

ADDENDUM TO OPENAI TERMS OF USE

This Addendum to OpenAI's Terms of Use (hereinafter "Addendum") is entered into by and between OpenAI, LLC ("OpenAI"), with its principal place of business at 3180 18th Street, San Francisco, CA 94110, and the U.S. Department of State (the "Department"), with headquarters at 2201 C Street NW, Washington, D.C. 20520, each individually a "Party" and collectively the "Parties." This Addendum is effective as of August 28, 2023.

OpenAI and the Department agree to modify the OpenAI Terms of Use (hereinafter the "TOU"), accessible as of August 28, 2023 at <https://openai.com/policies/terms-of-use>, to accommodate the Department's legal status as a U.S. Government agency, its public (in contrast to private) mission, and other circumstances. The TOU are hereby amended by this Addendum as they pertain to the Department's use of OpenAI's "Services," as defined in the TOU, with respect to usage by Department personnel that have [@state.gov] email addresses (these individuals cumulatively "Department Personnel"). References in this Addendum to the TOU as modified by this Addendum shall be termed the "Amended TOU."

- A. The Amended TOU shall bind the Department, subject to Federal law. It shall not operate to bind, in their personal capacity, Department employees or other persons acting on behalf of the Department. OpenAI shall look solely to the Department for enforcement with respect to any violation or breach of the Amended TOU carried out in an official capacity by Department employees or other persons acting on behalf of the Department, provided that OpenAI may suspend or otherwise take action on individual accounts for security, trust and safety purposes.
- B. Any terms in the TOU that are inconsistent with Federal Law or regulation are hereby stricken or modified as in accordance with this Addendum.
- C. If there is any conflict between this Addendum and the TOU, or between this Addendum and other terms, rules or policies issued by OpenAI, this Addendum shall prevail. Any language in the TOU indicating that the TOU may not be modified or that it alone is the entire agreement between the Parties is waived. Any further modifications to this Addendum must be agreed to by the Parties in writing. OpenAI may modify the TOU from time to time. Such modifications to the TOU shall not supersede the terms of this Addendum.
- D. All terms in the TOU that address or are otherwise contained under the TOU headings entitled:
 - "Indemnification";
 - "Dispute Resolution";
 - "Assignment and Delegation" under "General Terms"; and
 - "Limitations on Liability" and "Jurisdiction, Venue and Choice of Law" under "General Terms"

are stricken and shall not apply to the Department's use of the Services, except to the extent expressly authorized under applicable law. Instead, the following terms shall apply:

1. **Limitations on Liability.** NEITHER WE NOR ANY OF OUR AFFILIATES OR LICENSORS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR DATA OR OTHER LOSSES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR AGGREGATE LIABILITY UNDER THESE TERMS SHALL NOT EXCEED THE GREATER OF THE AMOUNT YOU PAID

FOR THE SERVICE THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS BEFORE THE LIABILITY AROSE OR ONE HUNDRED THOUSAND DOLLARS (\$100,000). THE LIMITATIONS IN THIS SECTION APPLY ONLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

2. Confidentiality

The parties agree that the TOU confidentiality clause in Section 5(a) is amended and replaced with the following mutual obligations:

Use & Nondisclosure. "Confidential Information" means any business, technical or financial information, materials, or other subject matter disclosed by one party ("Discloser") to the other party ("Recipient") that is identified as nonpublic or proprietary at the time of disclosure or should be reasonably understood by Recipient to be nonpublic or proprietary under the circumstances. Content provided or received by the Department is Confidential Information.

Recipient agrees: (i) it will only use Discloser's Confidential Information to exercise its rights and fulfill its obligations under TOU as amended by this Addendum; (ii) it will take reasonable measures to protect Discloser's Confidential Information; (iii) it will not disclose Discloser's Confidential Information to any third party except as expressly permitted in the TOU as amended by this Addendum; and (iv) will not disclose Discloser's Confidential Information to any third party notwithstanding any other disclosure thereof by Discloser or a third party.

Exceptions. The obligations in the paragraph above shall not apply to any information that (i) was rightfully disclosed to Recipient without restriction by a third party; or (ii) was independently developed without use of any Confidential Information of Discloser. Recipient may disclose Confidential Information of Discloser only to its employees, personnel, contractors, and agents ("Personnel") who have a need to know and who are bound by confidentiality obligations at least as restrictive as those in the TOU as amended by this Addendum. Recipient will be responsible for any breach of this section by its Personnel. Recipient may disclose Confidential Information of Discloser to the extent required by law, provided that Recipient uses reasonable efforts to notify Discloser in advance and give Discloser an opportunity to contest the disclosure.

3. Indemnification, Liability, Statute of Limitations

Liability for any Department breach of the Amended TOU, or any claim arising from the Amended TOU, shall be determined under the Federal Tort Claims Act (FTCA) or other governing Federal authority. Federal Statute of Limitations provisions shall apply to any breach or claim.

4. Governing law

Any arbitration, mediation, or similar dispute resolution provision in the TOU is hereby stricken. The Amended TOU shall be governed by, interpreted, and enforced in accordance with U.S. Federal law without reference to conflict of laws. To the extent permitted by Federal law, the laws of the State of California (excluding California's choice of law rules) will apply in the absence of applicable Federal law.

5. Assignment

Neither Party may assign its obligations under the Amended TOU to any third party without prior written consent of the other; provided, however, that OpenAI may assign the Amended TOU in connection with a merger, acquisition, or sale of OpenAI's assets, or to any affiliate, or as part of a corporate reorganization, without written consent from the Department, provided that the successor assumes OpenAI's obligations under the Amended TOU.

6. Export Controls.

The Services may not be used for the benefit of anyone on the U.S. Treasury Department's list of Specially Designated Nationals, any other restricted party lists (existing now or in the future) identified by the Office of Foreign Asset Control, or the U.S. Department of Commerce Denied Persons List or Entity List, or any other restricted party lists (collectively, "Restricted Party Lists"). You must comply with all applicable laws related to Restricted Party Lists, including any requirements or obligations to know your end users directly.

For OPENAI, LLC



Signature
Bobby Wu

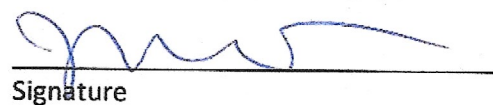
Name
AGC, Corporate

Title
09 / 14 / 2023

Date
bobby@openai.com

E-mail

For U.S. DEPARTMENT OF STATE



Signature

Giordany Altamirano Rayo

Name

Chief Data Scientist

Title

Aug 28, 2023

Date

altamiranorayo@state.gov

E-mail