



EJN Labs Terms and Conditions Cyber Consultancy Services



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1. Terms and Conditions

These Terms and Conditions ("**Terms**") apply when you sign our Letter.

We value transparency. These Terms are drafted to ensure that you are clear on what you are engaging us for, the scope of Services and our obligations to you.

Key Words used in these Terms

The capitalised words and phrases are defined in bold and in brackets after the concepts are first mentioned.

Interpretation

- a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- b) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- c) **(person)** a reference to "person" includes an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- d) **(party)** a reference to a party includes that party/s permitted assigns, including persons taking by way of novation;
- e) **(this Letter)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this Letter, and a reference to this Letter includes all schedules, exhibits, attachments and annexures to it;
- f) **(document)** a reference to a document (including this Letter) is to that document as varied, novated, ratified or replaced from time to time;
- g) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation of this Letter and the Terms;
- h) **(includes)** the word "includes" and similar words in any form is not a word of limitation; and
- i) **(adverse interpretation)** no provision of this Agreement will be interpreted adversely to a party because that party was responsible for the preparation of this Agreement or that provision;
- j) **(in writing or written)** includes email; and
- k) **(currency)** a reference to a currency is in \$ or United States Dollars, unless otherwise agreed in writing between the parties.

1. SCOPE OF ENGAGEMENT

- 1.1 You will first be required to sign the Letter and pay the Fees (as defined in clause 2) as set out by us. We reserve the right to decline to act if the Fees are not paid before the commencement of the Services.

1.2 Services

We will provide the Services ("**Services**") mentioned in as per terms drafted per project.

1.3 Outcome Report

- a) We will provide you with a detailed report (covering technical, management and public aspects) in .pdf format on the outcome of the Services ("**Outcome Report**"), which will entail highlighting any vulnerabilities, security risks and failures.
- b) The contents and format of the Outcome Report will be determined by EJV at its sole discretion, and the Outcome Report shall not be customisable. By using our Services, you acknowledge that we act as a third-party assessor and possess a degree of independence in formulating our findings and as such, we will not remove or minimize findings in an Outcome Report at your request without sufficient factual basis for doing so.
- c) The Client may remove EJV logo and any other marks from an Outcome Report and use it for their own, non-commercial, business purposes.
- d) The Client agrees and acknowledges that the Outcome Report will be available to download via our online platform. EJV will store the Outcome Reports on its servers. The Outcome Report will be available to you, and anyone invited by you to our online platform and to our authorised Personnel (as defined below).

1.4 Services Timeline

- a) We will use our best efforts to perform the Services and deliver the Outcome Report within the timeline mentioned per project.
- b) EJV will use its best efforts to meet the Timeline, however these are subject to change if any unforeseen complexities arise. EJV will use its best efforts to minimise the impact of such changes and notify the Client if more than 24- hour variation is required.

1.5 Membership Concept of Days

- a) With effect from the date of this Letter, your account with us will be updated to reflect the amount of days purchased.
- b) The scope of Services is based on a projected level of effort expressed in the number of days. The level of Services associated with the required days to execute

engagements varies depending on the product type, size and complexity of the target. The price and other applicable details associated with a purchased day will be set forth on your sales order and invoice.

- c) Please note that the Services for which days may be used excludes certain professional services offerings (such as, without limitation, red team services, IOT/device testing, etc.), unless otherwise expressly agreed to by us (and subject to such additional terms and conditions as we may require relative to performing professional services).

1.6 **Client Feedback**

- a) Upon delivery of the Outcome Report, the Client agrees to provide feedback or comments on the Outcome Report, if any, within 5 business days from the date of delivery of the Outcome Report ("**Feedback Timeline**").
- b) The Client shall send any feedback to, or request any minor amendments from, EJV, in one email ("**Feedback**").
- c) After receiving the Feedback, EJV will incorporate the Feedback into the Outcome Report, and provide an updated version of the Outcome Report to the Client.
- d) EJV will only allow for one round of Feedback. Any feedback request in addition to the one round is not included in the Service or the scope of work under this Letter and may be performed by EJV at its sole discretion. If any additional changes require additional work to be done by EJV, then EJV will charge separately for such additional services.

1.7 **Third Party Contractors**

- a) You acknowledge and agree that we may engage independent third party contractors ("**Personnel**") to assist us in providing the Services and you consent to such engagement
- b) The Client may request the name of any Personnel working on the Services, however, we shall not provide copies of agreements entered between us and the Personnel.
- c) Where we subcontract any Services, it shall be our continuing obligation to ensure that the subcontracted and/or delegated services are and continue to be performed at all times in accordance with the requirements of these Terms.
- d) The Personnel shall not sublet or delegate any Services delegated or subcontracted to it to any third parties.

1.8 **Third Party Terms and Conditions**

- a) The Client acknowledges and agrees that the terms and conditions of third party service providers ("**Third Party Provider**") may apply to any part or all of the Services.
- b) The Client accepts and agrees to comply with the terms of use and policies of the Third Party Provider that apply to the Services.

- c) The Client acknowledges and agrees that if the Client does not agree to any Third Party Terms, this may affect the Company's ability to meet delivery of the Services.

2. FEES

2.1 **Payment of Fees**

- a) For us to commence the Services, you must supply a purchase order for the Fees as set out by us.
- b) EJV will issue a valid tax invoice ("Invoice") to the Client for payment of the Fees for the active year. Subsequent invoices will be sent for following years after the main testing has been completed.
- c) The Client must pay the Fees through normal banking channels via bank transfer to the Company's designated bank account, the details of which will be provided by the Company to the Client.
- d) The Client must make payment within the 30-day term following completion of the main testing.
- e) Retesting is not considered a part of the main testing but is included in the Fees.
- f) We reserve the right to charge credit card surcharges if payment of the Fees is made using a credit, debit or charge card (including Visa, MasterCard or American Express).
- g) The Fees paid under this Letter are not refundable except as provided in clause 8.2.
- h) Unless otherwise indicated, all Fees exclude applicable goods and service tax which shall be payable at the applicable rate.

3. RETESTING

- a) EJV may offer retesting of security vulnerabilities and failures. Only Clients with active accounts or subscriptions at the time of a retest request are eligible for retesting.
- b) Retesting is applicable only to those security vulnerabilities or failures that the Client have taken steps to remediate and the intent of retesting is to validate the efficacy of the Client's remediation efforts.
- c) Retesting involves our Personnel re-engaging via the same or similar methodologies in testing of specified security vulnerabilities, risks and failures that were originally identified in the Outcome Report.
- d) The timing for retesting is at our sole discretion. Retesting is subject to the same terms and conditions applicable to the provision of Services by EJV Labs Ltd to you including payment of Fees.

4. INTELLECTUAL PROPERTY

4.1 **New Material**

Intellectual Property Rights in New Material are immediately assigned to and vest in the Company as those rights are created.

4.2 **Existing Material**

Each party retains ownership of Intellectual Property Rights in Existing Material and nothing in this Agreement transfers ownership or assigns any Intellectual Property Rights in Existing Material of a party to the other party.

4.3 **License**

The Client must not use EJV Existing Material or New Material in any way without EJV prior written consent, including for marketing activities (such as social media communications).

4.4 **Third Party Intellectual Property**

The Client warrants that EJV receipt and use of the Services, New Materials and the Client's Existing Materials will not infringe the Intellectual Property Rights of any third party.

4.5 **Intellectual Property Rights**

"Intellectual Property Rights" means all copyright, trademark, design, patent, trade and business information, company and domain names, confidential and other proprietary rights, intangible property rights in documents, samples, drafts, templates, reports, software (including source and object code), inventions, data and other materials in any media whatsoever and any other rights to registration of such rights whether created before or after the date of this Letter throughout the world.

5. CONFIDENTIALITY

5.1 **Confidential Information**

The Client shall not, during, or at any time after, the engagement under these Terms, disclose Confidential Information directly or indirectly to any third party, except:

- a) with EJV prior written consent;
- b) as required by Law; or
- c) to their Personnel strictly on a need to know basis for the purposes of performing its obligations under this Letter, or to their advisors and consultants for obtaining professional advice (**"Additional Disclosees"**).

5.2 **Breach**

If either party becomes aware of a suspected or actual breach of clause 5.1 by that party or an Additional Disclosee, that party will immediately notify the other party and take reasonable steps required to prevent, stop or mitigate the suspected or actual breach. The parties agree that damages may not be a sufficient remedy for a breach of clause 5.1.

5.3 **Permitted Use**

A party may only use the Confidential Information of the other party for the purposes of exercising its rights or performing its obligations under this Letter.

5.4 **Return**

On termination or expiration of this engagement, each party agrees to immediately return to the other party,

or (if requested by the other party) destroy, any documents or Material in its possession or control containing Confidential Information of the other party.

5.5 **Additional Disclosees**

Each party will ensure that Additional Disclosees keep the Confidential Information confidential on the terms provided in this clause 5. Each party will, when requested by the other party, arrange for an Additional Disclosure to execute a document in a form reasonably required by the other party to protect Confidential Information.

5.6 **Confidential Information**

"Confidential Information" means information of, or provided by, a party that is by its nature confidential information, is designated as confidential, or that the recipient of the information knows or ought to know is confidential (including all commercial information exchanged between the parties), but does not include information which is, or becomes, without a breach of confidentiality, public knowledge.

6. SECURITY

- a) While we will use our best efforts to ensure that your information, data or other electronic materials (**"Data"**) that is being backed-up or stored as part of the Services will be stored securely, we will not be liable for any unauthorised use, destruction, loss, damage or alteration to the Data, including due to hacking, malware, ransomware, viruses, malicious computer code or other forms of interference.
- b) We do not accept responsibility for loss or damage to computer systems, mobile phones or other electronic devices arising in connection with the Services.

7. INDEMNIFICATION

- 7.1 The Client represents and warrants that it owns or have all necessary right, title and interest in the Application(s)/Network(s) in scope for the Services and that all the material and Application(s)/Network(s) submitted by it or on its behalf do not infringe upon or violate any third party proprietary rights, intellectual property rights, industrial property rights, personal or moral rights or any other rights, including without limitation, copyright, trademark, patent, trade secret, privacy, publicity or confidentiality obligations or violate any person's rights of privacy or otherwise violate any applicable law.
- 7.2 To the maximum extent permitted by applicable law, the Client agrees to indemnify and hold harmless us at all times from and against any liability, claims, demands, losses, damages, costs and expenses (including reasonable attorney's fees) arising out of or relating to (i) the Client's improper or unlawful use of the Services; (ii) the Client's failure to properly perform

its obligations under these Terms; (iii) the Client's negligence or willful misconduct; (iv) the Client's infringement or violation of applicable law; (v) any misrepresentation made by the Client in connection with the Services; and
(vi) the Client's breach, default or violation of this Letter and the Terms (collectively as "**Indemnified Claims**").

8. TERMINATION

8.1 Termination by the Client

- a) The Client may, by providing an immediate written notice to us, terminate this Letter within 24 hours of the receipt of the Invoice. Any payment received during this time period shall be refunded in full.
- b) In case the Client terminates this Letter after the expiry of 24 hours from the receipt of the Invoice, then EJV shall be entitled to forfeit the Fees.

8.2 Termination by us

- a) We may at any time terminate this engagement by providing a written notice to the Client.
- b) Upon such termination, we shall refund the Client the Fees paid to us.

9. LIMITATION OF LIABILITY

- 9.1 The Client agrees and acknowledges that the nature of Services under this Letter may cause harm or disruption to an application and/or networks of the Client and that neither EJV nor any of its Personnel shall have any liability of any kind arising out of such testing activities unless the Personnel has committed gross negligence or committed willful misconduct in performance of the Services.
- 9.2 We do not give a guarantee against any malfunction of the entire test site or any late, lost, damaged, misdirected, incomplete, illegible, undeliverable, or destroyed Outcome Report submissions due to system errors, failed, incomplete or distorted computer or other telecommunication transmission malfunctions, hardware or software failures of any kind, lost or unavailable network connections, typographical or system/human errors and failures, technical malfunction(s) of any telephone network or lines, cable connections, satellite transmissions, servers or providers, or computer equipment, traffic congestion on the Internet or at the test site, or any combination thereof, including other telecommunication, cable, digital or satellite malfunctions which may limit the period a program is listed on our website. The Outcome Report highlights and reflects the issues relating to security of the application or network of the Client only and should not be construed as providing any guarantee of safety or security of that application or network.

10. DISPUTE RESOLUTION

10.1 Injunctive Relief

- a) Any dispute, claim or controversy arising out of or relating to this Letter and the Terms ("**Dispute**") will be settled by binding arbitration, except that each party retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction.
- b) The parties acknowledge and agree that each party waives their right to a trial by jury or to participate as a plaintiff or class member in any purported class action or representative proceeding.

10.2 Arbitration

- a) Any dispute arising out of or in connection with this Letter and the Terms, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration ("**LCIA**"), which Rules are deemed to be incorporated by reference into this clause.
- b) The number of arbitrators shall be one.
- c) The seat, or legal place, of arbitration shall be London, United Kingdom.
- d) The language to be used in the arbitration shall be English.
- e) The governing law of the contract shall be the substantive law of England.

11. MISCELLANEOUS PROVISIONS

11.1 Governing Law and Jurisdiction

- a) This Letter and the Terms and any non-contractual obligations arising out of or in connection with this Letter and the Terms shall be governed by and shall be construed in accordance with English law.
- b) Subject to Clause 10.2, both parties hereto hereby irrevocably submit to the exclusive jurisdiction of the courts of England to settle any Dispute.

11.2 Entire Agreement

This Letter and the Terms constitute the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter mentioned herein.

11.3 Amendments

This Agreement may only be amended by mutual agreement in writing signed by both parties.

11.4 Waiver

No party to this Agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

11.5 Severance

Any term of this Agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of

the remainder of this Agreement is not limited or otherwise affected.

11.6 Third Party Rights

This Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to

enforce any term of this Agreement.

11.7 Assignment

A party cannot assign, novate, or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party

This Agreement has been entered into on the date stated below:

Client	
Signature	
Full Name	
Position	
Date	

EJN Labs	
Signature	
Full Name	
Position	
Date	



EJN LABS

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