
EAST MIDLANDS CYBER RESILIENCE CENTRE LIMITED

CYBER ESSENTIALS PARTNER TERMS AND CONDITIONS

BACKGROUND:

This agreement applies as between you a Supplier and **EAST MIDLANDS CYBER RESILIENCE CENTRE LIMITED** a company limited by guarantee without share capital, incorporated and registered in England and Wales with company number 12647731 whose registered office is at Derbyshire Constabulary HQ, Butterley Hall, Ripley, England DE53RS (the “**CRC**”). Your agreement to comply with and be bound by these “Terms and Conditions” is deemed to occur upon your payment of Our joining Fee as detailed below.

You warrant that you are at least 18 years and that you have authority to enter into this Contract.

1. Definitions and Interpretation

In this Agreement the following terms shall have the following meanings:

“ Appendix ”	means the appendix annexed to these Terms and Conditions;
“ Branding Guidelines ”	means the CRCs brand guidelines
“ Code of Conduct ”	means the CRC’s code of conduct - https://www.emcrc.co.uk/code-of-conduct
“ Confidential Information ”	means any information that is proprietary or confidential which either Party directly or indirectly discloses, or makes available, to the other, including but not limited to, all confidential or proprietary information relating to the business, affairs, operations, processes, product information, know-how, technical information, designs, trade secrets or software and/or Intellectual Property (which is already in the public domain) of the Party disclosing such information;
“ Contract ”	means the contract constituted by these Terms and Conditions and your acceptance of these Terms and Conditions by your payment of Our joining Fee in terms of Clause 5;
“ CRC Marks ”	the Trademarks and other Intellectual Property owned by the CRC as detailed in the Appendix;

“CRC Website”	means Our website at www.emcrc.co.uk or such other URL as may be notified to you in writing;
“Customer”	means any individual, company, partnership, unincorporated association or other legal entity which has been Introduced to you and with whom you enter into a contract or contracts to carry out Services;
“Cyber Essentials”	is a Government-backed, industry-supported scheme to help organisations protect themselves against common online threats. It addresses the most common internet-based attacks that use widely available tools and that need very little skill for the attacker to use. The scheme helps organisations to protect the confidentiality, integrity, and availability of data stored on devices that connect to the internet. Details of the Scheme are available here: https://www.ncsc.gov.uk/cyberessentials/overview ;
“Fees”	means the charges made for joining our Supplier Scheme and for Introductions as detailed in Clause 4;
“Intellectual Property”	means patents, trademarks, trade name, service mark, copyright, trade secrets, know-how, process, technology, development tool, ideas, concepts, design right, domain names, moral right, database right, methodology, algorithm and invention, and any other proprietary information (whether registered, unregistered, pending or applied for);
“Introduction”	means where a potential Customer is introduced to you whether face to face in person, by telephone or video-link or by exchange of e-mails or via the CRC Website between you and the potential Customer and “Introduced” shall be construed accordingly;
“Party”	means either you or the CRC as the case may be and “Parties” shall mean both you and the CRC;
“Premises”	means the CRC’s place(s) of business located at Derbyshire Constabulary HQ, Butterley Hall, Ripley, England DE53RS;
“Privacy Legislation”	means the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000 as it applies to the personal data of citizens of the EEA, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) the Data Protection Act 2018, any legislation which succeeds that Act, the UK GDPR and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner (as amended, incorporated into United Kingdom Law or replaced from time to time);
“Privacy Policy”	means the CRC’s privacy statement which can be viewed here on the EMCRC website;

“Quote”	means a written schedule of works and a written quotation or estimate for Services submitted via an email or in some other form of writing or otherwise to a Customer or Customers;
“Service(s)”	means the provision of any services to a Customer relating to Cyber Essentials or Cyber Essentials Plus;
“Supplier”	means “you” a person, partnership, unincorporated association or company or other entity providing Cyber Essentials Services
“Supplier Content”	means any text, graphics, images, audio, video, software, data compilations and any other form of information capable of being stored in a computer that has been supplied by a Supplier for inclusion in the CRC’s website
“Supplier Marks”	the trademarks and other Intellectual Property owned by the Supplier as intimated in writing by the Supplier to the CRC;
“Term”	means the period of one year from the date of 1 st April 2023;
“Territory”	means Nottinghamshire, Northamptonshire, Derbyshire, Lincolnshire, Leicestershire and Rutland, the regional area of East Midlands CRC;
“UK GDPR”	means Regulation (EU) 2016/679 and as it subsequently forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018;
“We/Us/Our”	means the CRC;

2. **Supplier Obligations**

- 2.1 You agree to trade fairly and within the spirit of the law and good business practice.
- 2.2 You undertake to:
- 2.2.1 maintain at all times your association with and accreditation by the UK Accreditation Body IASME, as appointed by the National Cyber Security Centre to oversee Cyber Essentials. You must notify us immediately if you cease to be associated / accredited, or are suspended pending an investigation or any other issue arises with your accreditation with IASME
 - 2.2.2 ensure that all of your employees and any subcontractors are made aware of the terms of the Contract and agree to act in accordance with the terms of the Contract;
 - 2.2.3 deal with complaints promptly and effectively according to your dispute resolution process;

- 2.2.4 provide Customers, where appropriate, with a written Quote before any work commences. Any change made to a Quote shall be communicated to the Customer in writing before any further work is carried out. Any call out charges must be notified in advance to the Customer.
- 2.2.5 give Customers an invoice or receipt showing full details of Services carried out, itemising where materials have been used, and labour and other costs.
- 2.2.6 only charge a fair and reasonable price for Services. Include VAT in all prices including advertised prices, and where surcharges apply, (where appropriate) comply with The Consumer Rights (Payment Surcharges) Regulations 2012 (Law that prevents businesses charging more for payment by cheque or cash other than the direct cost of using that method). Please note you may not make a charge for payment by credit or debit card or any other electronic payment;
- 2.2.7 comply with all relevant consumer protection legislation.
- 2.2.8 have and maintain adequate public liability and professional indemnity insurances.
- 2.2.9 have and maintain adequate employers' liability insurance, where required.
- 2.2.10 where appropriate, co-operate fully with Trading Standards during the course of your activities and make business records available to Trading Standards for inspection.
- 2.3 Where you are a member of an association, which has its own code of practice, the terms of that code and any Alternative Dispute Resolution ("ADR") processes shall be followed at all times that you are a member of such an association.
- 2.4 Any contract you have with Customer(s) will be between you and that/those Customer(s). We shall have no liability whatsoever to you with regard to any contract between you and a Customer. It is your responsibility to comply with the terms of each contract. Failure to comply with a Customer contract may have financial and other consequences for you. By receiving Introductions, this does not mean that We make any recommendation or endorsement of any particular Customer or their ability to pay you.
- 2.5 Where you subcontract all or part of any work, then you must make the subcontractor aware of obligations under these Terms and Conditions and must guarantee the Services of the subcontractor to the same standard as your business. You must take full responsibility for subcontractors' Services. Where a substantial proportion of the Services is to be subcontracted the Customer should be informed.
- 2.6 You will indemnify Us against all claims, actions, losses, damages and actions incurred due to your breach of these Terms and Conditions.
- 2.7 the CRC shall not be liable in any way for the performance of the contract between a Supplier and a Customer.
- 2.8 You hereby indemnify the CRC against any claim made by any Customer against the CRC for your actions or for breach of a contract between you and a Customer.
- 2.9 You will not hold yourself out to be an agent of or represent the CRC.
- 2.10 If there is a conflict between a Suppliers terms of business and these Terms and Conditions, these Terms and Conditions shall have precedence.

- 2.11 You shall not act in any way so as to or attempt to avoid or circumvent the Contract, including without prejudice to the foregoing, the payment of Fees to the CRC.

3. **Disputes**

- 3.1 Any dispute between you and a Customer will be determined in accordance with Clause 3.2. We shall not be involved in any such dispute;
- 3.2 Dispute resolution process:
- 3.2.1 You should try to resolve the complaint directly with the Customer(s) in the first instance.
 - 3.2.2 You should send the Customer(s) a copy of your complaints procedure.
 - 3.2.3 In any dispute which cannot be resolved by informal means you will send a final deadlock letter, setting out your position and any final offer. At this point, the Customer(s) may accept the final offer or take the case to the ADR entity, details of which will be in the letter, or take action through the civil courts.
 - 3.2.4 Trading Standards may, where appropriate, review any cases that are referred to ADR to ensure suitability, that the complaints process has been followed correctly and confirm informal mediation has been exhausted.
 - 3.2.5 Disputes which are referred to the ADR entity will be dealt with according to their procedures.

4. **Fees**

- 4.1 We will charge you:
- 4.1.1 a joining Fee payable by electronic transfer to Our Bank Account as detailed in the Appendix; and
 - 4.1.2 an introduction fee for making Introductions to customers for cyber essentials work. 10% of the total amount charged to the customer for consultancy and remediation fees for Cyber Essentials Work will be payable for each introduction. Fees will be payable within 14 days of receipt by you of the sums payable by the Customer under the relevant contract.
 - 4.1.3 Interest shall be chargeable at the rate of 8% above the base lending rate from time to time in force of the bank of England on all sums due under this Contract from the due date of payment until paid.
- 4.2 All matters regarding Fees will be dealt with in a transparent, open book basis.
- 4.3 We reserve the right to change Fees from time to time.

5. **Privacy**

- 5.1 Our Privacy Policy can be viewed on our website;
- 5.2 You must comply with the terms of the Privacy Legislation at all times. Without prejudice to the foregoing, you hereby warrant, represent, and undertake that any Personal Data shall comply with the Privacy Legislation in all respects including,

but not limited to, its collection, holding, and processing.

6. Code of Conduct

When dealing with Customers you must do so in accordance with the Code of Conduct.

Available here - <https://www.emcrc.co.uk/code-of-conduct>

7. CRC Marks

- 7.1 The CRC and its licensors shall retain ownership of all Intellectual Property rights owned by the CRC in the CRC Marks.
- 7.2 The CRC hereby grants to the Supplier a non-exclusive, royalty free, non-sublicensable, fully paid-up licence to use the CRC Marks in any of the Supplier's advertising or promotional material in the Territory for the Term, subject to, and in accordance with, the terms of this Agreement and in particular the Branding Guidelines. At the end of the term you must cease using the CRC marks immediately.
- 7.3 You shall immediately notify Us in writing giving full particulars if any of the following matters come to their attention:
 - 7.3.1 any actual, suspected or threatened infringement of the Our Intellectual Property;
 - 7.3.2 any claim made or threatened that the CRC Marks infringe the rights of any third party; or
 - 7.3.3 any other form of attack, charge or claim to which the relevant Intellectual Property may be subject.

8. Supplier Content

8.1 The Supplier and its licensors shall retain ownership of all Intellectual Property rights in the Supplier Content and the Supplier Marks. The Supplier grants the CRC a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable, term licence to copy and modify the Supplier Content for the purpose of advertising the Supplier's services and permitting the CRC to fulfil its obligations under this Agreement.

8.2 The Supplier hereby grants to the CRC a non-exclusive, royalty free, non-sublicensable, fully paid-up licence to reproduce the Supplier Marks in any of the CRC's advertising or promotional material in the Territory for the Term, but that subject to the Supplier's brand guidelines and rules which shall have previously been communicated to the CRC in writing.

8.3 The Supplier warrants that it is the sole legal and beneficial owner of, and own all the rights and interests in, the Intellectual property licensed by them in terms of this Agreement and that the receipt and use of such Intellectual Property in the manner permitted by this Agreement shall not infringe the rights, including any Intellectual Property rights, of any third party.

8.4 At its own expense, the Supplier shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Clause 8.

8.5 Unless expressly states otherwise, nothing in this Agreement shall constitute any representation or warranty that the exercise by the Parties of their respective rights granted under this Agreement will not infringe the rights of any person.

8.6 The Supplier shall indemnify the CRC in full against any sums awarded by a court against the CRC arising out of or in connection with any claim brought against the CRC for infringement of a third party's rights (including any Intellectual Property rights) arising out of, or in connection with, the receipt or use of the Supplier Content by the CRC in accordance with the terms of this Agreement.

9. **Changes to Our Terms and Conditions**

We may change these Terms and Conditions from time to time (for example, if the law changes). Any changes will be immediately posted on the CRC Website and you will be deemed to have accepted the new Terms and Conditions on your undertaking of any Services.

10. **Legal Rights and Disclaimers**

10.1 We accept no responsibility for any actions taken, or any goods or services provided, by any Suppliers.

10.2 Whilst reasonable endeavours have been made to ensure that all information provided on the CRC Website or in an Introduction will be accurate and up to date, We make no warranty or representation that this is the case. We make no guarantee of any specific results from an Introduction.

11. **Limitation of Liability**

11.1 To the fullest extent permissible by law, We accept no liability to any Supplier for any loss or damage, whether foreseeable or otherwise, in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising out of or in connection with any Introduction or any Customer.

11.2 To the fullest extent permissible by law, We exclude all representations, warranties, and guarantees (whether express or implied) that may apply to any Introductions or any service We may supply to make Introductions.

11.3 We accept no liability for loss of profits, sales, business or revenue; loss of business opportunity, goodwill or reputation; loss of anticipated savings; business interruption; or for any indirect or consequential loss or damage.

11.4 Nothing in these Terms and Conditions excludes or restricts Our liability for fraud or fraudulent misrepresentation, for death or personal injury resulting from negligence, or for any other forms of liability which cannot be excluded or restricted by law.

12. **No Waiver**

In the event that any party to these Terms and Conditions fails to exercise any right or remedy contained herein, this shall not be construed as a waiver of that right or remedy.

13. **Previous Terms and Conditions**

In the event of any conflict between these Terms and Conditions and any prior versions thereof, the provisions of these Terms and Conditions shall prevail unless it is expressly stated otherwise.

14. **Third Party Rights**

Nothing in these Terms and Conditions shall confer any rights upon any third party. The Contract is between you and the CRC.

15. **Communications**

15.1 All notices / communications shall be given to Us either by post to Our Premises or by email to info@emcrc.co.uk. Such notice will be deemed received 3 days after posting if sent by first class post, the day of sending if the email is received

in full on a business day and on the next business day if the email is sent on a weekend or public holiday.

- 15.2 We may from time to time, if you opt to receive it, send you information about Our products and/or services.

16. **Confidentiality**

- 16.1 Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under this Agreement. A Party's Confidential Information shall not be deemed to include information that (i) is now, or subsequently becomes, through no act or failure to act on the part of receiving Party (the "**Receiver**"), generally known or available; (ii) is known by the Receiver at the time of receiving such information, as evidenced by the Receiver's records; (iii) is subsequently provided to the Receiver by a third party, as a matter of right and without restriction on disclosure; or (iv) is required to be disclosed by law, provided that the party to whom the information belongs is given prior written notice of any such proposed disclosure.
- 16.2 Subject to clause 16.4, each Party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party (other than to a consultant or a Sub-contractor for the purposes of this Contract and which consultant or Sub-contractor shall have entered into undertakings of confidentiality in relation to the Confidential Information on terms no less onerous than those contained in this Clause 16), or use the other's Confidential Information for any purpose other than to carry out its obligations under this Contract.
- 16.3 Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Contract.
- 16.4 A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of a competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 16.4, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 16.5 No Party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other Parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 16.6 This clause 16 shall survive termination of this Contract howsoever arising.

17. **Privacy Legislation**

- 17.1 The Parties will comply with the Privacy legislation at all times. Personal Data (as defined in the Privacy legislation) will be collected by the CRC in accordance with the Privacy Policy. You warrant that all Personal Data supplied by you to Us will have been collected, stored and transferred in accordance with the Privacy legislation.

18. **Applicable Laws**

- 18.1 The Parties will comply with all applicable laws that apply to the operation of the

Contract including (without prejudice to the foregoing) The Bribery Act 2010.

19. Law and Jurisdiction

- 19.1 These Terms and Conditions, and the relationship between you and Us (whether contractual or otherwise) shall be governed by and construed in accordance with the Laws of England and Wales.
- 19.2 Any disputes concerning these Terms and Conditions, the relationship between you and Us, or any matters arising therefrom or associated therewith (whether contractual or otherwise) shall be subject to the exclusive jurisdiction of the courts of England and Wales.

Appendix

CRC Marks

CRC Bank Account Details