

NCC GROUP TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

Services Module (Security Testing Services)

1 Agreement Structure and Interpretation

- 1.1 This Services Module sets out the terms and conditions applicable to security testing services, and is to be read in conjunction with NCC's General Terms and Conditions.
- 1.2 NCC's General Terms and Conditions apply to this Service Module.
- 1.3 Capitalised terms in this Services Module shall have the same meaning ascribed to them in NCC's General Terms and Conditions unless stated otherwise. A reference to "Related Body Corporate" includes "Related Corporation" as defined in NCC's General Terms and Conditions (where applicable).

2 Definitions:

"ISP" means Internet Service Provider;

"Scheduled Days Cost" means Fees that correspond to the days scheduled by NCC for provision of the Security Testing Services or the relevant Service Portion (as applicable);

"Security Testing" means the process of testing the System as described in the Statement of Work and "Security Tested" shall be construed accordingly;

"Service Portion" means a phase, subproject, or similar portion of the total Security Testing Services as described in the Statement of Work or otherwise agreed between the Parties; and

"System" means the systems and networks which the Client requires to be security tested or security monitored and/or scanned as part of the Security Testing Services, together with any software, systems, networks, premises, equipment, data structures, protocols, computers, hardware and firmware linked to the same and data passing across or contained in any of the foregoing.

3 Client's Duties

- 3.1 The Client agrees:
 - 3.1.1 to obtain consent from its ISP and any third party suppliers of the System for the Security Testing to be carried out and, when requested by NCC, to provide written evidence of such consent and to notify relevant employees that the Security Testing has been scheduled and that the employees may be monitored;
 - 3.1.2 to arrange a mutually convenient time and date with NCC for the performance of the Security Testing and to inform its ISP of the date agreed with NCC;
 - 3.1.3 that it shall properly and fully back-up all data and copies of all computer programs and data which are held immediately prior to commencement of the Security Testing, and which may be affected by the provision of the Security Testing and, where appropriate, regularly perform backups during the performance of the Security Testing, to enable straightforward recovery and/or reinstatement of any and all data and/or computer programs lost or damaged (whether in whole or part) through provision of the Security Testing;
 - 3.1.4 to provide suitable working space for NCC's Personnel if the Security Testing is to take place on the Client's premises, including a desk, network access and, where necessary to perform the Security Testing Services, access to data centres, server rooms and/or switch rooms;
 - 3.1.5 that should the Client require a laptop or personal mobile device to be Security Tested by NCC it will deliver the laptop and/or personal mobile device to the relevant NCC premises and collect it from those premises at its own risk and expense. NCC shall not be liable for any laptop or personal mobile device during transit to or from its offices;
 - 3.1.6 the Client shall assume all liability and shall indemnify, keep indemnified and hold harmless NCC, its Related Bodies Corporate and its and their officers, employees, agents, contractors and sub-contractors in full and on demand from and against any and all third party claims (including claims for alleged or actual infringement of Intellectual Property Rights), losses, damages, demands, costs, expenses, fees (including court and legal fees) and liabilities (in each case whether direct, indirect or consequential) of whatever nature suffered, incurred or sustained by NCC (or its Related Bodies Corporate) as a result of the provision of the Security

- Testing Services, except to the extent that any such losses, damages, demands, costs, expenses, fees or liabilities are incurred as a direct result of NCC's breach of the Agreement;
- 3.1.7 to ensure at least one employee who shall have substantial experience and knowledge of the System and will act as liaison between the Client and NCC, responding promptly to any queries or requests for information;
 - 3.1.8 to co-operate with NCC and to provide it promptly with such information about the System as are reasonably required by NCC;
 - 3.1.9 to ensure that, where the Security Testing is taking place on the Client's premises, the premises are safe. The Client will indemnify, keep indemnified and hold harmless NCC in full and on demand from and against all liabilities, losses, damages, claims, proceedings and legal costs, judgments and costs (including costs of enforcement) and expenses (in each case whether direct, indirect or consequential) which NCC (or its Related Bodies Corporate) incurs or suffers arising out of or in connection with any claim or action against NCC for death and/or personal injury arising out of the Client's failure to provide safe premises;
 - 3.1.10 that, by signing the Authorisation Form, the Client consents, for itself and on behalf of all its Related Bodies Corporate, to NCC (or its Related Bodies Corporate) performing the Security Testing and confirms that it has procured, where necessary, the consent of all its (and its Related Bodies' Corporate) third party service providers (including ISPs), third party software vendors and equipment owners, employees, agents and sub-contractors for NCC (or its Related Bodies Corporate) to carry out the Security Testing. Such consent includes authorisation that NCC, its Related Bodies Corporate and its and their employees (including, but not limited to, the NCC's Personnel), agents and sub-contractors may perform Security Testing which may;
 - 3.1.10.1 impair the operation of the System;
 - 3.1.10.2 hinder access to the System; and
 - 3.1.10.3 impair the operation of any program and/or the reliability of any data relating to the System;
 - 3.1.11 that, whilst NCC will use reasonable endeavours to avoid disruption of the Client's network, disruption to the Client's Systems and/or possible loss of or corruption to data and/or software may occur, and the Client agrees to make back-ups pursuant to clause 3.1.3;
 - 3.1.12 to notify NCC in writing in advance or as soon as possible after becoming aware of any periods during which NCC should not perform the Security Testing or should cease performing the Security Testing due to critical business processes (such as batch runs) or if any part of the System is business critical so that NCC may, if necessary, with the Client's consent, modify its testing approach. Cancellation or rescheduling of the Security Testing pursuant to this clause 3.1.12 shall be subject to the provisions of clause 6 below; and
 - 3.1.13 that, where NCC (or its Related Bodies Corporate) supplies any software and/or hardware as part of the Security Testing, Client shall only use such software and/or hardware for lawful purposes, solely to the extent necessary to receive the benefit of the Security Testing Services and in accordance with any applicable licence terms and NCC's (or its Related Bodies' Corporate) instructions provided from time to time; and
 - 3.1.14 that none of the Systems that are to be subject to Security Testing are in multi-tenanted servers hosted by Rackspace Limited, Rackspace Inc or their respective Related Bodies Corporate.

4 Liability

- 4.1 The Client acknowledges that there is a risk that the Security Testing Services may lead to the loss or corruption of the Client's data and/or Personal Data affected by the Security Testing Services, and that the same is an inherent risk of Security Testing even when performed in accordance with Good Industry Practice. The Client is advised to back up its data prior to the Service Start Date as described in clause 3.1.3. Subject to clause 23.6 of NCC's General Terms and Conditions, NCC will not be liable for any such loss of data.

5 Ownership of System

- 5.1 Ownership of the System and all Intellectual Property Rights in the System remain at all times with the Client and/or its ISP or other third party supplier (as applicable).

6 Cancellation and Rescheduling

- 6.1 The Security Testing Services or, if applicable, each Service Portion will commence on the date set out in the Statement of Work unless otherwise agreed in writing between NCC and the Client (the "Scheduled Date").
- 6.2 The Client accepts and acknowledges that NCC often allocates Personnel weeks or months in advance and would suffer a loss should the Security Testing Services or any Service Portion be postponed or cancelled at short notice. As such, the Client agrees that:

- 6.2.1 it shall pay to NCC a Cancellation Fee (as genuinely pre-estimated liquidated damages) in the amount calculated in accordance with clause 6.3 below; and
- 6.2.2 the Cancellation Fee reflects the losses which NCC will incur if such cancellation or rescheduling is requested within a set number of days of the Scheduled Date.
- 6.3 The Cancellation Fee shall be calculated as follows:
 - 6.3.1 cancellation request 8-21 days before the Scheduled Date: 50% of the Scheduled Days Cost;
 - 6.3.2 rescheduling request 8-14 days before the Scheduled Date with firm re-booking date: 50% of the Scheduled Days Cost; and
 - 6.3.3 cancellation or rescheduling request within 7 days of the Scheduled Date: 100% of the Scheduled Days Cost.
- 6.4 Charging of the Cancellation Fee is at NCC's discretion. NCC will use reasonable commercial efforts to re-deploy Personnel to other projects to mitigate its losses resulting from cancellation or rescheduling. If NCC is able to successfully redeploy Personnel, then it shall reduce the Cancellation Fee payable by the Client accordingly.
- 6.5 If the Client re-books the Security Testing Services for another date, the Fees for the Security Testing Services as re-booked will be payable in addition to any Cancellation Fee.

7 Industry Notifications

- 7.1 Subject to the remainder of this clause, NCC and/or its Related Bodies Corporate may elect to notify relevant third party software and systems vendors of the existence of critical vulnerabilities discovered during performance of the Security Testing. NCC will only make such a notification where it reasonably considers that the existence of the vulnerability should be brought to the relevant vendor's attention to prevent harm to other users of the software or systems, and that NCC making the notification is generally in the public interest. NCC will limit the content of any notification to the existence of the vulnerability in question, and will not provide any data or information specific to the Client or which might reasonably be expected to identify the Client. In all cases, NCC will never make such a notification in a way that would cause NCC to breach its obligations owed to the Client regarding confidentiality and data protection, or any other provision of the Agreement unless it is required to do so by law.