

EVERFOX

TERMS OF USE FOR EVERFOX ULTRA TRIAL SERVICE

These Terms of Use are a legal agreement between the relevant Everfox entity ("**Everfox**") and you ("**Customer**" or "**You**"), as the individual or legal entity making use of the Everfox ULTRA Trial Service. Each a "Party" and together the "Parties".

BY ENABLING ACCESS TO EVERFOX ULTRA FOR YOURSELF OR FOR YOUR ORGANISATION, YOU ARE EXPRESSLY AND EXPLICITLY ACKNOWLEDGING AND AGREEING TO THESE TERMS WHICH WILL BIND YOU. YOUR ATTENTION IS DRAWN TO THE SECTION HEADED LIMITATION OF LIABILITY WHICH INCLUDES SPECIFIC LIMITATIONS ON THE LIABILITY OF EVERFOX TOWARDS YOU AND TO THE EVERFOX DATA PROCESSING AGREEMENT WHICH SETS OUT DETAILS OF OUR AGREEMENT FOR THE PROCESSING OF PERSONAL DATA AS DEFINED IN SECTION 1.1 BELOW. IF YOU DO NOT ACCEPT ALL THE TERMS AND CONDITIONS SET FORTH HEREIN, THEN YOU MUST NOT PARTICIPATE IN THE EVERFOX ULTRA TRIAL SERVICE.

1 DEFINITIONS

1.1 Except where defined above, capitalized terms in These Terms have the meaning set opposite them below:

Access	means access to Everfox ULTRA on a Trial basis by Customer using one of the mechanisms available on the Everfox ULTRA Customer portal or the access key provided by Everfox and in each case in accordance with the instructions provided by Everfox;
Access Email	the email sent by Everfox to Customer to which These Terms are attached setting out how to enable Access, the number of concurrent browsing sessions Access is granted for, and the Trial Period;
Acceptable Use Policy or AUP	means Everfox's acceptable use policy for Everfox ULTRA made available at https://www.everfox.com/legal , as amended from time to time;
Affiliate	any entity that controls, is controlled by or is under common control with a Party, where "control" means ownership of more than fifty percent (50%) of the outstanding securities representing the right to vote for the election of directors or other managing authority of a Party;
Agreement	These Terms, the DPA, and the AUP (all as defined in this Section 1.1);
Authorized Users	those employees or contractors of Customer or its Affiliates that use Everfox ULTRA as part of the Trial;
Customer Pen Testing Policy	Everfox's policy around any penetration testing conducted by the Customer on Everfox ULTRA available upon request;
Data Processing Agreement or DPA	the Data Processing Agreement which is made available at https://www.everfox.com/terms , as amended from time to time;
Documentation	the documentation made available by Everfox to Customer in the Everfox ULTRA customer portal, as amended by Everfox from time to time;

EVERFOX

Everfox ULTRA	the services provided by Everfox under These Terms whether in the (i) Everfox ULTRA RBI service; (ii) Everfox ULTRA Plus service; and/or (iii) Everfox ULTRA Mobile Device Security (MDS) service, as any or all may be provided to Customer;
These Terms	the present terms and conditions, including the Data Processing Agreement, as amended from time to time in accordance with Section 15.7;
Trial	a limited license trial of Everfox ULTRA as set out in the Access Email valid for the Trial Period;
Trial Period	the time period for the Trial as set out in the Access Email.

- 1.2 Unless the context otherwise requires: (i) 'including' and similar words do not imply any limit; (ii) the terms 'days' refer to calendar days unless expressly stated otherwise; (iii) any obligation on any party not to do or to omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done; and (iv) use of section headers in These Terms is for convenience only and will not have any impact on the interpretation of any provision.

2 THE TRIAL

- 2.1 Customer has agreed to participate in a Trial of Everfox ULTRA. Everfox reserves the right to modify or discontinue, temporarily or permanently, all or a part of Everfox ULTRA without notice. Everfox will not be liable to Customer or to any third party for any modification, suspension, or discontinuance of Everfox ULTRA.
- 2.2 Customer will use commercially reasonable endeavors to provide regular feedback to Everfox on the progress of the evaluation and the performance of Everfox ULTRA relative to Customer's expectations and will notify Everfox promptly of any bugs, failures or deficiencies in Everfox ULTRA.
- 2.3 Customer will use Everfox ULTRA to interact with the internet. Customer will ensure that its use of Everfox ULTRA conforms with Everfox's AUP.
- 2.4 Customer may conduct penetration testing on Everfox ULTRA during the Trial subject to and in accordance with the Customer Pen Testing Policy.
- 2.5 The purpose of the Trial is for Customer's confidential evaluation of Everfox ULTRA and Customer will not publish or otherwise share any results of the Trial or any benchmark, performance or comparison tests that Customer has performed on the Everfox ULTRA without Everfox's prior written consent.
- 2.6 Customer acknowledges and agrees that Everfox ULTRA is not designed to be used for any critical business data and Everfox shall have no liability in relation to Customer data beyond what is foreseen by the terms of the Data Processing Agreement and the Appendices to the Data Processing Agreement.

3 PERMITTED USE AND PROPRIETARY RIGHTS

- 3.1 Subject to These Terms, Everfox hereby grants to Customer (and to such of Customer's Affiliates that are engaged in the Trial), from the date of Access Email until the expiry of the Trial Period, a non-exclusive, non-transferable and non-sublicensable license to use Everfox ULTRA solely for Customer's internal business purposes as set out in the Access Email to evaluate Everfox ULTRA on a Trial basis.
- 3.2 Except as otherwise permitted by the Customer Pen Testing Policy during the Trial, Customer will not, and will not allow any third party (including, without limitation, any Authorized User or Customer Affiliate) to do or to attempt to do any of the following: sell,

EVERFOX

distribute, disclose, rent, lease or sublicense Everfox ULTRA or otherwise make any portion of Everfox ULTRA available to any other party except as expressly permitted in These Terms:

- a. modify or create derivative works based on any portion of Everfox ULTRA;
- b. use any portion of Everfox ULTRA to create any competitive product or service;
- c. use any portion of Everfox ULTRA in a manner that violates These Terms, any third party rights, or any applicable, laws, rules, or regulations;
- d. circumvent or disable any usage rules, or other security features of Everfox ULTRA;
- e. use Everfox ULTRA in a manner that threatens the integrity, performance, or availability of Everfox ULTRA;
- f. remove, alter, or obscure any proprietary notices (including copyright notices) on any portion of the Software; or
- g. use Everfox ULTRA in breach of the law (including export control laws) or the AUP.

3.3 Customer acknowledges and agrees that any breach of These Terms by any Customer Affiliate or Authorized User will be deemed a breach by Customer.

4 RESERVATION OF OTHER RIGHTS

4.1 Except for the rights explicitly granted to Customer under Sections 2 and 3, no other license or rights are granted to Customer.

4.2 Everfox and its licensors shall at all times retain all right, title, and interest in and to Everfox ULTRA, including all related intellectual property rights.

5 FEES

5.1 Access to Everfox ULTRA under These Terms is provided to Customer free of charge for the Trial Period.

6 TERM AND TERMINATION

6.1 These Terms become effective upon the date of the Access Email and will remain effective until the expiry of the Trial Period (i) unless the Parties mutually agree in writing to extend such Trial Period; and (ii) provided that either Party may immediately terminate the Trial at any time by notice in writing to the other.

6.2 Upon expiry or termination of the Trial Period whichever is earlier either (i) the evaluation has been successful, and the Parties shall enter into an agreement for the provision of Everfox ULTRA the terms of which shall replace and supersede those contained herein; or (ii) These Terms will expire and Section 6.3 will apply.

6.3 Save in the occurrence of Section 6.2(i), upon expiry of the Trial Period or earlier termination as per Section 6.1, Customer's right and license to use and access Everfox ULTRA will (i) immediately terminate; and (ii) Customer shall immediately cease use of Everfox ULTRA.

6.4 This Section 6 and Sections 2.5, 3.2, 3.3, 4.2, 8.3 and 9 to 16 (inclusive) shall survive any expiration or termination of These Terms indefinitely.

7 DATA PROTECTION

7.1 The Parties shall comply with their obligations as set out in the DPA relating to the processing of Personal Data (as that term is defined in the DPA).

7.2 The Customer warrants that it has all necessary legal bases and notices in place to enable the lawful transfer and processing of the Personal Data by Everfox which it has obtained in the course of its business with the Customer (including, without limitation, the provision of Everfox ULTRA under the Agreement).

8 DISCLAIMERS; NO WARRANTIES

EVERFOX

- 8.1 To the extent permitted by the law, the Trial, Everfox ULTRA and all materials and content are supplied as-is, including any faults. Everfox excludes all warranties, conditions, or other terms that may be implied into These Terms whether by law, statute, or otherwise. Everfox gives no condition, warranty, or other term whatsoever, either express or implied including, without limitation, any condition, warranty, or other term as to the condition of any code, or as to merchantability, satisfactory quality, fitness for a particular purpose, non-infringement or use of reasonable care and skill.
- 8.2 Everfox does not warrant that (i) Everfox ULTRA, or any portion thereof will meet Customer's requirements (ii) the use of Everfox ULTRA will be uninterrupted or error- free, or (iii) Everfox ULTRA will protect against all possible threats whether known or unknown, and Everfox does not warrant that any of those issues will be corrected.
- 8.3 The limitations, exclusions and disclaimers in this Section 8 and Section 9 below apply to the fullest extent permitted by law. Everfox does not disclaim any warranty or other right that Everfox is prohibited from disclaiming under applicable law.

9 LIMITATION OF LIABILITY

- 9.1 THE AGGREGATE LIABILITY OF EVERFOX TO CUSTOMER FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OR THE USE OF OR ANY INABILITY TO USE ANY PORTION OF EVERFOX ULTRA, WHETHER IN CONTRACT, TORT OR OTHERWISE, IS LIMITED TO ONE HUNDRED (100) GBP.
- 9.2 IN NO EVENT SHALL EVERFOX OR ITS SUPPLIERS, AGENTS OR DISTRIBUTORS BE LIABLE FOR: (I) LOSS OF REVENUE; (II) LOSS OF ACTUAL OR ANTICIPATED PROFITS; (III) DOWNTIME COSTS (IV) LOSS OF CONTRACTS; (V) LOSS OF THE USE OF MONEY; (VI) LOSS OF ANTICIPATED SAVINGS; (VII) LOSS OF BUSINESS; (VIII) LOSS OF OPPORTUNITY; (IX) LOSS OF GOODWILL; (X) LOSS OF REPUTATION; (XI) LOSS OF, DAMAGE TO OR CORRUPTION OF DATA; OR (XII) ANY INDIRECT OR CONSEQUENTIAL LOSS, AND SUCH LIABILITY IS EXCLUDED WHETHER IT IS FORESEEABLE, KNOWN, FORESEEN OR OTHERWISE. FOR THE AVOIDANCE OF DOUBT, SECTION 9.2(I) – 9.2(XI) APPLY WHETHER SUCH LOSSES ARE DIRECT, INDIRECT, CONSEQUENTIAL OR OTHERWISE AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER OR NOT EVERFOX WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.
- 9.3 NOTHING IN THESE TERMS SHALL LIMIT OR EXCLUDE LIABILITY FOR: (I) DEATH OR PERSONAL INJURY CAUSED BY THE NEGLIGENCE; OR (II) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (III) ANY OTHER MATTER WHICH CANNOT, AS A MATTER OF LAW, BE EXCLUDED OR LIMITED.
- 9.4 UNLESS EXPRESSLY PROVIDED HEREIN, EVERFOX IS NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM THE USE OF EVERFOX ULTRA. CUSTOMER UNDERSTANDS AND AGREES THAT CUSTOMER'S USE OF EVERFOX ULTRA IS AT CUSTOMER'S OWN DISCRETION AND RISK, AND THAT EVERFOX AND THE EVERFOX AFFILIATES AND ITS LICENSORS ARE NOT RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER'S PROPERTY (INCLUDING CUSTOMER'S COMPUTER SYSTEM OR MOBILE DEVICES USED IN CONNECTION WITH THE USE OF EVERFOX ULTRA) OR ANY LOSS OF DATA.

10 CUSTOMER INDEMNIFICATION

- 10.1 IN THIS SECTION "**ASSOCIATES**" MEANS OFFICERS, DIRECTORS, EMPLOYEES, CONSULTANTS, AFFILIATES, SUBSIDIARIES AND AGENTS AND A "**CLAIM**" IS ANY CLAIM, DEMAND, SUIT, LOSS, DAMAGE, LIABILITY, COST OR EXPENSE (INCLUDING REASONABLE PROFESSIONAL FEES AND COSTS AS INCURRED).
- 10.2 TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER IS RESPONSIBLE FOR CUSTOMER'S USE OF EVERFOX ULTRA, AND CUSTOMER WILL, INDEMNIFY,

EVERFOX

DEFEND AND HOLD HARMLESS EVERFOX AND ITS ASSOCIATES FROM AND AGAINST (A) EVERY CLAIM BROUGHT BY A THIRD PARTY, AND (B) ANY CLAIM ARISING OUT OF OR CONNECTED WITH, IN EACH CASE: (I) CUSTOMER'S UNAUTHORIZED USE OF, OR MISUSE, EVERFOX ULTRA; (II) CUSTOMER'S VIOLATION OF ANY PORTION OF THESE TERMS, ANY REPRESENTATION, WARRANTY, OR AGREEMENT REFERENCED IN THESE TERMS, OR ANY APPLICABLE LAW OR REGULATION; (III) CUSTOMER'S VIOLATION OF ANY THIRD PARTY RIGHT, INCLUDING ANY INTELLECTUAL PROPERTY RIGHT OR PUBLICITY, CONFIDENTIALITY, OTHER PROPERTY, OR PRIVACY RIGHT (INCLUDING UNDER THE DATA PROTECTION REGULATIONS); OR (IV) ANY DISPUTE OR ISSUE BETWEEN CUSTOMER AND ANY THIRD PARTY.

- 10.3 EVERFOX RESERVES THE RIGHT, AT EVERFOX'S EXPENSE, TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER OTHERWISE SUBJECT TO INDEMNIFICATION BY CUSTOMER (WITHOUT LIMITING CUSTOMER'S INDEMNIFICATION OBLIGATIONS WITH RESPECT TO THAT MATTER), AND IN THAT CASE, CUSTOMER AGREES TO CO-OPERATE WITH EVERFOX'S DEFENSE OF THOSE CLAIMS.

11 INTELLECTUAL PROPERTY INFRINGEMENT

- 11.1 Everfox shall defend, at its expense, any third-party action or suit brought against Customer alleging that use of Everfox ULTRA infringes or misappropriates the third party's patent, copyright, trademark, or trade secret (an "**IPR Claim**"), and Everfox shall pay any costs and damages awarded in final judgment against Customer or agreed to in settlement by Everfox that are attributable to that IPR Claim.
- 11.2 In the event of an IPR Claim, Everfox shall at its sole option and expense either: (i) secure the right to the continued use of that portion of the Documentation and/or Everfox ULTRA which is the subject of the IPR Claim; or (ii) replace or modify such portions of the Documentation and/or Everfox ULTRA with non-breaching components that are functionally equivalent.
- 11.3 Everfox's obligations under this Section shall not apply to the extent any IPR Claim results from or is based on (i) modifications to the Documentation or Everfox ULTRA made by a party other than Everfox or its Affiliates; (ii) the combination, operation, or use of Everfox ULTRA with hardware or software not supplied by Everfox, if an IPR Claim would not have occurred but for such combination, operation or use; (iii) Everfox's compliance with Customer's explicit or written designs, specifications, or instructions; or (iv) use of Everfox ULTRA that is not in accordance with Everfox's published specifications.
- 11.4 The foregoing terms state Customer's sole and exclusive remedy for any IPR Claims.

12 PROCEDURE FOR MANAGING CLAIMS

- 12.1 The party seeking indemnification pursuant to Sections 10 or 11 (the "**Indemnified Party**") shall (i) give the other party (the "**Indemnifying Party**") prompt notice of the relevant claim; (ii) cooperate with the Indemnifying Party, at the Indemnifying Party's expense, in the defense of that claim and (iii) give the Indemnifying Party sole control over the defense and settlement of that claim. The Indemnified Party shall have the right to participate in the defense with counsel of its choice at its own expense.

13 CONFIDENTIALITY AND PUBLICITY

- 13.1 "**Confidential Information**" means (i) the existence and contents of the Trial; and (ii) any information which is designated as 'Confidential', 'Proprietary', or some similar designation or that reasonably should be understood to be confidential, given the nature of the information and the circumstances of disclosure of the information, including product, business, market, strategic or other information or data relating to the subject matter of this Agreement, or the business or affairs of the disclosing party. "**Disclosed**" means disclosed whether in writing, orally, or by any or by inspection of tangible objects (including, but not limited to documents, prototypes, samples, plant, and equipment) or by any other means or medium (including but not limited to information retained on all types of medium including written, diagrammatical,

EVERFOX

software or other storage medium), and whether such disclosure takes place before or after the date of this Agreement.

- 13.2 Each party is referred to as the “**Recipient**” when it receives or uses the Confidential Information disclosed by the other party. Recipient will not use any Confidential Information for any purpose not expressly permitted by These Terms and will disclose the Confidential Information only to the employees or contractors of Recipient who have a need to know the Confidential Information for purposes of the Trial and who are under a duty of confidentiality no less restrictive than Recipient’s duty under this Section 11. Recipient will protect the Confidential Information from unauthorized use, access, loss, theft or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.
- 13.3 Confidential Information will not include any information that: (i) is, or becomes publicly known through no action or inaction of the Recipient in breach of These Terms; (ii) is already in the possession of the Recipient at the time of disclosure by the disclosing party, as shown by the Recipient’s files and records; (iii) is obtained by the Recipient from a third party without a breach of the third party’s obligations of confidentiality; or (iv) is independently developed by the Recipient without use of or reference to the disclosing party’s Confidential Information, as shown by documents and other competent evidence in the Recipient’s possession.
- 13.4 Everfox may refer to Customer in its marketing materials, including, without limitation, on its website and in correspondence with prospective customers subject to Customer’s prior written consent. Following a successful Trial, Customer agrees to act as a reference customer for Everfox.

14 NOTICES

- 14.1 All notices, consents and approvals under or in connection with These Terms (i) shall be in writing; and (ii) shall be in the English language; and shall be sent to: legal@everfox.com.
- 14.2 Unless there is evidence that it was received earlier, a notice is deemed given at the time that the message enters the recipient’s email server.

15 GENERAL TERMS

- 15.1 Each Party shall bear its own legal costs and other costs and expenses arising in connection with the drafting, negotiation, execution, and registration (if applicable) of These Terms.
- 15.2 Customer may not assign or transfer These Terms or any of its rights duties, or obligations hereunder by operation of law or otherwise, without Everfox’s prior written consent. Everfox will have the right to assign or transfer These Terms or any interest herein (including rights and duties of performance) to any entity, at any time, and without any notice.
- 15.3 Except for any payment obligations, neither Party will be liable under These Terms by reason of any failure or delay in the performance of its obligations under These Terms caused by reason of a Force Majeure Event. “**Force Majeure Event**” is any cause beyond a Party’s reasonable control including, without limitation, acts of God or public enemy, civil war, insurrection or riot, fire, flood, explosion, earthquake, pandemic, epidemic or widespread infectious disease, labor dispute causing cessation slowdown or interruption of work, national emergency, act or omission of any governing authority or agency thereof, or inability after reasonable endeavors to procure equipment, data or materials from suppliers.
- 15.4 If any part of These Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect.
- 15.5 The failure to require performance of any provision will not affect Everfox’s right to require performance at any other time after that, nor will a waiver by Everfox of any breach or default of these Terms, or any provision of These Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself.
- 15.6 Nothing in These Terms creates, implies, or evidences any partnership or joint venture

EVERFOX

between the Parties, or the relationship between them of principal and agent. Neither Party has any authority to make any representation or commitment, or to incur any liability, on behalf of the other.

- 15.7 These Terms may not be amended, nor any obligation waived, except in writing and signed by both Parties. The standard terms of any purchase order, receipt or confirmation of acceptance or similar document submitted by Customer to Everfox will have no effect.
- 15.8 These Terms, (together with any other documents expressly incorporated by reference into These Terms), constitutes the entire and exclusive understanding and agreement between Customer and Everfox regarding Customer's Trial and supersede all prior agreements, understandings, and communication between the Parties with respect to the subject matter hereof whether written or oral. No usage of trade or other regular practice or method of dealing between the Parties will be used to modify, interpret, supplement, or alter These Terms.
- 15.9 No person (other than a Party), has any right under the Contract (Rights of Third Parties) Act 1999 or otherwise to enforce any term of These Terms.
- 15.10 Each Party acknowledges that any violation or threatened violation of These Terms may cause irreparable injury to the other Party, entitling the other Party to seek injunctive relief in addition to all legal remedies.

16 GOVERNING LAW

- 16.1 These Terms will be interpreted, construed, and enforced in all respects in accordance with the laws of England and Wales. The provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods are excluded. Each party hereby irrevocably consents to the exclusive jurisdiction of the courts of England and Wales in connection with any action arising out of or in connection with These Terms.
- 16.2 Nothing in this Section 16 prevents Everfox from seeking or obtaining injunctive relief from a competent court in any jurisdiction.