



Terms of Services

THIS TERMS OF SERVICES (“AGREEMENT”) GOVERNS THE USE OF TRANSMIT SECURITY PRODUCTS INCLUDING, BUT NOT LIMITED TO, BINDID™, FLEXID, WORKID, ANY ADD-ON EXTENSIONS OR OTHER COMPONENTS.

THIS IS A LEGAL AGREEMENT BETWEEN YOU (REFERRED TO HEREIN AS “END USER”, “YOU” or “YOUR”) AND (A) TRANSMIT SECURITY LTD. AND ITS AFFILIATES (“TRANSMIT SECURITY”). BY DOWNLOADING, INSTALLING, ACCESSING, EVALUATING OR OTHERWISE USING TRANSMIT SECURITY PRODUCTS, YOU ACKNOWLEDGE AND AGREE THAT YOU ARE BOUND TO THIS AGREEMENT. IF YOU DO NOT ACCEPT ALL ITS TERMS, IMMEDIATELY CEASE USING OR ACCESSING THE PRODUCT. THIS AGREEMENT GOVERNS YOUR USE OF TRANSMIT SECURITY PRODUCTS HOWEVER THEY WERE ACQUIRED INCLUDING WITHOUT LIMITATION THROUGH AN AUTHORIZED DISTRIBUTOR, RESELLER, ONLINE APP STORE, OR MARKETPLACE.

If you use a Product for proof of concept, beta testing, trial, evaluation, or other similar purpose (“Evaluations”), you may do so for 30 days only unless Transmit Security issues an extension. Transmit Security reserves the right to terminate Evaluations at any time. For Evaluations, only Sections 1, 2, 3, 4, 5, 6, 7, 8, 9 of this Agreement shall apply because Evaluations are provided “AS IS”.

For use of BindID™: You authorize your wireless operator (AT&T, Sprint, T-Mobile, US Cellular, Verizon, or any other branded wireless operator) to disclose your mobile number, name, address, email, network status, customer type, customer file, billing type, mobile device identifiers (IMSI and IMEI) and other subscriber status and device details, if available, to our third party service provider, solely to verify your identity and prevent fraud for the duration of the business relationship.

TRANSMIT SECURITY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AGAINST INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

1. Definitions. The terms used in this Agreement shall have the following definitions:

- a. “Authorized Use” means use allowed in the connection with License Agreement between Customer and Transmit Security and complying with any applicable terms in this Agreement.
- b. “Customer” means the party who has executed a License Agreement with Transmit Security.
- c. “End User” means an individual who accesses the Services via Customer’s account credentials.
- d. “End User Data” means data that may be accessed or collected by Product during the relationship governed by this Agreement, in the form of logs, session data, telemetry, user data, usage data, threat intelligence data, and copies of potentially malicious files detected by the Product. End User Data may include confidential data and personal data, such as source and destination IP addresses, active directory information, file applications, URLs, file names, and file content.
- e. “Product” means apps, add-one extensions, other components developed, owned, and managed by Transmit Security.
- f. “License Agreement” means the agreement between Transmit Security and Customer. This agreement is a licensed agreement, valid for a specific term, during which Customer may access Services.
- g. “Transmit Security” (including any of its affiliates) is the licensor of the Product and a party of the Licensed Agreement
- h. “Services” means Transmit Security means software, data, services and updates thereto (when and if available) licensed to Customer by Transmit Security. Customer’s use of the Services is governed by the License Agreement.

2. License Grant and Access Rights

- a. Transmit Security shall grant the End User a limited, non-transferable and non-exclusive right to use the Product during the term of the License Agreement or Evaluation Agreement.
- b. End User shall agree to use the Product only for the Authorized Use. End User shall be prohibited from replicating or distributing the Product, or otherwise using the Product other than for the Authorized Use.
- c. End User shall agree to comply with all applicable laws, regulations, and ordinances relating to its performance and the exercise of its rights under the Licensed Agreement.
- d. End User shall acknowledge:
 - i. the confidential nature of the Product and be bound by confidentiality provisions set forth in this Agreement.

- ii. it must look solely to the Customer in connection with any problems or other matters concerning the Product. End User shall agree that any claim, dispute or action arising out of the License Agreement or otherwise related to the Product shall be brought against Customer only and End User shall not bring any such claim, dispute or action against any third party.
- e. **Restrictions.** With regard to the Product, and any component thereof, a Product may not be used in any jurisdiction for unlawful, obscene, offensive or fraudulent content or activity, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, spam, abusive or deceptive messages, viruses or harmful code, or violating third party rights. In addition, End User will not (i) reverse assemble, reverse engineer, decompile or otherwise attempt to derive source code or any component thereof; (ii) modify or prepare derivative works, (iii) assign, copy, reproduce, modify, sell, lease, pledge, transfer to or share with any third party, sublicense, market, commercially exploit, or otherwise dispose of in any way, on a temporary or permanent basis (iv) use in any manner that infringes or misappropriate the intellectual property rights or other rights of Transmit Security or another party; (v) distribute or re-distribute; (vi) use to provide service-bureau, software rental, time sharing or any data services to any third party; (vii) bundle, integrate, or attempt to integrate with any third-party software or solution; or (viii) use in any way not specifically licensed pursuant to this Agreement or not in accordance with provided related documentation.

3. Ownership

- a. Transmit Security and its suppliers retain all rights to intellectual and intangible property relating to the Product, including but not limited to copyrights, patents, trade secret rights, and trademarks and any other intellectual property rights therein unless otherwise indicated. As between End User and Transmit Security, all rights, title and interest in and to the Product is owned by Transmit Security or its licensors. End User shall further acknowledge that the Product constitutes proprietary information and trade secrets of Transmit Security or its licensors and that the Product is protected intellectual property throughout the world. End User shall acknowledge that neither End User's use of the Product nor any provision of the License Agreement shall operate so as to transfer or convey to End User or any third party any right, title or interest in or to the Product or any associated intellectual property rights, but only a limited right of use, revocable in accordance with the terms of the License Agreement.
- b. **Feedback.** To the extent you provide any suggestions or comments related to the Product, Transmit Security shall have the right to retain and use any such suggestions or comments in current or future products or subscriptions, without your approval or compensation to you.

4. Confidential Information

To the extent that confidential and proprietary information of each Party ("Confidential Information") is exchanged and received in connection with the Product, each Party agrees not to use the other Party's Confidential Information except in the performance of, or as authorized by this Agreement. Confidential Information does not include: (i) information that was publicly available at the time of disclosure or that subsequently becomes publicly available other than by a breach of this provision, (ii) information previously known by or developed by the receiving Party independent of the Confidential Information; (iii) information that the receiving Party rightfully obtains without restrictions on use and disclosure; or (iv) information that is required to be disclosed pursuant to any law or regulation or by the rules of any stock exchange or by a court of competent jurisdiction.

5. Term; Termination; and Effect of Termination

This Agreement is effective until terminated or, as applicable, in accordance with the term of your License Agreement. Transmit Security may terminate this Agreement at any time in the event you breach any material term and fail to cure such breach within thirty (30) days following notice. Upon termination, you shall immediately cease using the Product.

6. Warranty and Disclaimer

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TRANSMIT SECURITY AND ITS SUPPLIERS DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES, TERMS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, REGARDING THE PRODUCT, RELATED DOCUMENTATION OR INFORMATION, AND OTHER MATERIALS AND SERVICES, AND SPECIFICALLY DISCLAIM THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, MERCHANTABILITY QUALITY, NON-INFRINGEMENT AND THOSE ARISING FROM A COURSE OF PERFORMANCE, DEALING, USAGE OR TRADE. Transmit



Security does not warrant that the functions contained in the Product in any update will meet the requirements of or that the operation of the Product will be uninterrupted or error free or free from errors or other program limitations.

7. Liability

- a. IN NO EVENT SHALL TRANSMIT SECURITY BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR ANY PENALTIES, CLAIMS FOR LOST DATA, REVENUE, PROFITS, COSTS OF PROCUREMENT OR SUBSTITUTE GOODS OR SERVICES OR BUSINESS OPPORTUNITIES, ARISING OUT OF THIS AGREEMENT, OR ANY SCHEDULES, EXHIBITS, OR ADDENDA THERETO, UNDER ANY CAUSE OF ACTION OR THEORY OF LIABILITY, WHETHER IN CONTRACT OR IN TORT INCLUDING NEGLIGENCE, EVEN IF TRANSMIT SECURITY HAD BEEN ADVISED OF SUCH DAMAGES.
- b. EXCEPT AS EXPRESSLY STATED IN THIS PARAGRAPH, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL TRANSMIT SECURITY'S AGGREGATE LIABILITY HEREUNDER FOR ANY CAUSE OF ACTION OR THEORY OF LIABILITY EXCEED THE AMOUNTS PAID BY END USER TO TRANSMIT SECURITY PURSUANT TO THIS AGREEMENT FOR WHICH THE CAUSE OF ACTION AROSE, DURING THE PRECEDING TWELVE (12) MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE. THIS LIMIT ALSO APPLIES TO ANY OF TRANSMIT SECURITY'S AFFILIATES, SOFTWARE DEVELOPERS AND SUPPLIERS. IT IS THE MAXIMUM FOR WHICH TRANSMIT SECURITY AND ITS AFFILIATES, SOFTWARE DEVELOPERS, AND SUPPLIERS ARE COLLECTIVELY RESPONSIBLE.

8. End User Data and Data Protection

- a. **Data Processor.** To the extent Transmit Security processes personal data on behalf of End User as a processor as defined by EU data protection law, it shall do so only on instructions from End User pursuant to this Agreement and as permitted by applicable law.
- b. **Confidentiality of Personal Data.** Transmit Security shall ensure that personnel it authorizes to process personal data have committed themselves to confidentiality or are under appropriate statutory obligation of confidentiality.
- c. **Sub-Processors.** End User authorizes Transmit Security to engage sub-processors, as described in the applicable Product documentation for the relevant Product, to process personal data. In the event Transmit Security engages any new sub-processor it will
 - i. update the applicable documentation;
 - ii. impose appropriate contractual obligations upon the sub-processor that are no less protective than this Section;
 - iii. remain responsible for the sub-processor's compliance with this Agreement and for any acts or omissions of the sub-processor that cause Transmit Security to breach any of its obligations under this Agreement.
- d. **Technical and Security Measures.** Transmit Security shall implement and maintain all technical and organizational measures that are required for protection of the PII and ensure a level of security that is appropriate to for dealing with and protecting against any risks to the rights and freedoms of the data subjects, and as required in order to avoid accidental or unlawful destruction, loss, alteration or unauthorized disclosure of, or access to PII and/or as otherwise required pursuant to the GDPR, including, *inter alia*, the measures set forth below:
 - i. The pseudonymisation of PII.
 - ii. The ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services.
 - iii. The ability to restore the availability and access to PII in a timely manner in the event of a physical or technical incident.
 - iv. A process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing.
- e. When complying with Section 8(d) above, Transmit Security shall take into consideration the state of technological development existing at the time and the nature, scope, context and purposes of processing as well as the aforementioned risks.

- f. **Data Breach.** Transmit Security will promptly notify End User after becoming aware of any actual breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal information..
- g. **Data Retention.** Transmit Security shall process and retain personal data no longer than necessary for the purposes which it is processed. Upon termination of this Agreement, Transmit Security shall, upon End User's request, delete personal data that is no longer necessary to carry out any of the purposes under Section 8(b).

9. General

- a. **Successors and Assigns.** This Agreement shall bind and inure to the benefit of each party's permitted successors and assigns. Transmit Security may assign any of its rights or obligations without prior written consent of End User to a parent or successor entity. Transmit Security may assign its rights to payments under this Agreement without obtaining End User's consent.
- b. **Governing Law and Venue.** This Agreement shall be governed solely by, and construed and interpreted in accordance with, the laws of the State of New York, United States, without regard to its principles of conflicts of law. The application of the United Nations Convention of Contracts for the International Sale of Goods or other international laws is expressly excluded. The parties consent to the personal and exclusive jurisdiction of the federal and state courts of the State of New York.
- c. **Force Majeure.** With the exception of payment obligations, neither party shall be liable to the other party for any delay or failure in performance, to the extent such delay or failure is due to causes beyond its control. These events include but are not limited to the following: acts of nature, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Transmit Security employees as applicable).
- d. **Severability and Waiver.** If any provision of this Agreement is found invalid or unenforceable, that provision will be enforced to the maximum extent permissible so as to affect the intent of the parties and the remainder of this Agreement will remain in full force and effect. Neither party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than by an explicit written waiver. No waiver of a breach of this Agreement will constitute a waiver of any prior or subsequent breach of this Agreement.
- e. **Notices.** All notices shall be in writing and delivered by overnight delivery service or by certified mail sent to the address published on the respective parties' websites or the address specified on the relevant order document (attention: Legal Department), and in each instance will be deemed given upon receipt.