. Flare will implement appropriate technical and organizational measures to ensure that it can provide reasonable assistance to Customer in responding to such requests.
- 4.7. Prior for allowing a subprocessor to process Personal Data, Flare will (a) conduct a reasonable due diligence of such subprocessors, and (b) enter into an agreement containing terms substantially similar than those contained herein regarding the protection of Personal Data. Unless Flare makes other means of disclosures available to Customer, as modified from time to time, Customer may request a list of subprocessors to Flare upon written notice.
- 4.8. Prior for making changes to its list of subprocessors, Flare will inform Customer in writing at least 30 days before such modification being effective. Customer will have 15 days to inform Flare if it has any objection by providing a written description of such reasonable objectives. The parties will attempt to resolve the disagreement in good faith. If the parties cannot agree within 30 days, either party can terminate the TOS without penalty, and Flare will reimburse to Customer any Fees paid in advance for Services not rendered at the date of termination.
- 4.9. Flare will process personal data at the location indicated in the [Privacy Policy](#). Prior for authorizing a cross-border transfer of Personal Data, Flare will ensure that it complies with Data Protection Laws, including by entering into an agreement contained terms and conditions substantially similar to those contained herein. Flare will inform Customer in writing of any material changes to the [Privacy Policy](#).

- 4.10. Flare will inform Customer without undue delays of any Privacy Breach, including by providing the information necessary for Customer to assess the risks relating to such Privacy Breach. Flare will further inform Customer of any suggested remediation measures to prevent the reoccurrences of such Privacy Breach. The parties will collaborate in good faith as necessary to notify concerned individuals and authorities of such Privacy Breach.
- 4.11. Once per calendar year, upon a prior written notice of 30 days to Flare, Customer may audit Flare's compliance with the terms and conditions of the TOS regarding Flare's processing of Personal Data, including Sections 4 and 5 of the TOS. This audit shall include written requests for information and questionnaire review, including, access to Flare's recent SOC II Type 2 attestation, or similar independent third-party independent report. The foregoing information is Flare's Confidential Information. Customer agrees that this audit must be performed by individuals subject to an appropriate confidentiality obligation, and during business hours. If Customer's audit demonstrates non-compliance, the parties will enter a commercially reasonable remediation plan. Flare will provide regular updates to Customer on the completion of the remediation plan, until completion. Notwithstanding the foregoing, Customer may conduct an additional audit in the same calendar year to follow up on the completion of the remediation plan.

5. DATA SECURITY

- 5.1. Flare will deploy technical and organizational measures as reasonably required to protect Customer Data, taking into consideration the state of the art, the costs of implementation and the nature, scope, context, and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. Such measures shall include the following:
 - Performing reasonable technical testing of the Flare Platform.
 - Conducting monitoring of the Flare Platform to detect Security Breaches.
 - Performing web application testing.
 - Conducting vulnerability scans quarterly.
 - Adopting a written incident response plan and testing this plan.
 - Maintaining adequate business continuity procedures.
 - Maintaining a written information security program.
 - Providing adequate training and awareness activities to our personnel.
 - Ensuring that its personnel is subject to adequate confidentiality agreements.
 - Limiting access and privileges on a need-to-know basis.
 - Ensuring that vulnerabilities are adequately patched.
- 5.2. In the event of a Security Breach, Flare will inform Customer without undue delays, and no longer than 48 hours after becoming aware of the Security Breach. The notification will include, as applicable, (a) the types of Personal Data concerned; (b) a description of concerned individuals; (c) the expected consequences and impacts for concerned individuals and (d) reasonable information on the root cause of the Security Breach. If such information is not available at the time of the initial disclosure, Flare will follow up promptly with as such information becomes available. Flare will also inform Customer of remediation actions taken or to be taken regarding the Security Breach. Customer agrees and understands that Flare may be required to inform Resellers of a Security Breach, and the foregoing notification may be provided by Reseller.

6. IP

- 6.1. Customer retains all right, title, and interest, including any IP, in and to the Customer Data. Flare acknowledges and agrees that Customer Data is the exclusive property of Customer, and Flare does not obtain any rights, title, or interest in the Customer Data, except as necessary to provide the Services and manage the Flare Platform. Without limiting the foregoing, Flare shall have the right to use aggregated and anonymized usage data about the Flare Platform to improve its products and services, including the quality and accuracy of the Intelligence Data.
- 6.2. To the extent that the Intelligence Data is derived or generated from Customer Data, Flare hereby grants to Customer a perpetual, exclusive, royalty-free, revocable, transferable, and sublicensable right and licence to copy, modify and use the Intelligence Data. The foregoing

licence is only for Customer or its Authorized Affiliates for internal business purposes. Customer may not commercialize the Intelligence Data.

- 6.3. Flare will be the sole owner of any suggestions, enhancement requests, recommendations or other feedback provided by Customer to Flare, to the extent that they relate to the Services or the Flare Platform ("Feedback"). Customer hereby assigns to Flare, without limitation of any kind, all its rights, titles, and interests therein, and waives any non-assignable moral right therein, Flare accepting such assignment and waiver.

7. CONFIDENTIAL INFORMATION

- 7.1. Confidential Information shall not include information which the Receiving Party can demonstrate: (a) is readily available to the public in the same form through no fault of the Receiving Party, (b) did not originate from the Disclosing Party and was lawfully obtained by the Receiving Party in the same form from an independent third party without any restrictions on disclosure, or (c) did not originate from the Disclosing Party and was in the possession of the Receiving Party in the same form prior to disclosure to the Receiving Party by the Disclosing Party.
- 7.2. The Receiving Party may not use or disclose the Disclosing Party's Confidential Information, except (a) as reasonably required to provide the Services and execute its obligations pursuant to the TOS; (b) to comply with applicable laws and (c) to obtain professional advice, such as from a financial or legal counsel. Each recipient shall be under a confidentiality agreement substantially similar to the one contained herein, or a similar legal obligation.
- 7.3. If the Receiving Party is required by law, regulation, court order, or by a governmental or regulatory authority to disclose any Confidential Information of the Disclosing Party, the Receiving Party shall, to the extent permitted by applicable law, promptly notify the Disclosing Party in writing of such requirement prior to making the disclosure. The Receiving Party will reasonably cooperate with the Disclosing Party, at the Disclosing Party's expense, in any efforts by the Disclosing Party to limit, restrict, or contest the required disclosure or to obtain a protection order or other confidential treatment of the Confidential Information. The Receiving Party will only disclose the portion of the Confidential Information which it reasonably believes legally required to disclose.
- 7.4. Upon the termination or expiration of the TOS for any reason, the Receiving Party will securely destroy the Disclosing Party's Confidential Information, or at the request of the Disclosing Party, return all Confidential Information in its possession. Notwithstanding the foregoing, the Receiving Party may keep copies of Confidential Information if required to comply with applicable laws or their administration, and as part of reasonable and encrypted backups for business continuity purposes.

8. FEES, TAXES

- 8.1. Customer will pay Flare for the Fees, and any other amounts owing under the TOS, as specified in the Order Form. Customer will pay for all taxes which Flare is required to collect pursuant to applicable laws.
- 8.2. Unless otherwise specified in such Order Form, Customer will pay all Fees within 30 days of the receipt of an invoice. If the Fees are not paid within this delay, the interests of 1.5% monthly (or 18% annually) will be applied on any overdue Fees, until the payment of such Fees and corresponding interests. If the Fees are not paid within 60 days after Flare provides a written notice to this effect to Customer, Flare may suspend the performance of the Services until reception of the payment for the Fees overdue and the corresponding interests. If Customer does not pay the Fees for a period of 90 days, upon receiving a notice to this effect by Flare, Customer will reimburse any costs and expenses (including but not limited to, reasonable attorneys' fees) incurred by Flare to collect any undisputed amount that is not paid when due. The Fees due by Customer may not be withheld or offset against amounts due to Customer by Flare, for any reasons.
- 8.3. Unless indicated otherwise in an Order Form, or if either party provides written notice of the non-renewal at least 30 days prior to the end of the then-current Subscription Term, the TOS will automatically renew for successive periods of 12 months at Flare's then-current Fees for the Services. In the event of a renewal, the TOS will continue to apply, and the Fees will be due and payable as set forth in the Order Form.
- 8.4. If Customer disputes, in good faith, any portion of an invoice received from Flare, Customer shall provide written notice to Flare within 30 days from the invoice date, specifying the

nature and amount of the dispute. Customer shall timely pay any undisputed portion of the invoice. The parties shall work together in good faith to resolve the dispute within 30 days from the date of the written notice. If the parties are unable to resolve the dispute within the specified period, each party reserves the right to exercise any remedies available under the TOS or applicable law.

9. REPRESENTATIONS AND WARRANTIES

- 9.1. Each party represents and warrants to the other that (a) the TOS have been duly executed and delivered and constitute a valid and binding agreement enforceable against such party in accordance with its terms and (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of TOS.
- 9.2. Flare represents and warrants that the (a) Services will be performed in a professional and workmanlike manner, substantially in accordance with the Documentation and (b) the Flare Platform is not, to the best of Flare's knowledge, in violation of a third party's copyright or trademarks (an "**IP Claim**"). In the event of an IP Claim, Customer's sole remedy will be, at Flare's option, to (i) modify the Flare Platform to render it non-infringing; (ii) obtain a licence for Customer's continued use of the Flare Platform, or (iii) terminates the Order Form(s) and refund any prepaid, unused Fees corresponding to the remaining time in the Subscription Term.

10. DISCLAIMERS

- 10.1. THE RETRIEVAL FUNCTION ALLOWS END USERS TO ACCESS AND REQUEST THE RETRIEVAL OF PUBLIC DATA. THE PUBLIC DATA MAY CONTAIN MALICIOUS CODES, HARMFUL CONTENT, THIRD PARTY IP, AND INDIVIDUALS' PERSONAL DATA. THE PUBLIC DATA IS NOT SCANNED FOR SECURITY ISSUES. POSSESSION OF STOLEN MATERIAL WHICH CUSTOMER IS NOT AUTHORIZED TO ACCESS MAY LEAD TO CRIMINAL INFRACTIONS. CUSTOMER IS RESPONSIBLE FOR ENSURING THAT IT HAS THE RIGHT TO ACCESS AND OBTAIN POSSESSION OF THE PUBLIC DATA THROUGH THE RETRIEVAL FUNCTION. CUSTOMER IS RESPONSIBLE FOR END USERS' ACTIONS THROUGH THEIR ACCOUNTS. NEITHER FLARE NOR ITS REPRESENTATIVES OR AFFILIATES WILL BE LIABLE FOR ANY LOSSES RESULTING FROM THE USE OF THE RETRIEVAL FUNCTION OR ACCESS TO PUBLIC DATA. FLARE HAS NO CONTROL WHATSOEVER ON THE PUBLIC DATA. IF CUSTOMER DOES NOT AGREE WITH THESE CONDITIONS, CUSTOMER IS RESPONSIBLE FOR TURNING OFF THE RETRIEVAL FUNCTION TO PREVENT THE USE BY ITS END USERS. FLARE HAS NO RESPONSIBILITY WHATSOEVER FOR LOSSES RESULTING FOR THE USE OR ACCESS TO PUBLIC DATA.
- 10.2. EXCEPT AS EXPRESSLY SET FORTH IN THE TOS, THE SERVICES AND ANY RELATED MATERIALS, INFORMATION OR DOCUMENTATION IS PROVIDED "AS IS," "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FLARE DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. FLARE DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY DEFECTS IN THE SERVICES WILL BE CORRECTED. FLARE MAKES NO WARRANTIES OR REPRESENTATIONS REGARDING THE ACCURACY, RELIABILITY, OR COMPLETENESS OF THE INFORMATION, MATERIALS, OR DOCUMENTATION PROVIDED IN RELATION TO THE SERVICES, INCLUDING INTELLIGENCE DATA AND PUBLIC DATA.
- 10.3. Customer acknowledges and understands that (a) Flare is not a law firm and does not provide legal advice, opinions, or recommendations and (b) it is solely responsible for any instructions, decisions or actions taken based on or in relation to the use of the Services. Flare is not responsible for Losses resulting from or relating to Customer's instructions in actions in relation with the Services. The Services, including any Intelligence Data, are for informational purposes only and should not be construed as legal advice or as a substitute for obtaining legal advice from a qualified attorney.
- 10.4. Except if the parties specifically agree otherwise in writing, the Services do not cover any incident management and response services, such as ransomware remediation, forensic

services, containment, and remediation services; engaging with threat actors, acquiring illicit goods and services; advice on export laws and sanction compliance, or other professional services which Flare did not specifically agree to in writing.

- 10.5. The Services leverage artificial intelligence to provide insights and contextual analysis based on Public Data and Customer Data, including to generate Intelligence Data. Customer acknowledges and understands that the use of artificial intelligence is not error-free and may produce unexpected or inaccurate results. Flare does not guarantee the accuracy, completeness, or reliability of the results produced using artificial intelligence technologies. The quality, reliability and completeness of the Intelligence Data depend on the quality, reliability and completeness of Public Data which are not within Flare's control. Customer is responsible for conducting reasonable verification on the Intelligence Data, or otherwise, on the content made available through the Flare Platform.

11. INDEMNIFICATION

- 11.1. Flare will indemnify, defend, and hold harmless Customer (including its Representatives) from and against any third-party Losses resulting from a breach of Section 9.2. The foregoing indemnification obligation shall not apply to any IP Claims to the extent it arises from or relates to Customer's breach of the TOS, modifications to the Services not made or authorized by Flare, or any combination of the Services with third-party products or services not provided or authorized by Flare.
- 11.2. Each party will indemnify, defend, and hold harmless the other party (including Representatives) from and against any third-party Losses resulting from (a) a breach of Sections 3 [Acceptable Use Policy] and 7 [Confidentiality] (b) its gross negligence, fraud or wilful misconduct.
- 11.3. The indemnified party will promptly notify the indemnifying party in writing of any claim for which indemnification is sought under this TOS. The indemnifying party will have the exclusive right to control the defence and settlement of such a claim, provided that the indemnified party may participate in the defence and settlement at its own expense and with its own counsel. The indemnified party will reasonably cooperate with the indemnifying party in the defence and settlement of such a claim. Neither party will settle any claim that would impose any liability or obligation on the other party without the other party's prior written consent, which shall not be unreasonably withheld or delayed.

12. LIMITATION OF LIABILITY

- 12.1. Except in case of gross negligence, wilful misconduct or fraud by a party, neither party will be liable to the other party for consequential, incidental, special, indirect or exemplary damages, including but not limited to any loss of profits, business contracts, anticipated savings, goodwill, data, productivity or revenue, or any wasted expenditure, in each case arising out of or related to the subject matter of the TOS, even if apprised of the likelihood of such damages occurring.
- 12.2. Except pursuant to an Indemnification Claim, to the greatest extent permitted under applicable law, neither Flare nor Customer shall be liable to the other or their Representatives for damages exceed the Fees paid by Customer in the 12 months preceding the events that lead to the claim. For any liability arising out of an indemnification claim, and to the greatest extent permitted under applicable laws, each Party's liability shall not exceed 2 x the Fees due or payable by Customer for the first 12 months of the Subscription Term.
- 12.3. The TOS allocate the risks between the parties reflected in the Fees, and each provision limiting liability, disclaiming warranties, or excluding damages is severable and independent. The limitations set forth in Section 12 do not apply to bodily harm, or to other matters for which a party cannot exclude its liability under applicable laws.

13. TERMINATION; SUSPENSION

- 13.1. Either party may terminate part or all the TOS for convenience upon written notice of 30 days to the other party. If part or all the TOS are terminated for convenience by Customer, all Fees due until the end of the then-current Subscription Term will be due immediately, and may be invoiced by Flare or by Reseller, as applicable. Flare will have no other rights due to an early termination by Customer, and the payment of the Fees is considered a reasonable

payment for the damages, including, if applicable, pursuant to Art. 2129 Civil Code of Quebec.

- 13.2. Each party may terminate part or all the TOS in the event of a material breach by the other party, which has not been cured within 30 days of receiving written notice of such breach from the non-breaching party. Notwithstanding the foregoing, each party may terminate part of all the TOS immediately upon written notice to the other party if the other party commits a material breach of the TOS and this breach is incurable or cannot reasonably be cured within a 30-day period from the date of written notice of such a breach from the non-breaching party.
- 13.3. Either party may terminate the TOS by providing a written notice to the other party if this party (a) becomes insolvent or is unable to pay its debts as they become due; (b) files a petition in bankruptcy, reorganization, or similar proceeding, or, if filed against, such petition is not removed within 90 days after such filing; (c) discontinue its business; or (d) a receiver is appointed or there is an assignment for the benefit of the creditors. Such termination shall be effective immediately upon the receipt of the written notice by the affected party.
- 13.4. In the event of a termination, all rights, and obligations of the parties under the TOS will cease except that Sections 2.7, 3.6, 6, 7, 10, 11, 12, 13.4, 14 and the related definitions will survive the Term. If the part or all the TOS is terminated pursuant to Sections 13.2 and 13.3, the Fees due until the end of the then-current Subscription Term will be due by Customer. The termination of the TOS does not result in the termination of the Reseller Terms.

14. GENERAL PROVISIONS

- 14.1. Unless agreed otherwise in an Order Form:
 - a) If Customer is in Quebec, Canada, the laws of the Province of Quebec, and the applicable laws of Canada, shall govern the TOS, and the parties attorn to the exclusive jurisdiction of the competent courts in the judicial district of Montréal, Quebec.
 - b) If Customer is elsewhere in Canada, the laws of the Province of Ontario, and the applicable laws of Canada, shall govern the TOS, and the parties attorn to the exclusive jurisdiction of the competent courts in Toronto, Ontario.
 - c) If Customer is located in another country than Canada, the laws of the State of Delaware, United States, and the applicable laws of the United States, shall govern the TOS, and the parties attorn to the exclusive jurisdiction of the competent courts in Delaware, United States.
- 14.2. The *United States Convention on the International Sale of Goods* is specifically excluded from the application to the TOS. Flare is not responsible for any disputes between Customer and Reseller. Flare has no obligation to participate in such a dispute. Customer can lodge a complaint about a Reseller at legal@flare.systems.
- 14.3. Unless specifically indicated otherwise, in case of a conflict between the Order Form and the TOS, the latter will prevail. The TOS does not constitute the entire agreement between the parties on the subject matter thereof, superseding any prior agreements, and there are no implied terms, conditions, commitments, or warranties not expressly provided herein. No waiver or course of dealing will modify, interpret, supplement, or alter the TOS. Any provision found illegal by judicial interpretation will be ineffective to the extent of such prohibition, without materially adverse effect on any party. The TOS do not establish a partnership or joint venture between parties, nor grant either party the authority to assume or create any obligation in the name of the other. If Flare makes any modifications to the TOS, such modifications will not apply during the Subscription Term, nor any automatic renewals set forth herein. These TOS may only be amended by a written instrument executed by both parties.
- 14.4. Except regarding a payment obligation, neither party will be liable for any failure or delay in performing its obligations under the TOS due to circumstances beyond its reasonable control, including, but not limited to, acts of God, natural disasters, pandemics, war, terrorism, civil unrest, labour disputes, or any other extraordinary events or circumstances. The affected party will promptly notify the other party and make efforts to mitigate the impact of such an event on the other party. If the force majeure continues for more than 30 days, either party may terminate the TOS without any liability or further obligation to the other party, except for any accrued but unpaid Fees due at the date of termination. Fees paid in advance corresponding to Services to be provided after the date of termination will be reimbursed in prorate of the time remaining in the Subscription Term.

- 14.5. Neither party may assign the TOS without the other party's consent, except in case of a sale of part or all its assets, a *bona fide* corporate reorganization, or a merger and acquisition, in which case, the affected party may assign the TOS upon written notice to the other party.
- 14.6. Customer agrees that it has been presented with a French version of the TOS, which is of substantially similar quality and content. Customer waives the right to use the French version of the TOS and agrees to use this English version. *Le client est d'accord que la version française de cette Entente, laquelle est d'une qualité et d'un contenu substantiellement similaire, est a été présentée pour revue. Le client renonce à son droit d'utiliser la version française de cette Entente, et accepte d'utiliser la version anglaise.* This Section 14.6 only applies to the extent required under applicable laws, including in the province of Quebec, Canada.
- 14.7. The Flare Platform, and any software made available to Customer, if any, is commercial computer software, as that term is defined in 48 C.F.R. § 2.101. Accordingly, if the Customer is the U.S. Government or any contractor therefore, Customer will receive only those rights with respect to the Flare Platform, Intelligence Data and Documentation as are granted to all other clients under licence, in accordance with (a) 48 C.F.R. § 227.7102 through C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212 with respect to all other U.S. Government licensees and their contractors.
- 14.8. Each party will comply with all applicable anti-bribery and anti-corruption laws, including, without limitation, the *Canadian Corruption of Foreign Public Officials Act* and the *U.S. Foreign Corrupt Practices Act of 1977*, as amended ("**Anti-Corruption Laws**"). Flare represents and warrants that it is not or has not been the subject of any investigation or inquiry by any authorities with respect to potential or actual violations of Anti-Corruption Laws.
- 14.9. Any notice or communication required or permitted under the TOS shall be in writing and shall be deemed to have been duly given (a) when delivered in person; (b) when sent by confirmed email or electronic messages or (c) when sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at the addresses set forth in the Order Form, or in the case of Flare, at legal@flare.systems. Notice shall be deemed effective upon receipt.
- 14.10. Unless indicated otherwise in an Order Form, or unless such consent is withdrawn in writing, Customer consents to Flare's may use Customer's name, logo, and marks to identify Customer in lists of clients. Customer can withdraw its consent at any time at legal@flare.systems, or in an Order Form, and Flare will not use Customer's name, logo, and marks as part of lists of clients.

Exhibit A

1. TECHNICAL SUPPORT

- 1.1. Technical Support is provided from Monday to Friday, 9 AM to 5 PM ET, excluding for statutory holidays applicable in Canada (the “**Operating Hours**”) to End Users by way of support tickets. The Technical Support is available for the Flare Platform’s current version, or otherwise, as indicated in the Documentation. Each support ticket is addressed based on its severity. Flare will respond to support tickets within the response time and will conduct commercially reasonable efforts to resolve such support ticket without undue delays.

Ticket Severity	Response Time
Emergency - An emergency support ticket includes a general unavailability of the Flare Platform, or the inability to use the critical functionalities of the Flare Platform.	4 hours during Operating Hours
High — A high severity support ticket includes the unavailability of critical functionalities, or material issues with accessing and using the critical functionalities of the Flare Platform.	12 hours during Operating Hours
Regular — A regular support ticket generally does not affect critical functions of the Flare Platform, or workarounds are available.	36 hours during Operating Hours

2. AVAILABILITY TARGET

- 2.1. The Flare Platform will be available 365 days per year, 24 hours per day, with an Uptime of 98.5%. “**Uptime**” means the number of minutes during which the Flare Platform is available in each month, when such availability is defined as the accessibility, usability and reasonable performance of the critical functionalities of the Flare Platform. Uptime is available in real time, and reporting data on the Uptime is available for up to 30 days, at: <https://status.flare.io>.

3. EXCLUSIONS

- 3.1. The Uptime requirements in this Exhibit A will not apply during scheduled downtime, which shall be of a maximum of 4 hours per month. Flare will deploy commercially reasonable efforts to inform Customer of maintenance periods, except if such notice is not practicable, such as if the maintenance period is of less than 30 minutes or for an urgent security patch.
- 3.2. The obligations in this Exhibit A do not apply if caused or resulting from (a) an event of force majeure; (b) Third-Party Services; (c) the use of the Services in violation of the TOS; (d) Customer’s unauthorized acts or omissions and (e) unsupported versions of the Flare Platform.
- 3.3. Customer may terminate the TOS for cause pursuant to Section 13.2 if Flare materially breaches the TOS, or if Flare commits 3 successive breaches of the Uptime requirements or other service levels set forth in this Exhibit A.