



FIREEYE OCULUS SUBSCRIPTION

These FireEye Oculus Subscription terms apply to any supported Products (defined below) that you (“You” or “Customer”) have procured from FireEye, Inc. (“FireEye”) with an associated Oculus subscription (the “Subscription”). “Products” consists of hardware components (“Hardware”) and software components (“Software”) for which the Subscription was purchased. The Subscription offered by FireEye hereunder is expressly conditioned on Customer abiding by the terms of the FireEye’s General Terms and Conditions located at <http://www.fireeye.com/resources/pdfs/fireeye-general-terms-and-conditions.pdf>, which is hereby incorporated herein by reference.

In the event Customer has purchased the Products and pass-through Subscription from FireEye through a FireEye authorized reseller (a “Reseller”), Customer will be entitled to all the rights herein related to the level of service requested and paid for by Customer, provided Customer: (i) is the original purchaser of the covered Products; (ii) has provided true, accurate, current, and complete information to FireEye included with its purchase; and (iii) has maintained and updated this information to keep it true, accurate, current, and complete.

In the event Customer receives the Subscription via a FireEye authorized services or support partner (a “Partner”), Customer agrees that the Subscription and Customer Data (defined below) described herein will be delivered to Customer through the Partner. Notwithstanding any other confidentiality obligations between the parties, Customer authorizes FireEye to disclose information related to the Subscription and Customer Data to Partner.

1. OCULUS SUBSCRIPTIONS.

OCULUS SUBSCRIPTIONS. Customer shall be entitled to receive the Subscription specified on the applicable Oculus subscription invoice and described below to the extent that Customer has paid in full the Oculus Subscription Fee (as defined below) for such Subscription. The Subscription is available for Products running a minimum FireEye Operating System (“FEOS”) release of version 6.2.

1.1 Oculus Continuous Monitoring (OCM) Subscription – includes each of the following during the Term (as defined below) for the specific Products, excluding FireEye Malware Analysis Systems (MAS) for which the Subscription was purchased:

APT Event Notification. FireEye will provide Customer with proactive notifications of advance persistent threat (“APT”) events logged by the Products in connection with the Subscription (“APT Events”). Notifications of APT Events are not proof of vulnerability, threats or attacks on Customer. FireEye will also provide Customer with access to a detailed description of the APT detected.

FireEye Cybercon™ Notification. FireEye will provide Customer with proactive notifications of extremely severe FireEye Cybercon (“FireEye Cybercon”) threats to specific industry(s) or region(s) to which Customer has subscribed after FireEye’s confirmed discovery of such and will provide Customer with access to a detailed description of the threat. FireEye will also provide Customer with access to a monthly FireEye Cybercon report for the specific industry(s) or region(s) to which Customer has subscribed.

FireEye Cybercon Level Definitions:

- FireEye Cybercon 1 (extremely severe) indicates the target industry has the highest probability of attack compared to all other verticals as determined by FireEye.
- FireEye Cybercon 2 (severe) indicates the target industry’s probability of attack was at least 50% above the FireEye determined collective worldwide average, across all other verticals.
- FireEye Cybercon 3 (moderate) indicates the target industry’s probability of attack was between 50% and 1% above the FireEye determined worldwide average.
- FireEye Cybercon 4 (average) indicates the target industry’s probability of attack was equal to the FireEye determined worldwide average.
- FireEye Cybercon 5 (low) indicates the target industry’s probability of attack was below the worldwide average as determined by FireEye.

The FireEye Cybercon level, for a particular vertical or industry, measures the likelihood that vertical was vulnerable to advanced threats during the previous month.

System Health Monitoring and Notification. FireEye will provide Customer with proactive notifications of serious system health issues, including hardware, software, update, and detection efficacy monitoring for Products covered by the Subscription. Customers will also receive a monthly report detailing the previous month’s notifications and proactive notifications of predicted system status events, for example, expiring license keys.

2. EXCLUSIONS.

Notwithstanding anything else contained in this Agreement to the contrary, FireEye shall have no obligation or responsibility to provide Oculus Subscription for Products on which (i) Customer has not purchased a Subscription; (ii) Products with a one-way feed of FireEye’s Dynamic Threat Intelligence subscription; (iii) installed FEOS is less than version 6.2; (iv) Products that are end of life; or (v) Products that have no active support service in place.

3. TERM AND TERMINATION.

THIS SUBSCRIPTION SHALL CONTINUE IN FULL FORCE AND EFFECT: (I) FOR A PERIOD STATED IN THE CORRESPONDING ORDER FOR NEW HARDWARE PURCHASES; AND (II) FOR A PERIOD CO-TERMINATING WITH THE SUPPORT AND MAINTENANCE TERM FOR EXISTING HARDWARE APPLIANCES (THE “TERM”).

4. GENERAL RESTRICTIONS.

The Subscription constitutes valuable trade secrets and intellectual property of FireEye. Accordingly, except as otherwise authorized by FireEye in writing, Customer will not and will not permit any third party to: (i) sell, lease, or provide access to, the Subscription to any third party; (ii) circumvent, enable, modify or provide access, permissions or rights which violate the technical restrictions of the Subscription; or (iii) copy or modify the Subscription deliverables.

5. CUSTOMER DATA.

5.1 Customer Data Requirements. As between Customer and FireEye, Customer and Customer's authorized users shall retain all right, title and interest in and to the Customer Data and all intellectual property rights therein. Nothing in this Agreement will confer on FireEye any right of ownership or interest in the Customer Data or the intellectual property rights therein; provided, however, that Customer consents to FireEye's use of Customer Data to provide, improve and manage the Subscription in accordance with this Agreement and applicable law. Customer shall ensure that Customer's use of the Subscription and all Customer Data is at all times compliant with Customer's privacy policies and all applicable local, state, federal, and international laws and regulations.

5.2 Protection of Customer Data. FireEye shall maintain appropriate administrative, physical, and technical safeguards for protection of the confidentiality and integrity of Customer Data. FireEye will not: (i) modify Customer Data, (ii) disclose Customer Data except as compelled by law or as expressly permitted in writing by Customer, or (iii) access Customer Data except to provide the Subscription, or at Customer's request in connection with Subscription matters.

5.3 Indemnification by Customer. Customer shall defend and indemnify FireEye against any third party claim arising from or relating to Customer Data, provided that FireEye: (i) provides Customer with notice of such claim within a reasonable period of time after learning of the claim; and (ii) reasonably cooperates in response to Customer's requests for assistance. Customer may not settle or compromise any indemnified claim that imposes any obligation on FireEye without the prior written consent of FireEye.

5.4 Ownership. The Subscription, the FireEye Cybercon reports, the APT encyclopedia, all copies and portions thereof, and all improvements, enhancements, modifications and derivative works thereof, and all intellectual property rights therein, are and shall remain the sole and exclusive property of FireEye and its licensors. Customer's rights to use the Subscription shall be limited to those expressly granted in this Agreement and any applicable Order. No other rights with respect to the Subscription or any related intellectual property rights are implied. The Customer Data, all copies and portions thereof, and all intellectual property rights therein, are and shall remain Customer's sole and exclusive property.