

## FLASHPOINT SUBSCRIPTION AGREEMENT

**THIS FLASHPOINT SUBSCRIPTION AGREEMENT** (this “Agreement”) is entered into between EJ2 Communications, Inc. d/b/a Flashpoint (“Flashpoint”) and the customer (the “Subscriber”) that is either identified (i) on an Order entered into between Flashpoint and Subscriber, (ii) on an Order entered into between Subscriber and an authorized Flashpoint Reseller referencing this Agreement, or (iii) on a signature line at the end of this Agreement, and is effective as of the date that the applicable Order is executed by the Subscriber and either Flashpoint or the applicable Reseller (the “Effective Date”).

By signing below or signing an Order referencing this Agreement, or by accessing any Services, Subscriber agrees to be bound by this Agreement. Capitalized terms used but not defined in the main body of the Agreement will be as defined in Exhibit 1.

### **1. SUBSCRIPTION; ACCESS AND USE; FEES.**

**1.1. Subscription to Services, Documentation, and Data.** Subject to the terms and conditions set forth in this Agreement, Flashpoint grants Subscriber access to the Services through the Website and the Flashpoint APIs (as specified in the Order) to authorize the maximum number of Authorized Users specified in an Order to: (a) access and use the Services solely for Subscriber’s internal use, including creating internal reports using portions of the Data generated by search queries (collectively, the “Subscriber Reports”), and (b) to use the Documentation in connection with Subscriber’s use of the Services (all of the foregoing rights, collectively, the “Subscription”). Subscriber shall ensure that all Authorized Users comply with the applicable provisions of this Agreement, including but not limited to, the license scope set forth in this Section 1.1 and the restrictions on use set forth in Section 1.2. Subscriber will be primarily liable to Flashpoint for any and all violations thereof by such Authorized Users.

**1.2. Restrictions on Use.** Subscriber will not make any use or disclosure of the Services that is not expressly permitted under this Agreement or the Order. Without limiting the foregoing, Subscriber will not: (i) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code or interface protocols of the Services; (ii) modify or adapt the Services; (iii) copy, resell, distribute, sublicense the Services or otherwise allow any third party to use or access the Services; (iv) make the Services available on a “service bureau” basis; (v) remove or modify any proprietary markings or restrictive legends placed on the Services; (vi) use the Services in violation of any contract to which you are subject or any applicable law, rule, or regulation or for any purpose not specifically permitted in this Agreement; (vii) use any information or Data regarding the Services to build a product or service that competes with the Services or to prepare or publish benchmarks, comparisons, or evaluations of the Service; or (viii) introduce into the Services any virus, worm, “back door,” Trojan Horse, or similar harmful code. If Flashpoint determines that any improper use of the Services has taken place at any time during the Term, in addition to any other rights or remedies that Flashpoint may have under this Agreement or applicable law, Flashpoint reserves the right to terminate or suspend (in Flashpoint’s sole discretion) Subscriber’s access to the Services immediately.

**1.3. Audit.** Upon reasonable prior written notice and at Flashpoint’s expense, Flashpoint may audit Subscriber’s applicable books and records to ensure its compliance with the terms and conditions set forth in this Agreement, including but not limited to compliance with the license scope set forth in Sections 1.1 and 1.2., and the data destruction provisions set forth in Section 3.3. All such audits will be conducted during normal business hours and will be subject to the Confidentiality requirements of Section 5 above.

**1.4. Fees.** Fees for use of the Services will be as specified in the Order, and will be paid either directly by Subscriber to Flashpoint or by the Reseller on Subscriber’s behalf, as applicable. In addition, the Order will contain the applicable payment terms as well. If the applicable payment terms are not specified in the Order, properly invoiced amounts will be due and payable within 30 days of the invoice date. Unless otherwise specified in the Order, all Fees are due in full, upfront for the Services and are non-refundable.

**1.5. Affiliate Services.** Certain Services, Documentation, and Data may be provided by an Affiliate of Flashpoint. Flashpoint shall be responsible for ensuring that Services provided by an Affiliate of Flashpoint are provided in compliance with this Agreement and any Order.

**2. SUPPORT SERVICES.** Flashpoint will be reasonably available to provide Subscriber problem resolution and technical support in connection with the Services during the Term (the “Support Services”). Subscriber may request Support Services from Flashpoint via email at an email address, which will be provided to Subscriber by Flashpoint during the onboarding process.

### **3. TERM AND TERMINATION.**

**3.1. Term.** Unless earlier terminated as set forth herein, the term of this Agreement is set forth in the Order (the “Term”).

**3.2. Termination.** In the event of a material breach of this Agreement by a party, the other party may terminate this Agreement by giving thirty (30) days prior, written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach before the expiration of such thirty (30) day period.

**3.3. Effect of Termination or Expiration.** In the event of any termination or expiration of this Agreement, all rights granted hereunder to Subscriber will immediately cease, and Subscriber will immediately cease all access of the Services; Subscriber will immediately delete all Data stored on their systems; provided, however, that Subscriber may retain any Subscriber Reports created by Subscriber prior to the effective date of expiration or termination. The following provisions will survive any termination or expiration of this Agreement: Section 1.2 (“Restrictions on Use”), Section 3.3 (“Effect of Termination or Expiration”), Section 4 (“Intellectual Property”), Section 5 (“Confidentiality”), Section 6.4 (“Disclaimer”), Section 7 (“Limitation of Liability”), Section 8 (“Indemnification”), Section 10 (“Miscellaneous Provisions”).

**4. INTELLECTUAL PROPERTY.** Flashpoint owns all right, title, and interest in and to the Services, including all source code, object code, operating instructions, and interfaces developed for or relating to the Services, together with all modifications, enhancements, upgrades, revisions, changes, copies, partial copies, translations, compilations, and derivative works thereto, including all copyrights, patents, trade secrets, trademarks, and other intellectual property and proprietary rights relating thereto (the “Flashpoint Intellectual Property”). Subscriber will have no rights with respect to the Flashpoint Intellectual Property other than those expressly granted under this Agreement. Without Flashpoint’s prior written consent, Subscriber shall have no right to develop (or to permit any third party to develop) any software tool or other application that interfaces with the Services, except to the extent necessary to use the Flashpoint APIs in order to receive the Data as contemplated under this Agreement, as applicable. Subject to the foregoing, Subscriber shall own all right, title, and interest in and to the Subscriber Reports.

### **5. CONFIDENTIALITY.**

**5.1 Nondisclosure.** Each party will keep the Confidential Information received from the other party in confidence, will use such Confidential Information only for the purposes contemplated by this Agreement, and will not disclose such Confidential Information to any person or entity except to those of its employees, agents or contractors who need to know such information in order to carry out the activities contemplated by this Agreement (“Representatives”), and who are bound to protect the Confidential Information under terms at least as protective of the Confidential Information as the provisions hereof. Each party shall be liable for any breach of this Agreement caused by their Representatives. Each party shall take measures to protect the confidentiality of the other party’s Confidential Information that, in the aggregate, are no less protective than those measures it uses to protect the confidentiality of its own confidential or proprietary information of similar kind and import (and in any event, no less than commercially reasonable measures).

**5.2 Effect of Termination on Confidential Information.** Upon request or upon the discontinuance, termination or cancellation of this Agreement or of any license covering any Confidential Information, the affected Confidential Information and all copies in whatever medium or form will be returned to the disclosing party or destroyed (with the receiving party certifying such destruction in writing).

## **6. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.**

**6.1. Mutual Representations and Warranties.** Each party represents and warrants that it has the full right, power, and authority to enter into this Agreement, to discharge its obligations hereunder, and to grant the rights granted hereunder.

**6.2. Flashpoint Warranties.** Flashpoint further represents and warrants to Subscriber that: (i) the Support Services provided by Flashpoint hereunder shall be performed in a professional and workmanlike manner; (ii) Flashpoint shall use commercially reasonable efforts to ensure that the Data will be, upon delivery, as current, accurate, and complete as may be reasonably achieved using the source data, compilation, and data processing methods reasonably employed by Flashpoint in the ordinary course of its business; and (iii) it will comply with all applicable laws in providing the Services hereunder.

**6.3. Subscriber Warranties.** Subscriber further represents and warrants that: (i) it has secured all of the necessary permissions and consents from any required third parties (such as third party security or integration partners, employees or contractors, users, etc.) prior to providing Flashpoint (or the Services) with any access keys, API keys, or license or credential information relating to such third parties; and (ii) it will comply with all applicable laws and regulations in connection with its use of the Services under this Agreement.

**6.4. Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN SECTIONS 6.1 AND 6.2, THE SERVICES, THE WEBSITE, THE DATA, THE FLASHPOINT REPORTS, THE DOCUMENTATION, THE SUPPORT SERVICES, AND OTHER MATERIALS PROVIDED HEREUNDER ARE PROVIDED “AS IS” AND “AS AVAILABLE,” AND FLASHPOINT MAKES NO WARRANTY WITH RESPECT TO THE SAME OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT AND HEREBY DISCLAIMS ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF TITLE, MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AVAILABILITY, ERROR-FREE OR UNINTERRUPTED OPERATION, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. TO THE EXTENT THAT FLASHPOINT MAY NOT AS A MATTER OF APPLICABLE LAW DISCLAIM ANY WARRANTY, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

## **7. LIMITATION OF LIABILITY.**

**7.1. Liability Exclusion.** FLASHPOINT WILL NOT BE LIABLE TO SUBSCRIBER FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION LOST REVENUES OR PROFITS, OR LOSS OF GOODWILL OR REPUTATION) WITH RESPECT TO ANY CLAIMS BASED ON CONTRACT, TORT OR OTHERWISE (INCLUDING NEGLIGENCE AND STRICT LIABILITY) ARISING OUT OF OR RELATING TO THE SERVICES, THE DATA, THE FLASHPOINT REPORTS, THE SUPPORT SERVICES, THE DOCUMENTATION, SUBSCRIBER SERVICES, SUBSCRIBER REPORTS, OR OTHERWISE ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.

**7.2. Limitation of Damages.** FLASHPOINT’S MAXIMUM LIABILITY ARISING OUT OF OR RELATING TO THE SERVICES, THE SUPPORT SERVICES, OR THE SUBSCRIBER REPORTS, OR OTHERWISE ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY, OR OTHERWISE), WILL NOT EXCEED THE AGGREGATE AMOUNT OF THE FEES PAID OR PAYABLE TO FLASHPOINT BY RESELLER OR SUBSCRIBER DIRECTLY, AS APPLICABLE, WITH RESPECT TO THE SERVICES CONTEMPLATED BY THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM ARISES.

## **8. INDEMNIFICATION.**

**8.1. Indemnification by Flashpoint.** Flashpoint will indemnify, defend, and hold harmless Subscriber and its officers, directors, employees, and agents (each, a “Subscriber Indemnitee”) from and against any and all liabilities, settlement payments, awards, damages, losses, costs, and expense, including, but not limited to, reasonable attorneys’ fees (collectively, “Losses”) incurred by such Subscriber Indemnitees in connection with any valid third-party claim, action, or proceeding (each, a “Claim”) to the extent arising from, relating to, or alleging that the Services infringe or misappropriate any U.S. patent, copyright, trade secret, or other intellectual property right of any third party. Notwithstanding the foregoing, Flashpoint shall not be obligated to indemnify, defend, or hold harmless the Subscriber Indemnitees hereunder to the extent the Claim arises from or is based upon: (a) any use of the Services in a manner for which they were not authorized by this Agreement; (b) any unauthorized enhancements, modifications, alterations, or implementations of the Services; (c) any use of the Services in combination with unauthorized modules, apparatus, hardware, software, or other services; (d) any use of the Services that violates this Agreement any breach of a representation or warranty of Subscriber; (e) any publicly available or third party data or content, even if such data or content is provided in the Services (including but not limited to, any Data available on the Internet or the Deep and Dark Web; or provided by third party licensors or entities).

**8.2. Infringement Claims.** In the event that Flashpoint reasonably determines that the Services is, or is likely to be, the subject of a claim of infringement or misappropriation of third-party rights, Flashpoint shall have the right (but not the obligation), at its option to: (i) procure for Subscriber the right to continue to use the applicable Services for the remainder of the then-current Term, (ii) replace the infringing components of the Services with other components with the same or similar functionality that are reasonably acceptable to Subscriber, or (iii) suitably modify the Services so that it is non-infringing and reasonably acceptable to Subscriber. If none of the foregoing options are available to Flashpoint on commercially reasonable terms, Flashpoint may, at its option, terminate this Agreement without further liability to Subscriber.

This Section 8.2, together with the indemnity provided under Section 8.1, states Subscriber's sole and exclusive remedy, and Flashpoint's sole and exclusive liability, regarding infringement or misappropriation of any intellectual property rights of a third party.

**8.3. Indemnification by Subscriber.** Subscriber will indemnify, defend, and hold harmless Flashpoint and its officers, directors, employees, and agents (each, a "Flashpoint Indemnitee") from and against any and all Losses incurred by such Flashpoint Indemnitees in connection with any Claim to the extent arising from, relating to, or alleging that Subscriber or any Authorized User has (i) violated any of the provisions of Section 1, or (ii) breached any of Subscriber's representations, warranties or obligations set forth in this Agreement. Nothing herein shall restrict the right of Flashpoint to participate in a claim, action or proceeding through its own counsel and at Flashpoint's own expense.

**8.4. Indemnification Process.** The indemnifying party's obligations under this section are contingent on the indemnified party: (a) promptly providing written notice of the claim to the indemnifying party; provided, however, that any delay in providing such notice shall not relieve the indemnifying party of any of its obligations except to the extent that the indemnifying party is actually prejudiced by such delay, (b) giving the indemnifying party sole control of the defense and settlement of the claim, and (c) providing the indemnifying party, at the indemnifying party's expense, all reasonable assistance in connection with such claim. In no event will an indemnified party be liable for any settlement that admits any fault of or imposes any monetary liability on an indemnified party without its prior written consent (such consent will not be unreasonably withheld or delayed).

## **9. DATA PROCESSING; DATA PRIVACY; ANALYTICS; PUBLICITY**

**9.1 Data Processing and Storage.** All Data and any Subscriber-related data will be processed and stored in accordance with Flashpoint's then-current data retention and data privacy policy. On an annual basis, Flashpoint shall successfully complete a Service Organization Controls (SOC) 2 Type 2 examination related to the Security and Confidentiality principles of the American Institute of Certified Public Accountants (AICPA) Trust Services Principles (the "**SOC 2 Examination**") and obtain an opinion from an independent audit firm regarding compliance with such principles. Flashpoint shall provide Subscriber with a copy of the applicable attestation letters resulting from each such examination.

**9.2 GDPR Compliance.** In the event that Flashpoint processes any personal data of EU, EEA, or Swiss residents under this Agreement, the provisions of the Data Protection Addendum available at <https://www.flashpoint-intel.com/legal-DPA> are hereby made a part hereof, and will apply.

**9.3 Notice Regarding California Consumer Privacy Act ("CCPA").** To the extent Subscriber discloses Personal Information of California consumers or households to Flashpoint to provide Services to Subscriber, Flashpoint may be considered a "service provider" as defined in CCPA Section 1798.140(v). Flashpoint acknowledges and agrees that Subscriber discloses Personal Information to Flashpoint solely for: (i) a valid business purpose; and (ii) Flashpoint to perform the services as set forth in this Agreement. Flashpoint is prohibited from: (i) selling Personal Information if the California consumer or household has opted out of the sale of their Personal Information; (ii) retaining, using, or disclosing Personal Information for a commercial purpose other than providing Services to Subscriber; (iii) retaining, using, or disclosing the Personal Information outside of the direct business relationship between Flashpoint and Subscriber; or (iv) using the Personal Information to provide services to another person or entity. Flashpoint hereby certifies it understands and will comply with these obligations and restrictions in accordance with the CCPA. Furthermore,

Flashpoint agrees to reasonably assist Subscriber in responding to any requests from a California consumer or household exercising their rights under the CCPA. For purposes of this Notice, "Personal Information" is defined in CCPA Section 1798.140(o). Further, this Notice is effective for the Term of the Agreement.

**9.4. Usage of Analytics.** Flashpoint may use analytics to monitor, identify, and collect trend and usage statistics with respect to Authorized Users and organizations, including, without limitation, how often different features of the Services are used, how often different buttons and menu items are clicked, execution time for different operations, types of errors, error reports, download locations, versions, platform information, application and Services, Website or the Flashpoint APIs usage, features usage, exception tracking, and operating system information (collectively, "**Analytical Information**"). Subscriber hereby agrees that Flashpoint may collect such Analytical Information and use it in aggregated form to provide, operate, manage, maintain, and enhance the Services and to develop new functionality. Flashpoint may use third party platforms and tools that meet our security and privacy policy requirements in order to assist with the collection of Analytical Information. Flashpoint shall own all right, title to and interest in such Analytical Information.

**9.5 Publicity.** Flashpoint may identify Subscriber as a Flashpoint customer through the use of Subscriber's name, logo, or both on Flashpoint's website and in Flashpoint marketing materials.

**10. MISCELLANEOUS.** Flashpoint reserves the right, at its sole discretion, to modify or replace this Agreement at any time. Subscriber's continued use of the Services after any such changes will constitute its consent to any and all such changes to this Agreement. All notices relating to this Agreement shall be in writing and addressed to the addresses of Subscriber and Flashpoint set forth in the Order. Notice will be deemed given upon: (i) personal delivery or delivery confirmed by an overnight courier or (ii) recipient's acknowledgement of receipt if sent by email. Subscriber may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior, written consent of Flashpoint. Any assignment or other transfer in violation of this Section will be null and void. Subject to the foregoing, any permitted Agreement will be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns. This Agreement, and any disputes directly or indirectly arising from or relating to this Agreement, will be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law. The parties hereby consent and agree to the exclusive jurisdiction of the state and federal courts located in New York, in New York County, in the Borough of Manhattan for all suits, actions, or proceedings directly or indirectly arising out of or relating to this Agreement, and waive any and all objections to such courts, including but not limited to objections based on improper venue or inconvenient forum. The parties further agree that service of any process, summons, notice, or documents to a party by registered or certified mail, or by nationally or internationally recognized private courier service shall be effective service of process for any action, suit, or proceeding brought against such party in any such court. The rights and remedies of the parties to this Agreement are cumulative and not alternative. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect, and, if legally permitted, such offending provision will be replaced with an enforceable provision that as nearly as possible effects the parties' intent. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements and commitments with respect thereto. There are no other

oral or written understandings, terms or conditions and neither party has relied upon any representation, express or implied, not contained in this Agreement. This Agreement may be executed in counterparts (which may be exchanged electronically (e.g., by PDF, DocuSign, facsimile, etc.), each of which will be deemed an original, but all of which together will constitute the same Agreement.

## EXHIBIT 1: DEFINITIONS

“Affiliate” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. The term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise.

“Authorized User” means an employee of Subscriber or an individual consultant, vendor, or contractor engaged by and acting under the direction and control of Subscriber that Subscriber permits to access and use the Services. Flashpoint acknowledges that Subscriber will not need to disclose the specific identity of such Authorized Users to Flashpoint.

“Cloud Infrastructure Monitoring” is a service offered to existing Flashpoint platform users through Flashpoint’s Data Exposure Alerting (“DEA”) product, that monitors Amazon Web Services (AWS) S3 buckets to allow users to monitor for publicly exposed S3 buckets on both a per bucket and read-only account access basis. The Cloud Infrastructure Service will be deemed to be included within the definition of “Services” for purposes of this Agreement.

“Confidential Information” means non-public financial, technical or business information of the disclosing party (or any Affiliate) that is marked as confidential at the time of disclosure or that the receiving party should, from the circumstances surrounding its disclosure, know to be confidential. Confidential Information includes, in the case of Flashpoint (or any Flashpoint Affiliate), the Services, any and all source code relating thereto, the Data, and the Documentation, all pricing and Fees relating to the Services and related services, and any other non-public information or material regarding Flashpoint’s legal or business affairs, products, services, financing, or customers. Confidential Information does not include information that is: (i) known to the receiving party prior to receipt from the other party, (ii) generally known or available in the industry or to the general public through no act or fault of the receiving party, (iii) acquired in good faith from a third party that has no obligation of confidentiality with respect to such information, (iv) required to be disclosed by applicable law, by order of court or by the rules, regulations, or order of any governmental agency (provided, that prior to making any such required disclosure, the receiving party first notifies the disclosing party and cooperates with the disclosing party in its efforts to seek confidential or protective treatment of such information or to minimize the scope of any such required disclosure), or (v) independently developed for one party by employees or agents of that party who do not have access to the Confidential Information of the other party.

“Data” means any data that is accessible to Subscriber via the Services, including all Updates thereto.

“Documentation” means any written specifications, user documentation, training materials, validation test plans, and other documents relating to the Services that Flashpoint provides to Subscriber.

“Flashpoint API(s)” means those application program interfaces, import tools, registration pages and documentation of Flashpoint through which Subscriber may access Data, as applicable.

“Maximum Number of Authorized Users” means the maximum number of Authorized Users specified on the Order, as applicable.

“Order” means the applicable order form document which details the specifics of Subscriber’s Subscription, which will include a description of the Services, as well as details such as the fees paid for the Subscription (such Fees will be paid to Flashpoint either directly by Subscriber or by the Reseller on Subscriber’s behalf, as applicable) (“Fees”), Subscription Term, Maximum Number of Authorized Users, and any additional terms pertaining to the Services. Each Order will be between Flashpoint and either: (a) the Reseller obtaining access to the Services on Subscriber’s behalf; or (b) Flashpoint and Subscriber directly, as the case may be. The Order may take the form of either: (i) an order form provided by Flashpoint and signed by Subscriber, or (ii) Subscriber’s purchase order provided to and accepted by Flashpoint in writing.

“Reseller” means an authorized Flashpoint reseller and/or distributor of the Services and/or Data.

“Services” means the platforms, products, services, and data as specified on the Order, including all Updates thereto. For the avoidance of doubt, the Website, the Flashpoint APIs, the Data, Updates, and the Documentation, if (and in the scope and quantities) specified in the Order, shall be included in the definition of Services.

“Updates” means updates to the Data and/or Services that are periodically made available to Subscriber during the Term through the Services.

“Website” means any website or other access point through which Flashpoint provides access to the Services.