

## CYBERHIVE END-USER LICENCE AGREEMENT (“EULA”)

THIS DOCUMENT IS A BINDING LEGAL AGREEMENT BETWEEN YOU AND CYBERHIVE – IF YOU PROCEED TO USE THE SERVICES, YOU WILL BE DEEMED TO HAVE ACCEPTED AND TO BE BOUND BY ITS TERMS, SO PLEASE TAKE TIME TO READ THEM CAREFULLY AND IN FULL.

### IMPORTANT WORDS AND DEFINITIONS

In this EULA:

“**Account**” means a user account which is assigned to you, which is created for the purpose of becoming a User of the Services.

“**Business Day**” means any day, other than a Saturday or Sunday or any public holiday, when the Banks in London are open for business.

“**Client**” means any organisation or other entity who has purchased a subscription to enable Users to use the Services pursuant to a Client Subscription Agreement.

“**Client Subscription Agreement**” means an agreement between the Client and CyberHive to enable Users to use the Services.

“**Content**” means any text, software, scripts, graphics, photos, sounds, music, videos, audio-visuals combinations, interactive features and other materials you may view on or access through the Services, including User Content and Third Party Content.

“**CyberHive**” means CyberHive Ltd, company number 03974231, 2<sup>nd</sup> Floor Newmarket House, Market Street, Newbury, England, RG14 5DP.

“**Data Protection Legislation**” means for such time as they are in force in the UK , all legislation which relates to the protection of individuals’ rights in their Personal Data and the protection of their privacy, including the DPA, GDPR, UK GDPR, PECR and all such legislation as may supplement, amend or replace them from time to time.

“**Device**” means a desktop, laptop, mobile phone or other computing device (such as a ‘tablet’) device with internet functionality. Compatibility for devices and their builds can be found at <https://docs.cyberhive.com/>.

“**DPA**” means the Data Protection Act 2018 and all subordinate legislation to it.

“**GDPR**” means Regulation (EU) 2016/679.

“**Intellectual Property Rights**” means patents, trademarks, and service marks, rights in design, trade or business names or signs or domain names, copyrights (including without limitation rights in computer software, databases and websites), database rights, rights in confidential information (including without limitation know how and trade secrets), moral rights (and the benefit of any and all waivers thereof), rental and lending rights, topography rights (whether or not any of these is registered and including applications for registration of any such thing) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist at any time anywhere in the world and all rights of action and goodwill arising at any time in relation thereto.

“**PECR**” means the Privacy and Electronic Communications (EC Directive) Regulations 2003.

“**Personal Data**” has the meaning set out in the Data Protection Legislation.

“**Privacy Policy**” means CyberHive’s privacy policy supplied to Users as may be updated from time to time.

“**Services**” means the services we provide to you through the Website which you may access through your assigned Account.

“**Third Party Content**” means Content which a third party contributes, submits, uploads, publishes or which is otherwise made available through the Services.

“**UK GDPR**” has the meaning given to it in section 3(10) (as supplemented by section 205(4) of the DPA).

“**User**” means an individual who is authorised to use the Services pursuant to a Client Agreement and is permitted to create an account to use the Services; and terms such as “Users” shall be interpreted accordingly.

“**User Content**” means Content which a User (such as yourself) contributes, submits, uploads, publishes or which is otherwise made available through the Services.

“**Website**” means [www.CyberHive.com](http://www.CyberHive.com) or any other website we notify you of, any application and/or any other online properties used by CyberHive to deliver the Services including any updates or amendments made to them.

Where this EULA refers to “**you**” or “**your**” it means the individual accepting this agreement; where it refers to “**us**”, “**our**” or “**we**” it means CyberHive.

## Agreed terms

### 1. ACKNOWLEDGEMENTS

- 1.1. We may change these terms at any time without notice. Any such changes shall take effect on the next occasion that you make use of the Services. Any such new terms may be displayed on-screen when you next use the Services, and you may be required to read and accept them in order to continue your use of the Services.
- 1.2. The terms of this EULA apply to the Services and to any updates or supplements to the Services, unless such additions are provided pursuant to separate terms, in which case those terms shall apply.
- 1.3. From time to time, we may automatically update the Services to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Depending on the update, you may not be able to use the Services until you have downloaded, streamed or accepted the updates and accepted any new applicable terms.
- 1.4. You will be assumed to have obtained permission from the owners of any Devices that are controlled, but not owned, by you which you may use to access or use the Services. You and they may be charged by your and their service providers for internet access on the Devices. You accept responsibility in accordance with the terms of this EULA for the use of the Services on any such Device, whether or not it is owned by you.
- 1.5. You acknowledge that in order to access and use the Services your Device, internet browser and other relevant applications required to access and use the Services must meet the compatibility requirements set out in: <https://docs.cyberhive.com/>.
- 1.6. You acknowledge that we will process your Personal Data on the basis set out in our Privacy Policy and accept that we will process some of your Personal Data in order to deliver the Services to you in accordance with this EULA. You must read our Privacy Policy. You can review our Privacy Policy at any time when using our Services. You warrant that any Personal Data that you provide to us is accurate, complete and up to date in all respects.

1.7. You acknowledge and agree that internet transmissions are never completely private or secure and that any message or information you send using the Services may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

1.8. Any words following the terms **including, include, in particular** or **for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

## **2. YOUR ACCOUNT**

2.1. You have been assigned an Account by the Client to enable your use of the Services. If you have not been assigned an Account by the Client, you must notify us immediately and cease use of the Services.

2.2. You agree to be solely responsible for all activity that occurs under your Account, and you agree to maintain the security and secrecy of your Account username, password and Account information.

2.3. You must notify CyberHive immediately of any breach of security or unauthorised use of your Account that you become aware of.

2.4. You confirm that the information you provide when creating your Account is accurate and complete, and that you will update us through the Services as and when your information changes.

## **3. LICENCE**

3.1. We grant you a revocable, non-transferable, non-exclusive licence to use the Services on your Devices, subject to these terms, the Privacy Policy and any other documents referred to hereunder. We reserve all other rights.

## **4. CONTENT**

4.1. As an Account holder, you may access Content when using the Services. The majority of the Content made available via the Services is Third Party Content, which is not published or pre-moderated by CyberHive.

4.2. CyberHive is not responsible for the contents of Third Party Content which is available through the Services. CyberHive does not pre-moderate Third Party Content and you access it at your own risk.

- 4.3. Accordingly, you acknowledge and accept that you may be exposed to Content that is unlawful, factually inaccurate, offensive, indecent, or otherwise objectionable to you. You further understand and accept that CyberHive is under no obligation to review and/or verify any Content.
- 4.4. You irrevocably and unconditionally waive any legal or equitable rights or remedies you have or may have against CyberHive with respect to or in connection with any such Content or your exposure to or reliance on the same.

## **5. YOUR USER CONTENT**

- 5.1. As a CyberHive account holder, you may submit User Content.
- 5.2. You are the owner of and are solely responsible for your User Content.
- 5.3. You grant CyberHive a worldwide, perpetual, irrevocable, transferable, royalty-free licence, with the right to sub-licence, to use, copy, modify, create derivative works of, distribute, publicly display, publicly perform, and otherwise exploit in any manner such User Content in all formats and distribution channels now known or hereafter devised without further notice to or consent from you, and without the requirement of payment to you or any other person or entity in order to provide the Services. Notwithstanding the foregoing, where your User Content contains Personal Data, it shall be processed on the basis set out in our Privacy Policy and in accordance with Data Protection Legislation.
- 5.4. Your User Content shall comply with the Content Standards set out in Schedule 1.
- 5.5. You represent and warrant to us that you have all rights, permissions and consents to submit any User Content to us. We have the right to disclose your identity to any third party who is claiming that any User Content posted or uploaded by you to our Services constitutes a violation of their rights, including, without limitation, their Intellectual Property Rights, right to privacy or confidentiality or is otherwise in breach of the terms of this EULA.
- 5.6. CyberHive may, but shall not be obligated to, review, monitor, or remove your User Content, at any time and for any reason, without notice to you.
- 5.7. You shall hold harmless and indemnify us against any losses, damages, expenses, costs, liabilities or claims we may or our connected parties may suffer or incur arising out of or in connection with your User Content.

## **6. LINKS FROM CYBERHIVE**

- 6.1. The Service (including the Content) may include hyperlinks to other web sites that are not owned or controlled by CyberHive. CyberHive has no control and assumes no responsibility for the content, privacy policies or practices of any third-party websites.
- 6.2. You acknowledge and agree that CyberHive is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources.
- 6.3. You acknowledge and agree that CyberHive is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products or other materials on, or available from, such web sites or resources.

## **7. INTELLECTUAL PROPERTY**

- 7.1. All Intellectual Property Rights in the Services throughout the world belong to us (or our licensors) and the rights in the Services are licensed (not sold) to you. You have no Intellectual Property Rights in, or to, the Services other than the right to use them in accordance with these terms.
- 7.2. Except for your User Content and Third Party Content, you accept and acknowledge that all Content on the Services is either owned by or licensed to CyberHive by third parties, and is subject to the Intellectual Property Rights of CyberHive or CyberHive's licensors. Any third-party trade or service marks present on such Content are trade or service marks of their respective owners. Such Content may not be downloaded, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purpose whatsoever without the prior written consent of CyberHive or, where applicable, CyberHive's licensors. CyberHive and its licensors reserve all rights not expressly granted in and to their Content.

## **8. LICENCE RESTRICTIONS**

Except as expressly set out in this EULA or as specifically permitted by any local law, you agree:

- (a) not to copy the Services except where such copying is incidental to normal use of the Services, or where it is necessary for the purpose of back-up or operational security;

- (b) not to rent, lease, sub-license, loan, provide, or otherwise make available, the Services in any form, in whole or in part to any person without prior written consent from us;
- (c) not to translate, merge, adapt, vary or modify the whole or any part of the Services, nor permit the Services or any part of it to be combined with, or become incorporated in, any other programs, except as necessary to use the Services on Devices as permitted in these terms;
- (d) not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Services or attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Services with another software program, and provided that the information obtained by you during such activities:
  - (i) is used only for the purpose of achieving inter-operability of the Services with another software program;
  - (ii) is not disclosed or communicated without our prior written consent to any third party;
  - (iii) is kept secure; and
  - (iv) is not used to create any software that is substantially similar to the Services;
- (e) not to provide or otherwise make available the Services in whole or in part (including object and source code), in any form to any third party without prior written consent from CyberHive; and
- (f) to comply with all technology control or export laws and regulations that may apply to the technology used or supported by the Services.

Together, such conditions shall be the “**Licence Restrictions**”.

## 9. ACCEPTABLE USE RESTRICTIONS

As a condition of being granted access to the Services and the Services you agree:

- (a) not to (or attempt to) circumvent, disable or otherwise interfere with any security related features of the Service or features that enforce limitation on use of the Service or the Content;
- (b) not to launch any automated system (including, without limitation, any robot, spider or offline reader) that accesses the Services in a manner that sends more request messages to the CyberHive servers in a given period of time than a human can reasonably produce in the same period by using a publicly available, standard web browser;
- (c) not to submit or transmit any material, including User Content, that is unlawful, in breach of third party rights, inaccurate, false, defamatory, offensive or otherwise objectionable in relation to your use of the Services or any Service;
- (d) not to use the Services or Service in an unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, vulnerabilities, or harmful data, into the Services, any Service or any operating system;
- (e) not to use the Services or Service to offer, solicit, arrange, or engage in, any kind of activity or arrangement which is, or which would be unlawful;
- (f) not to infringe our rights or those of any third party in relation to your use of the Services or any Service (to the extent that such use is not expressly licensed by this EULA);
- (g) not to use the Services or Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other Users;
- (h) not to collect, extract or harvest any information or data from the Services, any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service; and
- (i) not to use the Services to search or access any third party websites or download any Content which would be unlawful to do so under local laws.

Together, such conditions shall be the “**Acceptable Use Restrictions**”.

## 10. WARRANTIES AND DISCLAIMERS



- 10.1. Although we make reasonable efforts to update all information which is provided by us through the Services, we make no representations, promises, warranties or guarantees, whether express or implied, that such information is accurate, complete or up-to-date and we shall not be responsible for any commercial or personal decisions made arising from or in connection with the materials, information or other data provided or made available through the Services.
- 10.2. You understand that the Services have not been developed to meet your individual requirements. Please check that the features and functions of the Services and Services (as set out in the Services) meet your requirements.
- 10.3. You agree that the Services (or any part thereof) will not be available during any maintenance carried out by us or our selected third parties. We shall use reasonable endeavours to notify you of any planned maintenance periods. Accordingly, you agree to back up any Content used in connection with the Services to protect yourself in case of problems with the Services.
- 10.4. We are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 10.5. We do not guarantee that the Services will be available at all times, uninterrupted, secure or free from errors, bugs, viruses or other vulnerabilities.
- 10.6. Save for as expressly set out in these terms and to the extent permitted by law, no implied terms, warranties or conditions shall apply to the Services, or their use by you.

## **11. LIMITATION OF LIABILITY**

- 11.1. References to liability under this clause includes every kind of liability arising under or in connection with this EULA including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 11.2. CyberHive shall not be liable for:
  - (a) any loss or damage caused by other Users including any loss in connection with another Users' conduct;
  - (b) your exposure to Third Party Content or User Content;
  - (c) any loss or damage that was not directly caused by CyberHive's breach of this EULA;

- (d) any actions or omissions of other Users;
- (e) any loss or damage caused by you including without limitation your failure to provide CyberHive with accurate Account information and your failure to keep your password or Account details secure and confidential; or
- (f) any loss or damage that was not, at the time this EULA was formed between you and CyberHive, a reasonably foreseeable consequence of CyberHive breaching this EULA.

11.3. CyberHive shall not be liable for the following types of loss: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; wasted expenditure; losses arising from payment of third party costs; loss of use or corruption of software, data or information Loss of or damage to goodwill Indirect or consequential loss.

11.4. Our maximum aggregate liability under or in connection with this EULA (or any collateral contract) and your use of the Services shall in all circumstances be limited to £1,000.

11.5. Nothing in this EULA shall limit or exclude any liability that cannot be excluded or limited by English law.

## **12. ACCOUNT SUSPENSION AND TERMINATION**

12.1. This EULA shall commence when you start using the Services and shall continue in force until you stop using the Services or until the Services are no longer available to you.

12.2. Without prejudice to our rights hereunder, we reserve the right to immediately terminate, suspend or restrict your Account without notice to you:

- (a) your Account has been re-assigned by the Client;
- (b) where we are entitled to do so pursuant to the Client Agreement or the Client Agreement has otherwise been suspended or terminated;
- (c) if you commit a breach of this EULA which you fail to remedy (if remediable) within 3 days after being notified to do so;
- (d) if you breach any of the Licence Restrictions or the Acceptable Use Restrictions;
- (e) if we have any reason to suspect that your use of the Services is unlawful, or that it would bring us and/or other Users or the Services into disrepute;

- (f) if we believe that we are required to terminate your use of the Services by law or any instruction of a regulator or other body with competent authority; or
- (g) if we withdraw the Services from service, or otherwise reorganise or restructure our business so as to necessitate the termination or suspension of provision of the Services to you.

12.3. On termination for any reason:

- (a) all rights granted to you under this EULA shall cease;
- (b) you must immediately cease all activities authorised by this EULA, including your use of any Services; and
- (c) you must immediately delete or remove the Services from all Devices, and immediately destroy all copies of the Services then in your possession, custody or control and certify to us that you have done so.

### **13. COMMUNICATION BETWEEN US**

13.1. If you wish to contact us, please contact us by e-mail at [enquiries@cyberhive.com](mailto:enquiries@cyberhive.com) or by post to 2nd Floor, Newmarket House, Market Street, Newbury, Berkshire, RG14 5DP, UK. Alternatively, you can raise any concerns you have with the Client who can contact us directly if necessary.

13.2. If we have to contact you or give you notice in writing, we will do so by e-mail, text message, short message service or by pre-paid post using the contact details you have provided to us or via any messaging or notification service or feature available on the Services.

13.3. Where any communication or notification is sent by:

- (a) e-mail, text message, short message service or via the Services, such communication or notification shall be deemed received on the Business Day after transmission (provided that the sender does not receive any kind of transmission failure notice); and
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

### **14. EVENTS OUTSIDE OUR CONTROL**

We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this EULA that is caused by any act or event beyond our

reasonable control, including, without limitation, failure of public or private telecommunications networks (each an “Event Outside Our Control”).

## 15. OTHER IMPORTANT TERMS

- 15.1. We may transfer our rights and obligations under this EULA to another organisation, but this will not affect your rights under this EULA.
- 15.2. You may only transfer your rights or obligations under this EULA to another person if we agree in writing.
- 15.3. If we fail to insist that you perform any of your obligations under this EULA, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 15.4. Each of the conditions of this EULA operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 15.5. This EULA, and any documents referred to therein, its subject matter and its formation, are governed by the law of England and Wales. You and we both agree that the courts of England and Wales will have exclusive jurisdiction to settle any disputes (including non-contractual) arising from or in connection with this EULA.

## Schedule 1 - Content Standards

Whenever you make use of a feature that allows you to submit User Content, you must comply with our content standards (which are set out below).

Your User Content must:

- Be accurate (where it states facts).
- Be genuinely held (where it states opinions).
- Comply with the law applicable in England and Wales and in any country from which it is posted.

Your User Content must not:

- Be defamatory of any person.
- Be obscene, offensive, hateful or inflammatory.
- Bully, insult, intimidate or humiliate.
- Promote sexually explicit material.
- Include child sexual abuse material.
- Promote violence.
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
- Infringe any copyright, database right or trade mark of any other person.
- Be likely to deceive any person.
- Breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence.
- Promote any illegal content or activity.
- Be in contempt of court.
- Be threatening, abuse or invade another's privacy, or cause annoyance, inconvenience or needless anxiety.
- Be likely to harass, upset, embarrass, alarm or annoy any other person.
- Impersonate any person or misrepresent your identity or affiliation with any person.
- Give the impression that the User Content emanates from CyberHive if this is not the case.
- Advocate, promote, incite any party to commit, or assist any unlawful or criminal act such as (by way of example only) copyright infringement or computer misuse.

- Contain a statement which you know or believe, or have reasonable grounds for believing, that members of the public to whom the statement is, or is to be, published are likely to understand as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism.
- Contain any advertising or promote any services or web links to other sites.

These content standards must be complied with in spirit as well as to the letter. The standards apply to each part of any Use Content as well as to its whole.

CyberHive will determine, in its discretion, whether User Content breaches these terms.