

## OBSIDIAN SECURITY, INC.

### TERMS OF SERVICE

PLEASE READ THESE TERMS OF SERVICE (THESE "TERMS") CAREFULLY. THESE TERMS ARE A BINDING CONTRACT FOR THE USE OF OBSIDIAN SECURITY, INC. AND ITS AFFILIATES' SERVICES.

BY ACCESSING OR USING THE SERVICES (DEFINED BELOW) OR EXECUTING AN ORDER FORM THAT REFERENCES THESE TERMS, YOU ARE ACCEPTING THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT) AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT AND ITS AFFILIATES). IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THE PROVISIONS OF THESE TERMS, DO NOT EXECUTE AN ORDER FORM, ACCESS OR USE THE SERVICES.

THESE TERMS WERE LAST UPDATED ON APRIL 27, 2026. PRIOR VERSIONS OF THE TERMS OF SERVICE ARE AVAILABLE [HERE](#).

The complete subscription agreement including these Terms (the "**Agreement**") is made by and between the party on whose behalf they are accepted ("**Subscriber**") and Obsidian Security, Inc ("**Obsidian**") and are entered into as of the date they are accepted by Subscriber for the purpose of granting Subscriber a limited subscription to use Obsidian's software-as-a-service platform, application programming interfaces, user interfaces, artificial intelligence capabilities, software, support services, professional services, and any other services specified in an Order Form (collectively, the "**Services**").

#### 1. **Obsidian's Obligations.**

- 1.1 **Services.** Obsidian will make the Services available to Subscriber according to one or more online or written ordering documents which incorporate the Agreement (each an "**Order Form**").
- 1.2 **Compliance with Laws.** Obsidian's provision of the Services shall comply with applicable laws and governmental regulations.
- 1.3 **Personnel and Performance.** Obsidian will be responsible for the performance of its Affiliates and personnel (including employees and contractors) and their compliance with the Agreement. Obsidian enters into the Agreement on behalf of its Affiliates identified in the Order Form. An "**Affiliate**" of a party is any entity (a) that the party controls; (b) that the party is controlled by; or (c) with which the party is under common control.
- 1.4 **Documentation.** Obsidian will make available to Subscriber, including via a customer portal, documentation that describes, for each of the Services: (a) the performance, features, and functionality of the Services; (b) the Services' administrative, physical, and technical safeguards for protection of the security and integrity of the Services, treatment of the data submitted to, and generated from, the performance, access, usage, configuration, and deployment of the Services, and certifications and compliance programs applicable to the Services (the "**Security Measures**"); (c) service level agreements (each an "**SLA**") applicable to the Services; (d) any terms provided in connection with non-Obsidian technology or services incorporated into the Services by Obsidian; or (e) any distributed software (collectively and/or separately the "**Documentation**").
- 1.5 **Security Measures.** Obsidian will maintain the Security Measures consistent with industry standard practices and as described in the Documentation. The Services will not transmit code, files, scripts, agents, or programs intended to do harm, including, viruses, worms, time bombs, and Trojan horses ("**Malicious Code**").
- 1.6 **Data Processing.** The data and information provided to the Services by or on behalf of Subscriber ("**Subscriber Data**") will be processed and used (including by artificial intelligence), transmitted and stored by Obsidian only according to applicable laws, statues and regulations; the Agreement; the Documentation; and with respect to Subscriber Data that is also personal data, the Data Processing Agreement available at [obsidiansecurity.com/data-processing-addendum](https://obsidiansecurity.com/data-processing-addendum) (the "**DPA**").

## 2. **Subscriber's Obligations.**

- 2.1 **Subscriber Data.** Subscriber is responsible for Subscriber Data, the provision of Subscriber Data to the Services according to the Agreement, and Subscriber's use of content generated by the Services.
- 2.2 **Personnel and Performance.** Subscriber shall be responsible for the performance of its personnel (including employees and contractors) in compliance with the Agreement. Subscriber enters into the Agreement on behalf of its Affiliates that make use of the Services.
- 2.3 **Third-Party Applications.** Subscriber elects which applications to use with the Services ("**Third-Party Applications**"), and in doing so grants Obsidian permission to interoperate with the Third-Party Applications as directed by Subscriber or the Third-Party Application. Unless specified in an Order Form: (a) Obsidian does not warrant or support Third-Party Applications; (b) Subscriber is responsible for all configuration of Third-Party Applications; (c) as between Obsidian and Subscriber, Subscriber assumes all responsibility for the Third-Party Applications and any disclosure, modification or deletion of Subscriber Data by the Third-Party Applications; and (d) Obsidian shall have no liability for, and Subscriber is not relieved of any obligations under the Agreement or entitled to any refund, credit, or other compensation due to, any unavailability of Third-Party Applications or any change in the ability of Obsidian to interoperate with Third-Party Applications.
- 2.4 **Responsibilities.** Subscriber: (a) shall use the Services according to the Documentation; (b) except as provided in the Documentation, shall not make the Services available to, or use the Services for the benefit of, anyone other than Subscriber's own personnel or end users (including Subscriber's Affiliates where applicable); (c) except as provided in an Order Form, shall not sell, resell, license, sublicense, distribute, redistribute, rent, lease or otherwise transfer the Services; (d) shall procure and maintain all necessary consents to provide the Subscriber Data and use the content generated by the Services outside of the Services; (e) shall use commercially reasonable efforts to prevent unauthorized access to or use of the Services; (f) shall promptly notify Obsidian of any unauthorized access or use of the Services; (g) shall not use the Services to store, transmit or display Subscriber Data for fraudulent purposes or in violation of applicable laws and/or governmental regulations; (h) shall not use the Services to store, transmit or display Malicious Code; (i) shall not interfere with or disrupt the integrity or performance of the Services or any third-party technology contained therein; (j) shall not attempt to gain unauthorized access to any of Obsidian's systems, code or networks, provided that Subscriber may conduct industry-standard penetration testing with Obsidian's written permission; (k) shall not permit direct or indirect access to or use the Services in a way that circumvents a usage restriction or limit; (l) shall not copy the Services or any part, feature, function, or user interface thereof; (m) shall not access or use the Services or the Documentation for benchmarking or competitive analysis or to develop or offer a competitive product or service; (n) shall not reverse engineer the Services (to the extent a restriction on reverse engineering is permitted by applicable law); and (o) upon the termination of an applicable Order Form, immediately cease use of the Services and remove or delete any Obsidian software from any Subscriber environment into which it has been installed.

## 3. **Term and Termination.**

- 3.1 **Term.** This Agreement is effective during the term of any Order Form that incorporates it.
- 3.2 **Termination for Cause.** Subscriber or Obsidian may terminate the entire Agreement and all existing Order Forms for cause upon thirty (30) days' written notice to the other of a material breach if the breach remains uncured at the expiration of the notice period.
- 3.3 **Effect of Termination.** Upon termination or expiration of the Agreement, (a) all rights granted to Subscriber under the Agreement will terminate; (b) Fees will be addressed as set forth in Section 4.5 (Refund or Payment upon Termination); and (c) Subscriber Data will be made available pursuant to the Documentation.
- 3.4 **Survival.** Any term or condition that by its nature is clearly intended to survive the expiration or termination of the Agreement, shall survive any expiration or termination of the Agreement, including

Sections 2.4(l), (m), (n), and (o) (Subscriber's Obligations), Section 4.1 (Fees), Section 4.5 (Refund or Payment upon Termination), Section 5 (Confidentiality), Section 6 (Licenses and Proprietary Rights), Section 10 (Limitation of Liability), Section 11 (Exclusion of Consequential and Related Damages), and Section 13 (Indemnification).

#### 4. Fees and Payment.

- 4.1 **Fees.** Subscriber will pay all fees specified in the Order Form(s) ("**Fees**"). Fees in Order Forms are (a) based on Services purchased and not actual usage; (b) non-cancelable; and (c) cannot be decreased during the specified term. Subscriber's payments of Fees are neither contingent on the delivery of any future functionality or features, nor dependent on statements not set forth in the Agreement.
- 4.2 **Invoices.** Except as otherwise expressly provided in this Agreement or in an Order Form, all Fees will be billed annually in advance and are nonrefundable. Invoices are due 30 days from the invoice date except as otherwise expressly provided in an Order Form. Subscriber will provide in each Order Form accurate and updated contact and purchase process information to ensure timely payment of all Fees to be invoiced. If any invoiced amount is not received by Obsidian by the due date, then without limiting Obsidian's rights or remedies: (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, or (b) Obsidian may condition future subscription renewals and Order Forms on shorter payment terms. Obsidian shall be entitled to its reasonable attorneys fees, costs and expenses incurred in collecting unpaid Fees.
- 4.3 **Payment Disputes.** If Subscriber disputes an invoiced amount, it will do so promptly and in writing. The parties shall cooperate diligently to resolve the dispute. Obsidian will not exercise any rights to suspend Services, accelerate payments, impose late charges or change payment terms under Sections 4.2 (Invoicing Terms) or 4.4 (Suspension of Service and Acceleration) with respect to an overdue amount for as long as Subscriber is disputing the overdue amount in good faith.
- 4.4 **Suspension of Service and Acceleration.** If any undisputed amount owing by Subscriber is 30 or more days overdue, Obsidian may, without limiting any rights and remedies, suspend the provision of Services to Subscriber until the overdue amounts are paid in full and accelerate Subscriber's unpaid fee obligations to become immediately due and payable. Obsidian will give Subscriber at least 10 days' prior notice that its account is overdue, in accordance with Section 15 (Manner of Giving Notice), before suspending services to Subscriber.
- 4.5 **Refund or Payment upon Termination.** If Subscriber terminates the Agreement in accordance with Section 3.2 (Termination for Cause), Obsidian will refund any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If the Agreement is terminated by Obsidian in accordance with Section 3.2 (Termination for Cause), Subscriber will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve Subscriber of its obligation to pay any fees payable for the period prior to the effective date of termination.
- 4.6 **Taxes.** Fees for Services do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use, or withholding taxes assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). Subscriber is responsible for paying all Taxes associated with its Order Forms. If Obsidian is obligated by law to pay or collect Taxes for which Subscriber is responsible, Obsidian will invoice Subscriber and Subscriber will pay that amount unless Subscriber can provide a valid tax exemption certificate authorized by the appropriate taxing authority. Subscriber will provide Obsidian with any information Obsidian reasonably requests to determine whether Obsidian is obligated to collect Taxes. Obsidian is solely responsible for taxes assessable against its income, property, and employees. If Subscriber has an obligation to withhold any amounts under any applicable law or tax regime (other than US income tax law), Subscriber will gross up the payments so that Obsidian receives the amount specified in the applicable Order Form.

#### 5. Confidentiality.

- 5.1 **Confidential Information.** “**Confidential Information**” means all information about the relationship created by the Agreement disclosed by one party (“**Discloser**”) to the other party (“**Recipient**”), whether orally or in writing, that is designated as confidential or, given the nature of the information and the circumstances of disclosure, should be understood to be confidential. Confidential Information of each party includes the terms and conditions of the Agreement and all Order Forms, including pricing, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed in connection with the Agreement. Confidential Information does not include information that: (a) is at the time of disclosure, or later becomes, generally known to the public through no fault of Recipient; (b) was known to the Recipient with no obligation of confidentiality prior to disclosure by Discloser, as proven by records of Recipient; (c) is disclosed to Recipient by a third party who did not directly or indirectly obtain the information subject to any confidentiality obligation; or (d) is at any time independently developed by Recipient as proven by records of Recipient.
- 5.2 **Protection of Confidential Information.** Except as provided in Section 5.3 (Compelled Disclosure) Recipient shall not disclose or otherwise make available any Confidential Information of the Discloser to anyone except those of its employees, attorneys, agents and consultants who: (a) need to know the Confidential Information in connection with the purpose of the Agreement and (b) who have previously agreed to be bound by confidentiality obligations no less stringent than those in the Agreement. Each party shall safeguard all Confidential Information of the other party with at least the same degree of care (but no less than reasonable care) as it uses to safeguard its own confidential information.
- 5.3 **Compelled Disclosure.** If the Recipient is compelled by law to disclose Confidential Information of the Discloser, then to the extent legally permitted, Recipient shall provide the Discloser with prior notice of the compelled disclosure and reasonable assistance, at Discloser’s cost, if the Discloser wishes to contest the compelled disclosure. Any compelled disclosure shall be limited to the extent required and shall be subject to confidentiality protections to the extent practicable. If the Recipient is compelled by law to disclose the Discloser’s Confidential Information as part of a civil proceeding to which the Discloser is a party, and the Discloser is not contesting the disclosure, the Discloser will reimburse the Recipient for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 6. Licenses and Proprietary Rights.

- 6.1 **Subscriber Data.** Subscriber is the owner of the Subscriber Data. Subscriber grants Obsidian a worldwide, non-exclusive, revocable, and limited license during the term of Subscriber’s use of the Services to process, transmit, and store Subscriber Data and the content generated by the Services, and to interoperate with any Third-Party Applications as necessary for Obsidian to provide the Services in accordance with the Agreement. Notwithstanding the foregoing, Obsidian acquires no right, title, or interest in or to Subscriber Data or derivative works of the Subscriber Data. No rights are granted to Obsidian by Subscriber except as expressly set forth in the Agreement.
- 6.2 **Deliverables.** Obsidian grants Subscriber a worldwide, perpetual, non-exclusive, non-transferable, royalty-free license to use for its internal business purposes only anything developed by Obsidian for Subscriber and delivered by Obsidian to Subscriber in connection with support or professional services (“**Deliverables**”). Subject to Subscriber’s ownership of its proprietary and Confidential Information disclosed to Obsidian under Section 5 (Confidentiality) and except as set forth in an Order Form or statement of work, Obsidian shall retain all ownership rights to the Deliverables.
- 6.3 **The Services.** The Services (including improvements to the Services) and the Documentation are the proprietary information of Obsidian. Obsidian grants Subscriber a worldwide, non-exclusive, non-transferable, royalty-free permission to use the Documentation, and the software and application programming interfaces made available by Obsidian to Subscriber as part of the Services, solely as necessary to make use of the Services during the term of any applicable Order Form. Subject to the limited rights expressly granted in the Agreement, Obsidian and Obsidian’s licensors reserve all right, title, and interest in and to the Services, the Documentation, the Deliverables, the data stores of patterns, signatures and indicators of configurations and activity of Third-Party Applications, and the data generated from, the performance, access, usage, configuration, and deployment of the Services, including all related

improvements and intellectual property rights. Subject to Obsidian's ownership of the Services and Subscriber's ownership of the Subscriber Data, Obsidian disclaims ownership of materials created or generated by the Services from the Subscriber Data for Subscriber's use. Subscriber disclaims its confidentiality and proprietary rights in suggestions, enhancement requests, or corrections to the Services. No rights are granted to Subscriber by Obsidian except as expressly set forth in the Agreement.

7. **Government Rights.** The Services may include access to software. In such case, such software is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if Subscriber is an agency of, or contractor to, the US Government, it receives only those rights with respect to such software as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 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 US Government licensees and their contractors. If Subscriber is a United States government agency that has a need for rights not granted under the Agreement, it must negotiate with Obsidian to determine if there are acceptable terms for granting those rights, and mutually acceptable written terms specifically granting those rights must be included in any applicable agreement.
8. **Export Compliance.** The Services and the Documentation may be subject to export laws and regulations, which may include national, European or U.S. export laws and regulations ("**Export Regulations**"). Subscriber may not use or otherwise export or re-export the Services or the Documentation except as authorized by the Export Regulations. In particular, but without limitation, the Services and the Documentation may not be exported or re-exported (i) into any U.S. embargoed country or region, or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List, Entity List or Unverified List. Each party represents and that it is not located in any such country or on any such list.
9. **Anti-corruption.** Neither party has received or been offered any bribe, kickback, illegal or improper payment, gift, or thing of value from any of the personnel or agents of the other party in connection with the Agreement, other than reasonable gifts and entertainment provided in the ordinary course of business. If Subscriber becomes aware of any violation of the above restriction, Subscriber will promptly notify Obsidian's legal department at legal@obsidiansecurity.com.
10. **Limitation of Liability.**
  - 10.1 A PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT WILL NOT EXCEED THE AMOUNT PAID BY SUBSCRIBER HEREUNDER IN THE 12 MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE PROVIDED, HOWEVER, THAT OBSIDIAN'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO A BREACH OF SECTION 1.5 (SECURITY MEASURES), 1.6 (DATA PROCESSING), OR THE DPA, (COLLECTIVELY, THE BREACH OF THE "**DATA PROTECTION PROVISIONS**") WILL NOT EXCEED THREE TIMES (3X) THE AMOUNT PAID BY SUBSCRIBER HEREUNDER IN THE 12 MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THESE TYPES OF DAMAGES.
  - 10.2 THE LIMITATION IN SECTION 10.1 WILL NOT APPLY TO: (A) THE EXTENT PROHIBITED BY LAW, (B) EITHER PARTY'S: (1) FRAUD, WILFUL MISCONDUCT, OR GROSS NEGLIGENCE, (2) BREACH OF SECTION 5 (CONFIDENTIALITY); (3) BREACH OF SECTION 6 (LICENSES AND PROPRIETARY RIGHTS) OR (4) OBLIGATIONS UNDER SECTION 13 (INDEMNIFICATION); OR (C) SUBSCRIBER'S PAYMENT OBLIGATIONS UNDER SECTION 4 (FEES AND PAYMENT).
11. **Exclusion of Consequential and Related Damages.**
  - 11.1 IN NO EVENT WILL A PARTY HAVE ANY LIABILITY TO ANY OTHER PARTY FOR ANY LOST PROFITS, LOST REVENUE, LOST OPPORTUNITIES, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION, OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THESE TYPES OF DAMAGES.

11.2 THE EXCLUSIONS IN SECTION 11.1 WILL NOT APPLY TO: (A) THE EXTENT PROHIBITED BY LAW; (B) TO EITHER PARTY'S: (1) FRAUD, WILFUL MISCONDUCT, OR GROSS NEGLIGENCE, (2) BREACH OF SECTION 5 (CONFIDENTIALITY), (3) BREACH OF SECTION 6 (LICENSES AND PROPRIETARY RIGHTS), OR (4) OBLIGATIONS UNDER SECTION 13 (INDEMNIFICATION); OR (C) SUBSCRIBER'S PAYMENT OBLIGATIONS UNDER SECTION 4 (FEES AND PAYMENT).

## 12. Warranties.

12.1 **Ability to Enter Agreement.** Each party represents and warrants to the other party that (a) it has the required power and authority to enter into the Agreement and to perform its obligations; (b) the acceptance of the Agreement and performance of its obligations do not and will not violate any other agreement to which it is a party; and (c) the Agreement constitutes a legal, valid and binding obligation when accepted by Subscriber.

12.2 **Services Warranty.** In addition to its obligations under the Agreement, Obsidian warrants that during the term of each Order Form that: (a) the Services will perform materially as set forth in the Documentation; (b) the features, functionality and performance of the Services will not be materially decreased; (c) the overall effectiveness of the Security Measures will not be decreased; (d) the use of the Services (including distributed software and any incorporated open source software) in accordance with the Documentation, will not impose any additional obligations on Subscriber to grant any rights to its intellectual property or to disclose or make any of its own proprietary technology available to any third party; and (e) Subscriber's obligations will not be materially increased as a result of an update to the Documentation. Without limiting Obsidian's obligations pursuant to Section 1 (Obsidian's Obligations), Subscriber's exclusive remedies for a breach of a warranty in this Section 12.2 (Services Warranty) shall be (i) to the extent applicable, allow Obsidian to repair or replace a non-conforming software component or (ii) to exercise the express rights described in Sections 3.2 (Termination for Cause) and 4.5 (Refund or Payment upon Termination), and to the extent applicable, to claim the credits set forth in the applicable SLA. For Services identified as evaluation, alpha, beta, pilot, developer preview, or by a description of similar import, Subscriber's exclusive remedies for a breach of a warranty in this Section 12.2 (Services Warranty) shall be to terminate use of them without charge.

12.3 **Intellectual Property Warranty.** Each party warrants that it has, and during the Term will retain, all necessary rights and title to fulfill its obligations under this Agreement. Without limiting Obsidian's obligations pursuant to Section 1 (Obsidian's Obligations), Subscriber's exclusive remedies for a breach of a warranty in this Section 12.3 (Intellectual Property Warranty) shall be as set forth in Section 13 (Indemnification).

12.4 **Support and Professional Services Warranty.** The support and professional services specified in the applicable Order Form will be performed in a professional and workmanlike manner, in accordance with generally accepted industry standards. Subscriber's exclusive remedies for breach of the warranty in this Section 12.4 shall be either (a) re-performance of the support or professional services by Obsidian; (b) to the extent applicable, to claim the credits set forth in the applicable SLA; or (c) to exercise the express rights described in Sections 3.2 (Termination for Cause) and 4.5 (Refund or Payment upon Termination).

12.5 **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 12, NEITHER PARTY MAKES ANY WARRANTY OR GUARANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER IMPLIED, EXPRESS, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. NO SECURITY PRODUCT CAN DETECT OR PROTECT AGAINST ALL THREATS AND MISCONFIGURATIONS.

## 13. Indemnification.

13.1 **Indemnification by Obsidian.** Obsidian will indemnify and defend Subscriber against any and all third party claims, demands, suits or proceedings (each a "**Claim Against Subscriber**") and all related judgments, liabilities, awards, damages, costs, including reasonable attorneys' fees and expenses, arising out of or in

connection with, or alleging: (A) the Services or use of the Services by Subscriber in accordance with the Agreement, infringe or misappropriate the third party's intellectual property rights, or (B) Obsidian's breach of the Data Protection Provisions materially harmed the third party; provided Subscriber (a) promptly gives Obsidian written notice of the Claim Against Subscriber; (b) gives Obsidian sole control of the defense and settlement of the Claim Against Subscriber (except that Obsidian may not settle any Claim Against Subscriber unless it unconditionally releases Subscriber of all liability related to the Claim Against Subscriber); and (c) gives Obsidian all reasonable assistance, at Obsidian's expense. Obsidian's indemnification obligations do not apply to a Claim Against Subscriber that results, in whole or in part, from Subscriber Data, a third party, the use or combination of the Services with hardware, software, data, or processes not provided or specified by Obsidian, Subscriber's breach of the Agreement, any claim(s) known to Subscriber prior to its subscription to the Service or if the Services or their use would not infringe or harm a third-party rights absent a combination. If Obsidian receives information about claim related to the Services, Obsidian may in its discretion and at no cost to Subscriber (x) modify the Service so that it mitigates the claim, without breaching Obsidian's obligations under Section 1 (Obsidian's Obligations); (y) obtain permission for Subscriber's continued use of that Service in accordance with the Agreement; or (z) terminate Subscriber's subscriptions for that Service and refund Subscriber any prepaid fees covering the remainder of the term of the terminated subscriptions.

**13.2 Indemnification by Subscriber.** Subscriber will indemnify and defend Obsidian against any and all third party claims, demands, suits or proceedings (each a "**Claim Against Obsidian**") and all related judgments, liabilities, awards, damages, costs, including reasonable attorneys' fees and expenses, arising out of or in connection with Subscriber Data; provided Obsidian (a) promptly gives Subscriber written notice of the Claim Against Obsidian; (b) gives Subscriber sole control of the defense and settlement of the Claim Against Obsidian (except that Subscriber may not settle any Claim Against Obsidian unless it unconditionally releases Obsidian of all liability related to the Claim Against Obsidian); and (c) give Subscriber all reasonable assistance, at Subscriber's expense. The above defense and indemnification obligations do not apply to a Claim Against Obsidian that results, in whole or in part, from Obsidian's breach of the Agreement. Except with respect to a good faith dispute between Subscriber and Obsidian, Subscriber will reimburse Obsidian for all costs and reasonable attorneys' fees for responding to third party or governmental requests for information arising out of or in connection with Subscriber Data or Subscriber's use of the Services.

**13.3 Additional Indemnified Parties.** For purposes of this Section 13, (a) a Claim Against Obsidian shall include a claim against Obsidian, Obsidian's Affiliates, and Obsidian's or its Affiliates' officers, directors, and personnel and (b) a Claim Against Subscriber shall include a third-party claim against Subscriber, Subscriber's Affiliates, and Subscriber's or its Affiliates' officers, directors, and personnel; provided no indemnified party shall be entitled to any form of equitable or implied indemnification at any time.

**13.4 Exclusive Remedy.** This Section 13 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim covered by this Section 13.

#### **14. Assignment.**

**14.1** Either party may assign this Agreement in its entirety, without the other party's consent, (a) to an Affiliate or (b) in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Obsidian may also assign an Order Form to an Affiliate, or from one Affiliate to another, without Subscriber's consent. However, if Subscriber is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of a direct competitor of Obsidian, Obsidian may terminate this Agreement upon written notice. In the event of such termination, Obsidian will refund to Subscriber any prepaid fees covering the remainder of the initial term of all Order Forms.

**14.2** Except as permitted in Section 14.1, neither party may assign any of its rights or obligations under the Agreement, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld).

14.3 The Agreement will bind and inure to the benefit of the parties, their respective successors, and permitted assigns.

**15. Manner of Giving Notice.**

15.1 **Updates.** All updates to the Documentation will be posted to a service portal. Updates to the Documentation will be effective upon posting or delivery; provided, these updates shall not limit the warranties made by Obsidian in Section 12.2 as of the start of the term of an Order Form.

15.2 Except as otherwise specified in the Agreement, all notices, permissions and approvals shall be in writing. Subscriber will direct legal notices or other correspondence under this Agreement to Obsidian Security, Inc., 577 College Ave, Suite 200, Palo Alto, CA 94306, United States of America, Attention: Legal Department with a copy by email directed at [legal@obsidiansecurity.com](mailto:legal@obsidiansecurity.com). Billing-related notices to Subscriber shall be addressed to the relevant billing contact designated by Subscriber. All other notices to Subscriber shall be addressed to the relevant Services system administrator or other person designated by Subscriber in writing.

**16. Governing Law and Jurisdiction.** Based on Subscriber’s address provided in this Agreement or, if none, the ship to address on Subscriber’s Order Form, the governing law set forth below will apply in any dispute arising out of or in connection with the Agreement and the courts set forth below will have exclusive jurisdiction over any lawsuit. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

Subscriber’s Address	Governing Law and Jurisdiction
North America, South America or any geographic region that does not fall into one of the other designations in this table	Laws of the State of Delaware with exclusive jurisdiction and venue in the state and federal courts located in New Castle, Delaware, unless if Subscriber’s address is in California then the laws of the State of California with jurisdiction and venue in the state and federal courts located in San Mateo, California.
Europe (but excluding England and Wales), the Middle East, Africa or Antarctica	Laws of the Republic of Ireland with exclusive jurisdiction in the courts of Ireland.
United Kingdom	Laws of England and Wales with exclusive jurisdiction in the courts of England and Wales
Australia or New Zealand	Laws of the state of New South Wales, Australia
Asia-Pacific	Laws of Singapore

**17. Relationship of the Parties.** The parties are independent contractors. The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

**18. Third-Party Beneficiaries.** There are no third-party beneficiaries under the Agreement.

**19. Authorized Reseller.** If Subscriber has validly purchased Services through a reseller authorized by Obsidian (an “Authorized Reseller”) under an ordering document that binds the Subscriber to the terms of this Agreement (a “Reseller Order”), then Obsidian will make the validly purchased Services specified in the Reseller Order available to Subscriber. Obsidian may share information regarding Subscriber with the Authorized Reseller when necessary for providing the Services or as needed for the Authorized Reseller to perform services for the benefit of Subscriber. A Reseller Order shall be an Order Form for purposes of this Agreement, provided that, (a) Sections 4.1, 4.2 and 4.6 of this Agreement shall not apply; (b) Obsidian will seek payment for all fees associated with Subscriber’s use of the Services from the Authorized Reseller, (c) any refunds or credits will be issued to the Authorized Reseller; (d) if any amount owing by an Authorized Reseller for Subscriber’s use of the Services

is overdue, Obsidian may, without limiting any rights and remedies, suspend the provision of Services to Subscriber until the overdue amounts are paid in full; (e) amounts paid by Subscriber to the Authorized Reseller for Services subscribed for by Subscriber shall be deemed to be payments made by Subscriber hereunder for purposes of Section 10 (Limitation of Liability); and (f) a Reseller Order cannot modify or take precedence over the Agreement, the DPA or the Documentation.

- 20. Entire Agreement.** The Agreement supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter. In the event of any conflict or inconsistency among the following, the order of precedence shall be: (i) the applicable Order Form, (ii) the DPA, (iii) the Agreement, and (iv) the Documentation. Obsidian and Subscriber each represent that it has validly entered into the Agreement and has the legal power to do so. Any term or condition stated in a Subscriber online supplier portal click-through, purchase order or other Subscriber order documents (excluding Order Forms) is void. No modification, amendment, or waiver of any provision of the Agreement will be effective unless it exists in writing and is signed by the party against whom the modification, amendment, or waiver is to be asserted. No failure or delay by either party in exercising any right under the Agreement will constitute a waiver of that right. If any provision of the Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of the Agreement will remain in effect.