

# Terms of Service

**Hacktivity** — Offensive Security & Red Team Operations

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Oostmaaslaan 390, Rotterdam, the Netherlands | KvK 97721484 | BTW-ID NL005283737B11

## 1. Definitions

"**Provider**" means Hacktivity, registered at Oostmaaslaan 390, Rotterdam, the Netherlands, Chamber of Commerce (KvK) no. 97721484, VAT identification (BTW-ID) no. NL005283737B11, operating the website [hacktivity.eu](https://hacktivity.eu). "**Client**" means the party engaging the Provider. "**Services**" means the offensive security services described in a Statement of Work ("SoW"). "**Target Systems**" means the systems, networks, applications, personnel, facilities, and data defined as in-scope in the SoW. "**Rules of Engagement**" ("RoE") means the agreed operational constraints for an engagement. "**Deliverable**" means a report or other output produced for the Client.

## 2. Scope of Services

The Provider delivers offensive security services which may include red team operations, adversary simulation, penetration testing, purple team exercises, attack surface assessment, TIBER-EU and DORA TLPT engagements, exploit development, and related advisory work. Each engagement is governed by its own SoW. Where a SoW conflicts with these Terms, the SoW prevails for that engagement.

Services are advisory and technical in nature. The Provider does not provide legal, regulatory, accounting, or audit opinions, and nothing in a Deliverable constitutes a certification of compliance unless expressly agreed in writing.

## 3. Authorization and Rules of Engagement

This clause is fundamental to the agreement. No testing begins until it is satisfied.

- The Client **represents and warrants** that it owns the Target Systems or holds full, current, written authority to authorize testing of them, and that this authority extends to the Provider.
- Where Target Systems are hosted, operated, or processed by a third party (including cloud, SaaS, managed service, or co-tenanted infrastructure), the Client is responsible for obtaining any authorization that provider requires, and for supplying evidence of it on request.
- Testing is performed only within the scope and RoE defined in the SoW. Any change to scope, timing, technique, or target must be agreed in writing by both parties before it takes effect.
- The Client shall identify a named authorizing signatory and an escalation contact reachable for the duration of the engagement.
- The Provider may suspend or terminate an engagement immediately, without liability, if authorization is absent, withdrawn, expired, or reasonably believed to be invalid.

#### **4. Risk Acknowledgement**

The Client acknowledges that security testing carries inherent and irreducible risk, even when conducted competently and within the RoE. This includes service degradation or interruption, system or application instability, data corruption, account lockout, alerting of third parties, and unanticipated behaviour in systems whose configuration was not disclosed to the Provider.

The Client is responsible for maintaining tested, working backups and a recovery capability before testing begins. The Provider is not liable for loss arising from the Client's failure to do so, nor for consequences arising from information about the environment that the Client failed to disclose.

#### **5. Client Responsibilities**

- Provide accurate, complete, and timely information about the environment, including known fragility, legacy systems, and safety-critical or life-critical dependencies.
- Provide access, credentials, and facilities as agreed in the SoW.
- Notify relevant internal stakeholders to the extent the RoE permits, and manage any regulatory notification the engagement requires.
- Remediate findings. The Provider identifies and advises; it does not assume responsibility for the Client's security posture or for acting on findings.

#### **6. Confidentiality**

Each party shall keep the other's confidential information in confidence, use it solely for the engagement, and protect it with no less care than it applies to its own confidential information of like importance. The Provider treats the existence of an engagement, its findings, and all Client data as strictly confidential.

Confidentiality obligations survive termination and continue for five (5) years, save for information that is public through no breach, was lawfully known before disclosure, is independently developed, or must be disclosed by law or a competent authority (in which case the disclosing party gives prompt notice where lawful). A separate NDA takes precedence over this clause where one exists.

#### **7. Data Protection**

Both parties shall comply with Regulation (EU) 2016/679 (GDPR) and applicable Dutch data protection law. Where the Provider processes personal data on the Client's behalf, it does so as processor on documented instructions, and the parties shall enter a Data Processing Agreement before processing begins.

The Provider applies data minimisation: it collects only data necessary to demonstrate impact, does not exfiltrate personal data beyond what the RoE permits, and encrypts engagement data at rest and in transit. Retention and secure destruction periods for engagement data are defined in the applicable SoW, excepting evidence retained where law requires. The Provider shall notify the Client without undue delay on becoming aware of a personal data breach affecting Client data.

## 8. Intellectual Property

On full payment, the Client owns the Deliverables produced specifically for it and may use them internally without restriction. The Provider retains all right, title, and interest in its pre-existing and independently developed materials — including tools, exploits, code, techniques, methodologies, and know-how — and nothing in an engagement transfers these. The Provider grants the Client a perpetual, non-exclusive licence to use such materials to the extent they are embedded in a Deliverable and necessary to use it.

The Provider may use anonymised, non-attributable knowledge gained to improve its methods. The Provider shall not name the Client, disclose engagement specifics, or use the Client's marks in marketing without prior written consent.

## 9. Fees and Payment

Fees are set out in the SoW. Unless stated otherwise, invoices are payable within thirty (30) days of the invoice date, in euro (EUR), exclusive of VAT and other applicable taxes. Reasonable pre-approved travel and subsistence expenses are charged at cost.

Overdue amounts accrue statutory commercial interest pursuant to Article 6:119a of the Dutch Civil Code. The Provider may suspend Services on material non-payment after giving written notice and a reasonable opportunity to cure. Cancellation or postponement within fourteen (14) days of an agreed start date may incur a charge of up to fifty (50) per cent of the engagement fee, reflecting reserved capacity.

## 10. Warranties and Disclaimers

The Provider warrants that Services will be performed with reasonable skill and care, in a professional manner consistent with prevailing industry practice, by personnel with appropriate expertise.

**The Client acknowledges that no security assessment can identify every vulnerability.** An engagement is a point-in-time, scope-limited, time-boxed exercise constrained by the RoE. A Deliverable describes what was found within those constraints; it is not a guarantee that Target Systems are secure, free of vulnerabilities, or compliant with any standard, and the absence of a finding is not evidence of the absence of a weakness. Environments change, and a Deliverable's accuracy degrades as they do. Except as expressly stated, and to the fullest extent permitted by law, all other warranties, whether express, implied, or statutory, are excluded.

## 11. Liability

Nothing in these Terms excludes or limits liability for death or personal injury caused by negligence, for fraud or fraudulent misrepresentation, for intent or deliberate recklessness (*opzet of bewuste roekeloosheid*), or for any liability that cannot lawfully be excluded or limited.

Subject to the foregoing, **the Provider assumes no liability for any loss or damage arising out of or in connection with an engagement, unless and to the extent that the loss is proven to result from an attributable failure (*toerekenbare tekortkoming*) or negligence on the part of the Provider.** The burden of proving such attributability rests with the Client.

Subject to the foregoing, neither party is liable for indirect, incidental, special, consequential, or punitive loss, or for loss of profit, revenue, business, goodwill, anticipated saving, or data, however arising.

The Client shall notify the Provider in writing of any claim promptly upon discovery, and in any event within a reasonable period as required by Article 6:89 of the Dutch Civil Code, failing which the claim lapses.

## **12. Indemnity**

The Client shall indemnify and hold harmless the Provider and its personnel against claims, liabilities, losses, and reasonable costs arising from the Client's breach of Clause 3 (Authorization), including any claim by a third party whose systems, data, or personnel were affected because the Client's authorization was absent, invalid, or narrower than represented.

## **13. Personnel and Non-Solicitation**

The Provider may use suitably qualified subcontractors, remaining responsible for their work and binding them to equivalent confidentiality obligations. During an engagement and for twelve (12) months after, neither party shall knowingly solicit the other's personnel who were directly involved, save through general public advertising not targeted at them.

## **14. Term and Termination**

These Terms apply from the effective date until terminated. Either party may terminate an engagement on thirty (30) days' written notice, or immediately on the other's material, uncured breach or insolvency. On termination the Client pays for Services performed and irrevocable costs incurred to that date. Clauses 4, 6, 7, 8, 10, 11, 12, and 15 survive termination.

## **15. Governing Law and Jurisdiction**

These Terms and any non-contractual obligation arising from them are governed by the laws of the Netherlands. The courts of Rotterdam, the Netherlands have exclusive jurisdiction, save that either party may seek injunctive relief in any competent court. The parties shall attempt in good faith to resolve disputes through senior-level discussion before commencing proceedings.

## **16. General**

Neither party is liable for failure or delay caused by events beyond its reasonable control. If a provision is held unenforceable, the remainder stands and the provision is replaced by an enforceable one of nearest effect. No failure to exercise a right waives it. Neither party may assign without the other's written consent, such consent not to be unreasonably withheld. These Terms with the applicable SoW and any NDA or DPA form the entire agreement and supersede prior discussions. Variations must be in writing and signed by both parties. Nothing creates a partnership, joint venture, or employment relationship. The Provider may amend these Terms for future engagements by publishing a revised version; the version in force when a SoW is signed governs that engagement.

## 17. Contact

Questions about these Terms: [hi@hacktivity.eu](mailto:hi@hacktivity.eu) | <https://hacktivity.eu>

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