Terms of Services

Version 3.4 - Effective on July 1st 2024.

These Terms of Services (with any Order Forms, amendments and the Service Level Agreement, together 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 7 [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 obtained the Services from Reseller, Customer will 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.

Flare will process the Personal Data in accordance with Flare's Data Processing Addendum.

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, all computer programs, codes, algorithms, know-how, processes, formulas, marketing plans, strategic plans, and other technical, business, financial and product development data and any other information 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.
- "**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, 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.
- "**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.
- "**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 will 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 sets 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 Flare's Service Level Agreement, including any Improvements made to the Flare Platform during the Subscription Term. The Flare Platform will be available based on the Uptime specified in our Service Level Agreement. 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 compromission.

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.

2.10. Flare will maintain appropriate technical and organizational measures to protect Customer Data as described in Flare's Security Addendum. We may modify or update the Security Addendum at our discretion, provided that such modification or update does not result in a material degradation in the protection of Customer Data.

3. ACCEPTABLE USE POLICY

3.1. Customer will access and use the Services, including the Retrieval Function, for lawful and internal business purposes, such as 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 or applicable laws. Customer must have the rights to access and retrieve Public Data. Accessing and retrieving Public Data in violation of the foregoing obligations may be illegal and 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 Services in violation of the foregoing.

3.2. 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.

3.3. 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.

3.4. 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.

3.5. 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. IP

4.1. 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. Flare will 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.

4.2. 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.

4.3. 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 all its rights, titles, and interests therein, and waives any non-assignable moral right therein, Flare accepting such assignment and waiver.

5. CONFIDENTIAL INFORMATION

5.1. Confidential Information does 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.

5.2. 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 will be under a confidentiality agreement substantially similar to the one contained herein, or a similar legal obligation.

5.3. 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 will, 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 is legally required to disclose.

5.4. 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.

6. FEES, TAXES

6.1. 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.

6.2. 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.

6.3. 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.

6.4. If Customer disputes, in good faith, any portion of an invoice received from Flare, Customer will provide written notice to Flare within 30 days from the invoice date, specifying the nature and amount of the dispute. Customer will timely pay any undisputed portion of the invoice. The parties will 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.

7. REPRESENTATIONS AND WARRANTIES

7.1. 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.

7.2. 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, patent 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.

8. DISCLAIMERS

8.1. 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 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.

8.2. 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, OR ILLEGAL MATERIAL WHICH CUSTOMER IS NOT AUTHORIZED TO ACCESS OR POSSESS, 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. NOTWITHSTANDING ANYTHING TO THE CONTRARY, 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.

8.3. Flare is not responsible for Losses resulting from or relating to Customer's instructions and actions in relation with the Services. The Services, including any Intelligence Data, are for informational purposes only and must not be construed as legal advice or as a substitute for obtaining legal advice from a qualified attorney. Flare is also not responsible for any claims by customer or third-party to the extent that such a claim is caused by customer.

8.4. The Services leverage artificial intelligence to provide insights and contextual analysis based on Public Data and Customer Data, including to generate Intelligence Data. 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 verification of the Intelligence Data and the content made available through the Flare Platform.

9. **INDEMNIFICATION**

9.1. Flare will indemnify, defend, and hold harmless Customer (including its Representatives) from and against any third-party Losses resulting from an IP Claim, as defined in Section 8.2. The foregoing indemnification obligation does 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.

9.2. Customer will promptly notify Flare in writing of any IP Claim for which indemnification is sought under this TOS. Flare will have the exclusive right to control the defence and settlement of such a claim, provided that Customer may participate in the defence and settlement at its own expense and with its own counsel. Customer will reasonably cooperate with Flare in the defence and settlement of such a claim. Flare will not settle any claim that would impose any liability or obligation on Customer without Customer's prior written consent, which will not be unreasonably withheld or delayed.

10. **LIMITATION OF LIABILITY**

10.1. 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 by 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.

10.2. Except pursuant to an IP Claim, to the greatest extent permitted under applicable law, neither Flare nor Customer will be liable to the other or their Representatives for damages exceeding the Fees paid by Customer in the 12 months preceding the events that lead to the claim.

10.3. 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 11 do not apply to bodily harm, or to other matters for which a party cannot exclude its liability under applicable laws.

11. **TERMINATION; SUSPENSION**

11.1. Either party may terminate the TOS for convenience upon written notice of 30 days to the other party. If the TOS is 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.

11.2. Each party may terminate 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 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 uncurable 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.

11.3. 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 will be effective immediately upon the receipt of the written notice by the affected party.

11.4. 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, 5, 6, 9, 10, 11, 12.3, 12.5 and the related definitions will survive the Term. If the TOS is terminated pursuant to Sections 12.2 and 12.3, 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.

12. GENERAL PROVISIONS

12.1. 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, will 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, will govern the TOS, and the parties attorn to the exclusive jurisdiction of the competent courts in Toronto, Ontario.

c) If Customer is in the European Union, the laws of France will govern the TOS, and the parties attorn to the exclusive jurisdiction of the competent courts in the judicial district of Paris.

d) If Customer is located in another country than Canada or the European Union, the laws of the State of Delaware, United States, and the applicable laws of the United States, will govern the TOS, and the parties attorn to the exclusive jurisdiction of the competent courts in Delaware, United States.

12.2. The *United Nations 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.

12.3. During the Term, and for twelve (12) months thereafter, Flare will maintain professional liability insurance, including errors and omissions, with aggregate limits of at least $2,000,000 to cover its liability for its obligations under this TOS.

12.4. The TOS and embedded agreements and addendums 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 but will apply to any renewals.Flare will inform the Customer prior to any renewals if Flares makes any material modifications to the TOS.

12.5. 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.

12.6. Customer may not assign the TOS without Flare's written consent. Flare may assign the TOS with notification to Customer. Either party may, in case of a sale of all of its assets or a merger and acquisition, assign the TOS upon written notice to the other party.

12.7. 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 13.6 only applies to the extent required under applicable laws, including in the province of Quebec, Canada.

12.8. 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.

12.9. Each party will comply with all applicable anti-bribery and anti-corruption laws, including 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.

12.10. Any notice or communication required or permitted under the TOS will be in writing and will 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 will be deemed effective upon receipt.
