

# Terms and Conditions

Jempitona Pty Ltd

&

SafeCyber Australia

ABN 16 142 831 187

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These are the terms and conditions subject to which we allow you to use Our Website. By visiting or using Our Website, or make an order for Services or Products, you agree to be bound by them.

"Us", "Our", "We" refers to Jempitona Pty Ltd t/a SafeCyber Australia, a company registered in Australia (ABN 16 142 831 187) and its successors and permitted assigns, of 345a Darling Street Dubbo NSW 2830 Australia. Any reference to "Us", "Our", or "We" in this Agreement shall mean and refer to the aforementioned entity or individual, unless otherwise expressly stated or the context otherwise requires.

"SafeCyber Australia", "Jempitona" refers to the same entity, whichever context it appears in this Agreement. Whenever the term "SafeCyber Australia" is used, it shall be understood to mean and refer to "Jempitona" and vice versa. For the purposes of this Agreement, any mention or reference to "SafeCyber Australia" shall be deemed as a mention or reference to "Jempitona", unless otherwise expressly stated or the context otherwise requires.

"You", "Your" refers to the user, visitor, or entity accessing or using this website, including any of its content or services. This includes, without limitation, individuals, corporations, partnerships, trusts, and any other entity or user interacting with this site, irrespective of whether they have registered an account or made a purchase. Any reference to "You" or "Your" in these Terms and Conditions shall mean and refer to the aforementioned user or entity, unless otherwise expressly stated or the context otherwise requires.

It is now agreed as follows:

## 1. Definitions

**Charges** means charges and other payable amounts specified on our website, on our order form, and elsewhere in these Terms and Conditions owed to Us by You for the purchase of goods and services.

**Client Data** is any and all data that the Client has disclosed to Jempitona. For the purposes of this Agreement, Client Data does not cease to be Client Data solely because it is transferred or transmitted beyond the Client immediate possession, custody, or control.

**Copy or Publish** with reference to a Licensed Product, means reproducing or publishing in whole or in part, using any means, in any medium. It includes breaking up, changing, cropping or any other change or use as part of some other created work.

**Cyberattack** means any breach (attempted or threatened or actual) or unauthorised access to the Client's Systems, including identity or intellectual property theft, phishing, spamming, denial-of-service or website defacement.

**Data Breach** is the unauthorised access and acquisition of computerised data that materially compromises the security of confidential and/or sensitive personal information maintained by the Client.

**Detailed Specification** means the written specification of the Work you have instructed us to do, and which we will prepare for your approval.

**Device** Includes a computer, workstation, electronic application or other digital device.

**Digital Forensic Services** includes digital forensic investigation, analysis, and reporting; threat hunting, intelligence and risk assessment; and any other activities carried out for, or on behalf of, the Client.

**Documentation** means the instruction manuals, user guides and other documentation which we have agreed to write.

**Education Services** means education, delivered by Jempitona or its subsidiaries or agents, that may include computer-based or instructor-led training (online or face-to-face); assessment or software tools or simulations; phishing training programs or simulations; workshops or classes; or other educational strategies and techniques made available from time to time.

**Enrolment** means meeting any stated prerequisites, submitting all required personal information, following all required processes, and completing all payments such that we accept your application to commence study in your selected educational activity.

**Future Deal** means any agreement or arrangement made after today whereby we agree that you may use any system, material or item of Intellectual Property owned by us.

**Hosted Services / Third-Party Services** means those on-demand hosted services that We may utilise to deliver Our content. Such services might host media files, documents or code examples.

**Intellectual Property** means intellectual property owned by us, of every sort, whether or not registered or registrable in any country, including intellectual property of all kinds coming into existence after today; and including, among others, patents, trademarks, unregistered marks, designs, copyrights, software, domain names, discoveries, creations and inventions, together with all rights which are derived from those rights. It includes in particular the Know-how, software, systems and methods we may use to perform the Work for you.

**Know-how** means methods, procedures and ways of working and organising which are not capable of protection as copyright.

**Licence Fee** means the sum or sums payable for the Licence from time to time.

**Licence** means the licence granted by us to you in the terms of this agreement for use of the Licensed Product.

**Licensed Product** means any product, material or thing offered for licence by us on Our Website, including the Software, and whether or not bought by you. A reference to “Product” shall be a reference to all or part of a Licensed Product or to a Product changed by you in any way.

**Our Website** means any website or service designed for electronic access by mobile or fixed devices which is owned or operated by us or any member of the Jempitona Pty Ltd group of companies. It includes all of the hardware and software installations that enable our website to function.

**Products** means all of the products available from Our Website, whether free or charged.

**Registration** means completing all mandatory fields on a course registration page and submitting such completed form as part of the enrolment process.

**Security Breach** means any unauthorised access to, or alteration of data that a party is responsible for or in control of.

**Security Testing Services** means ethical hacking or penetration testing; red, purple or blue teaming; security threat and risk assessment; source code, app or website analysis; and any other security testing or assessment activities carried out for a Client under a Proposal or SOW.

**Services** means all of the services available from Our Website, whether free or charged.

**Software** means the software which constitutes the Licensed Product or which provides any electronic function which supports the use of the Licensed Product.

**Statement of Work or Scope of Work or SOW** means a statement of work setting out the Services and/or products to be provided to the Client by Jempitona Pty Ltd and which has been signed, in parts or in entirety, by an authorised representative of both Jempitona and the Client.

**Third-Party Services** are independent online entities that may host or deliver media such as audio, video, images, files, websites or code; or allow streaming or similar delivery of live education.

**Work** means the work we do to provide the Services you have ordered.

## 2. Interpretation

Unless the context clearly requires otherwise, the interpretation of this agreement shall be subject to the matters listed below:

2.1. a reference to one gender shall include any or all genders and a reference to the singular may be interpreted where appropriate as a reference to the plural and vice versa.

2.2. a reference to a person includes a human individual, a corporate entity and any organisation which is managed or controlled as a unit.

2.3. a reference to a person includes reference to that person’s successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a result of a merger, division, reconstruction or other re-organisation involving that person.

2.4. in the context of permission, “may not” in connection with an action of yours, means “must not”.

2.5. Except where stated otherwise, any obligation of any person arising from this agreement may be performed by any other person.

2.6. any agreement by either party not to do or omit to do something includes an obligation not to allow some other person to do or omit to do that same thing.

2.7. a reference to an act or regulation includes new law of substantially the same intent as the act or regulation referred to.

2.8. in any indemnity, a reference to costs or expenses shall be construed as including the estimated cost of management time of the indemnified party, such cost calculated at \$250 per hour.

2.9. these terms and conditions apply to all supplies of Services by us to you. They prevail over any terms proposed by you.

2.10. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail.

## 3. Entire Agreement

3.1. We represent, warrant and guarantee that we have the full right, power and authority to license and distribute the Licensed Product, including all the images, photos, animations, audio and video components, music, text, and additional applications incorporated into the Licensed Product and accompanying printed materials, if any.

3.2. If you use Our Website in any way and make an order on behalf of another person you warrant that you have full authority to do so and you accept personal responsibility for every act or omission by you.

3.3. You accept responsibility for compliance with the laws and importation procedures of your jurisdiction which might affect your right to import, export or use the Software, and you represent that you have or will comply with all such laws and procedures.

3.4. This agreement contains the entire agreement between us and supersedes all previous agreements and understandings between the parties.

3.5. Conditions, warranties, or other terms implied by statute or common law in any country are excluded from this agreement to the extent permitted by law.

3.6. In entering into this contract, you have not relied on any representation or information from any source except the definition and explanation of the Services given on Our Website.

## 4. Basis Of Contract

4.1. Subject to these terms and conditions, we agree to complete the Work and to provide to you some or all the Services described on Our Website at the prices we charge from time to time.

4.2. The contract between us comes into existence only when we write to you to confirm that we agree to provide to you the Service you want. Your payment does not create a contract. If we decline to provide a Service, we shall immediately return your money to your credit card.

4.3. We do not offer the Services in all countries. We may refuse to provide Services if you live in a country we do not serve.

4.4. Some of our Services are now or may in future, be available to you only subject to additional terms. Those terms will be set out on Our Website. You now agree that if you choose to use any such service, the relevant terms will become part of this agreement.

4.5. If we give you free access to a Service or feature on Our Website which is normally a charged feature, and that Service or feature is usually subject to additional contractual terms, you now agree that you will abide by those terms.

4.6. We may change this agreement and / or the way we provide the Services, at any time. If we do:

4.6.1 the change will take effect when we post it on Our Website.

4.6.2 you agree to be bound by any changes. If you do not agree to be bound by them, you should not use Our Website or the Services.

4.7. Our contract terminates on the earliest of:

4.7.1 our completion of any Work for which you have paid us. If there is any doubt as to when this is, or was, then our decision is final.

4.7.2 our having worked for the amount of time for which you have paid us, even if the Work is unfinished.

4.8. You do not become a client for the time when after completion of one piece of Work we start another. Each piece of Work is a new retainer which terminates when that Work is done. If we should give advice on the same subject at a later time, that advice constitutes a separate contract and does not retrospectively extend the first contract for our Services.

4.9. The price of any Service or Licence Fee may be changed by us at any time. We will never change a price so as to affect the price charged to you at the time when you buy that Service or Licensed Product.

4.10. There is no contract between us for any free Service, so you do not become a client by using any free Service and we are not liable to you in any way resulting from your use of any free Service.

4.11. You agree that you are bound by these terms (or the latest version of them) for all future contracts with us, whether ordered through Our Website or in some other way.

4.12. To the extent the Services include:

(a) Cybersecurity Services including Penetration Testing components, the terms in Schedule 1 apply;

(b) Education components, the terms in Schedule 2 apply;

and the terms of each relevant appendix will apply to the provision of those Services and take precedence over these terms to the extent of any conflict.

## 5. Price, Payment & Coupons

5.1. Prices for business Services are exclusive of any applicable goods and services tax or other sales tax. Prices for Services which you may buy as an Australian consumer are inclusive of GST.

5.2. Charges for Services are fixed whenever it is reasonably possible for us to ascertain the price.

5.3. When we do not provide fixed charges for the Service, we will charge by the hour. In that case all Work done, including all Documentation, letters, e-mails, faxes and telephone calls made and received will be charged on a time basis in minimum units of 5 minutes.

5.4. Estimates of charges will be provided to you wherever possible.

5.5. Payment will be due to us within seven days of your receipt of our monthly invoice.

5.6. Payment may be made by credit card to Our Website, by cheque, or by transfer to our bank account.

5.7. If we do not receive payment within the period required, we shall stop the Work until you have made your payment up to date.

5.8. It is possible that the price may have increased from that posted on Our Website. If that happens, we will not provide the Services until you have confirmed that you wish to order at the new price.

5.9. Bank charges by the receiving bank on payments to us will be borne by us. All other charges relating to payment in a currency other than Australian dollar will be borne by you.

5.10. Licensed Products are supplied to you for the price advertised on our website.

5.11. Any details given by us in relation to exchange rates are approximate only and may vary from time to time.

5.12. Coupons provided by Us are intended for the sole use of our customers and can only be redeemed on our website. Each coupon is valid for a limited time only and expires on the date specified in the offer. Coupons are non-transferable, cannot be

exchanged for cash or monetary credit, and cannot be combined with other promotions unless otherwise stated. We reserve the right to discontinue or modify any coupon offer at any time without prior notice. Only one coupon can be used per order, and each coupon can only be used once per customer unless otherwise specified. Any misuse or fraudulent use of coupons may result in the immediate termination of your account and/or voiding of your order. If you return any items purchased using a coupon, the coupon discount or value may be subtracted from the return credit.

## 6. Grant Of Licence

6.1. We do not offer the Licence in all countries. We may refuse or revoke a Licence and return your payment if you live in a country we do not serve.

6.2. You acknowledge that Jempitona Pty Ltd owns all right, title and interest in and to the Licensed Product and that you have no right to use it beyond the express terms of this agreement.

6.3. Unless stated otherwise, the Licence shall be for one year, renewable annually, upon payment of the renewal fee.

AND

6.4. If any renewal payment is not made before the annual renewal date, we may treat this agreement as having been terminated with effect from the renewal date. If that happens, the effect shall be the same as if the agreement had terminated by expiry of time.

6.5. The Licence is non-exclusive, non-assignable, non-transferable, and otherwise as limited by the terms of this agreement.

6.6. No express or implied licence of the Licensed Product or any other material is granted to you other than the express Licence granted in this agreement.

6.7. If and whenever the parties agree to a Future Deal, the terms of this agreement shall apply so far as possible to that Future Deal as if a new version of this agreement had been made specifically for that Future Deal.

6.8. If any information you give to us is inaccurate, the Licence is automatically terminated, and no refund of money will be due to you.

## 7. Restrictions On Use Of Licensed Product

You agree that you will not:

7.1. use the Licensed Product for any purpose or in any way except as you selected and paid when you bought it from Our Website. These restrictions may relate to limitations on use, territory, duration, or any other choice which defines the Licensed Product;

7.2. use a Licensed Product in part or as a whole, to incorporate it in any intellectual property of yours;

7.3. separate the component parts of the Software for use on more than one Device;

7.4. reverse engineer, decompile, or disassemble the Software;

7.5. sub-license, rent out, lease, or lend the Software or the Licensed Product;

7.6. Copy or Publish a Licensed Product except as specifically allowed in this agreement;

7.7. represent or give the impression that you are the owner or originator of any Licensed Product;

7.8. remove any identification or reference number or other information which may be embedded in any file of a Licensed Product.

## 8. Copying The Licensed Product

8.1. Every publication or appearance of a Licensed Product on a website must be protected as far as the law allows by separate, specific or general provisions against copying or publishing. We allow you to use the definition of "Copy or Publish" used in this agreement.

8.2. You may install and use one copy of any supplied Software on a single Device. You may also store or install a copy of the Software on a storage device, such as a network server, used only to install or run the Software on your other Devices over an internal network.

8.3. The primary user of the Device on which the Software is installed may make a second copy for his or her exclusive use on any other Device.

8.4. You must not install the Software on more than two Devices, and you must not use the Software on more than one Device at a time.

8.5. If you have bought multiple Licences of the Software, you may make the number of additional copies of the Software as are authorised on the licence schedule, and you may use each copy in the manner specified above. You are also entitled to make a corresponding number of secondary copies for portable Device use as specified above.

## 9. Freedom To Transfer

9.1. You may not assign, delegate, sub-contract, mortgage, charge or otherwise transfer any of your rights and obligations under this agreement without our prior written consent, except that you may assign and transfer all your rights and obligations under this agreement to any person to which you transfer all of your business, provided that the assignee undertakes in writing to us to be bound by your obligations under this agreement

## 10. Renewal Payments

10.1. At any time before expiry of your Licence, you may use the "My Account" tab on Our Website to access your personal information and change your requirements for Services or cancel renewal.

10.2. At expiry of your Licence, we shall automatically take payment from your credit card of the sum specified on the invoice sent earlier and shall confirm the renewal of your Licence for a further period by sending you an email message.

## 11. U.S. Government End Users

Each Product or Service on our website is a "commercial item" as that term is defined at 48 C.F.R. 2.101. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users buy a Licence to use our products and any related Documentation or Service with only those rights set out in this Licence.

## 12. Service Provision

12.1. The Services are listed and described on Our Website. Once you have paid, we will contact you to tell you what help we need from you and when we shall start, and complete our Work for you.

12.2. The provision of our Service relies on a schedule of Work. If you are unable to provide us with acceptance or information, we require for a period which extends the agreed timescale then we are entitled to payment in accordance with the schedule in any event.

12.3. If we are not able to provide your Services within 10 days of the date of your order, we shall notify you by e-mail to tell you the likely provision date.

12.4. All monies paid by you to us are non-refundable and cancellation and/or termination of this agreement by you or us at any time for any reason will not entitle you to a refund of monies paid.



12.5. You may not share or allow others to use the Services in your name.

## 13. Security Of Your Credit Card

We will take care to make Our Website safe for you to use.

13.1. Card payments are not processed through pages controlled by us. We use one or more online payment service providers who will encrypt your card or bank account details in a secure environment.

13.2. If you have asked us to remember your credit card details in readiness for your next purchase or subscription renewal, we will securely store your payment details on our systems. These details will be fully encrypted and used only to process your automatic annual payments or other transactions which you have initiated.

## 14. Indemnity

You agree to indemnify us against all costs, claims and expense arising directly or indirectly from:

14.1. your failure to comply with the law of any country;

14.2. your breach of this agreement;

14.3. any act, neglect or default by any agent, employee, you or your customer;

14.4. a contractual claim arising from your use of the Licensed Products;

14.5. a breach of the intellectual property rights of any person.

## 15. Security of Our Website

If you violate Our Website, we shall take legal action against you.

You now agree that it will not, and will not allow any other person to:

15.1. modify, copy, or cause damage or unintended effect to any portion of the Our Website, or any software used within it;

15.2. link to Our Website in any way that would cause the appearance or presentation of Our Website to be different from what would be seen by a user who accessed Our Website by typing the URL into a standard browser;

15.3. download any part of Our Website, without express written consent;

15.4. collect or use any product listings, descriptions, or prices;

15.5. aggregate, copy or duplicate in any manner any of the content or information available from Our Website, other than as permitted by this agreement or as is reasonably necessary for your use of our Services;

15.6. share with a Third-Party any login credentials to Our Website.

## 16. Representative Liaison

16.1. With effect from entering into this agreement or your acceptance of these terms and conditions, we and you will each nominate a representative who will be authorised to make decisions relating to the Services you have ordered and who will be responsible for:

16.1.1 organising monthly meetings at which they will review the progress of the Work;

16.1.2 providing all information and Documentation reasonably required by either party to enable completion of the Work.

16.2. Each month our representative will prepare a progress report on the progress of the Work and will deliver a copy to your representative at least three days before each meeting.

## 17. Work Management Procedure

17.1. We shall prepare the Detailed Specification for your approval. It will be based on the description of the Service on Our Website.

17.2. You will within seven days of receipt of the Detailed Specification either approve or give us your further instructions for edit of it. If you fail to respond within that time period you will be deemed to have approved the Detailed Specification.

17.3. We shall take account of all reasonable comments and/or requests for amendment received from you and shall incorporate them in a revised version of the Detailed Specification to be prepared and delivered to you as soon as reasonably possible.

17.4. The process described above will be repeated until you have approved (or are deemed to have approved) the Detailed Specification.

## 18. Content Of Detailed Specification

The Detailed Specification will include (among other things).

18.1. details of each commonly accepted standard which will be attained in respect of the Work, including those of the International Organization for Standardization.

## 19. Dissatisfaction With The Services

19.1. Our most important task is to ensure your absolute satisfaction. We will always strive to reach that target. However, we acknowledge that mistakes are made occasionally. This paragraph covers that possibility. If you are not wholly satisfied with the Service, please tell us at the earliest opportunity:

19.1.1 exactly why you think we have failed;

19.1.2 the date, if relevant, of the failure;

19.1.3 when and how you discovered the failure;

19.1.4 the result of the failure;

19.1.5 your suggestion as to action we should take to resolve the situation and restore your faith in us.

19.2. To do this, it is essential that you contact us by email at the contact point on Our Website.

AND

19.3. You now agree that you commit a breach of this contract if you seek repayment of money paid to us by asking your credit card provider to credit back a payment made to us, without attempting to seek repayment from us first. In that event, you agree that you will owe us first the sum charged to us by our payment service provider and secondly a sum based on time spent at \$250 per hour in dealing with your breach. You also agree that this provision is reasonable.

## 20. Confidentiality & Data Security

20.1. We are both aware that in the course of our Work for you we will each have access to and be entrusted with information in respect of the business and operation of the other, all of which information is or may be confidential.

20.2. We both now undertake for ourselves and for every employee or sub-contractor whose services we may use both during and after completion of the Work, that we will not divulge to any person whatever or otherwise make use of (and will use their best endeavours to prevent the publication or disclosure of) any trade secret or confidential information.

20.3. For the purposes of your above undertaking, the information will be deemed to include all information (written or oral) concerning the Detailed Specification.

20.4. Each of us now undertakes to the other to make all relevant employees, agents and sub-contractors aware of the confidentiality of information and the provisions of this paragraph and to take all such reasonable steps as will from time to time be necessary to ensure compliance by its employees, agents and sub-contractors with these provisions.

20.5. Each of us now undertakes to the other that for the period of 12 months following completion of the Work we will not directly or by an agent or otherwise and whether for ourselves or for the benefit of any other person induce or endeavour to induce any officer or employee of the other to leave his employment.

20.6. The provisions of the last previous sub paragraph will not apply to either party if the other becomes subject to bankruptcy, receivership or liquidation proceedings.

20.7 We will take reasonable precautions within our own control to prevent any Security Breach of our Systems.

## 21. Intellectual Property

You agree that at all times you will:

21.1. not disclose to any person the method of working or the Intellectual Property involved in our Work for you;

21.2. not cause or permit anything which may damage or endanger our title to the Intellectual Property;

21.3. indemnify us for any loss or expense arising from your misuse of the Intellectual Property;

21.4. on the expiry or termination of this agreement immediately stop using the Intellectual Property except as expressly authorised by us in writing;

21.5. not use any name or mark similar to or capable of being confused with any name or mark of ours;

21.6. so far as concerns Software provided or made accessible by us to you, you will not:

21.6.1 copy, or make any change to any part of its code;

21.6.2 use it in any way not anticipated by this agreement;

21.6.3 give access to it to any other person than you, in this agreement;

21.6.4 in any way provide any information about it to any other person or generally.

## 22. Disclaimers And Limitation Of Liability

22.1. The law differs from one country to another. This paragraph applies so far as the applicable law allows.

22.2. All implied conditions, warranties and terms are excluded from this agreement. If in any jurisdiction an implied condition, warrant or term cannot be excluded, then this sub paragraph will be deemed to be reduced in effect, only to the extent necessary to release that specific condition, warranty or term.

22.3. Our Website and our Services are provided "as is". We make no representation or warranty that the Service or the Work will be:

- i. useful to you;

- ii. of satisfactory quality;
- iii. fit for a particular purpose;
- iv. available or accessible, without interruption, or without error.

22.4. We make no representation or warranty that the Service or the Work we provide specifically to you will achieve the target or intended results.

22.5. We disclaim any obligation or liability to you arising directly or indirectly from information you take from Our Website.

22.6. You agree that in any circumstances when we may become liable to you, the limit of our liability is the amount you have paid us in the immediately-preceding 12-month period for the Services concerned.

22.7. Except in the case of death or personal injury, our total liability under this agreement, however it arises, will not exceed the sum of \$1,000. This applies whether your case is based on contract, tort or any other basis in law.

22.8. We will not be liable to you for any loss or expense which is:

22.8.1 indirect or consequential loss; or

22.8.2 economic loss or other loss of turnover, profits, business or goodwill even if such loss was reasonably foreseeable or we knew you might incur it.

22.9. This paragraph (and any other paragraph which excludes or restricts our liability) applies to our directors, officers, employees, subcontractors, agents and affiliated companies as well as to us.

22.10. If you become aware of any breach of any term of this agreement by any person, please tell us by using our Website Contact Form. We welcome your input but do not guarantee to agree with your judgement.

22.11. Nothing in this agreement will be construed as limiting or excluding our liability for death or personal injury caused by our negligence.

22.12.(a) The Client is responsible for ensuring that the selection and use of Products and Services satisfies all of the Client's legal, regulatory and compliance obligations.

(b) Unless set out in a Proposal or SOW, we are not responsible for any of your legal, regulatory or compliance obligations.

22.13 You acknowledge that any advice, information, suggestions, instructions, code walkthroughs, code snippets or samples and all other content is provided as general information only, and no warranty about the suitability or otherwise for your specific circumstances is made.

## 23. Termination

23.1. This agreement may be terminated:

23.1.1 when the Work has been delivered to you or otherwise completed.

23.1.2 immediately by us if you fail to pay any additional sum due within 35 days of the date of submission of an invoice;

23.1.3 immediately by either party if a trustee receiver, administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration or bankruptcy order (otherwise than for the purpose of an amalgamation or reconstruction) unless an application has been made under the Treasury Laws Amendment (2017 Enterprise Incentive No.2) Act 2017.

23.2. any termination of this agreement by this paragraph will be without prejudice to any other rights or remedies to which a party may be entitled.

## 24. Miscellaneous Matters

24.1. Our privacy policy is strong and precise and complies fully with current privacy law.

24.2. You undertake to provide to us your current land address, e-mail address and telephone number as often as they are changed together with all information that we may require to enable us to fulfil our obligations under this contract.

24.3. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it will be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it will be binding in that changed or reduced form. Subject to that, each provision will be interpreted as severable and will not in any way affect any other of these terms.

24.4. The rights and obligations of the parties set out in this agreement will pass to any permitted successor in title.

24.5. If you are in breach of any term of this agreement, we may:

24.5.1 publish all text and content relating to the claimed breach, including your name and email address and all correspondence between us and our respective advisers; and you now irrevocably give your consent to such publication.

24.5.2 terminate your account and refuse access to Our Website;

24.5.3 cancel any order at our discretion;

24.5.4 issue a claim in any court.

24.6. Any obligation in this agreement intended to continue to have effect after termination or completion will so continue.

24.7. No failure or delay by any party to exercise any right, power or remedy will operate as a waiver of it nor indicate any intention to reduce that or any other right in the future.

24.8. When you visit Our Website or send messages to us by email, you are communicating with us electronically. We communicate with you by e-mail or by posting notices on Our Website. You agree that all our electronic communications satisfy any legal requirement that such communications be in writing.

24.9. Any communication to be served on either party by the other will be delivered by hand or sent by express post.

It will be deemed to have been delivered:

- i. if delivered by hand: on the day of delivery;
- ii. if sent by post to the correct address: within 72 hours of posting.

24.10. In the event of a dispute between the parties to this agreement, then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.

24.11. So far as the law permits, and unless otherwise stated, this agreement does not give any right to any Third-Party.

24.12. Neither party will be liable for any failure or delay in performance of this agreement which is caused by circumstances beyond its reasonable control, including any labour dispute between a party and its employees.

24.13. The validity, construction and performance of this agreement shall be governed by the laws of the State of New South Wales, and you agree that any dispute arising from it shall be litigated only in that State.

# Schedule 1- Cybersecurity Services including Penetration Testing

## 1. Application of these Terms

(a) These Security Testing Terms apply if security testing services are provided by SafeCyber Australia.

(b) The Client warrants that it is aware of the nature of the Security Testing Services, in particular that such testing may include:

- (i) simulating or performing controlled Cyberattacks on your systems;
- (ii) deliberate attempts to penetrate your security;
- (iii) red teaming / penetration testing / ethical hacking (including but not limited to deliberately masquerading as a hostile attacker with the intention of detecting vulnerabilities) activities in relation to your premises and systems;
- (iv) deliberately allowing unauthorised access to your network or systems for the purpose of analysing threats and vulnerabilities;
- (v) or a combination of the above activities.

## 2. Acknowledgment And Liability

(a) You accept that the Security Testing Services:

- (i) are testing activities only and cannot account for all possible ways an attacker could breach your cybersecurity or computer systems;
- (ii) do not implement any security measures and will not prevent security or data breaches or cyberattacks;
- (iii) could result in interruptions or degradations to your systems, and you accept those risks and consequences; and
- (iv) although carried out by professional personnel using tools from trusted resources, carry an element of risk that can never be fully eliminated, and you accept that there is no guarantee that every vulnerability in your system will be identified during testing.

(b) In carrying out testing, you acknowledge and agree that we:

- (i) as your agent, are considered to be party to any communication intercepted on your system;
- (ii) are expressly authorised by you to perform such testing services, including all tests reasonably necessary to perform testing, on the relevant network resources and IP addresses. The Client represents that if it does not own such network resources, it has requisite consent and authority to engage us to provide testing;
- (iii) provide no warranty or guarantee as to the outcome of testing, and acknowledge that all testing has limitations, and that such testing cannot guarantee the discovery of all weaknesses, noncompliance issues, or vulnerabilities; and
- (iv) may use various proprietary methods and software tools to probe network resources, and to detect actual or potential security flaws and vulnerability, which will not be revealed by Jempitona.

(c) No other terms or any other agreement will limit your authorisation or liability in clause 2(b) of this Schedule.

## 3. Detected Data Breaches

- a) If SafeCyber Australia detects a Data Breach, Network Intrusion or other malicious cybersecurity activity that we reasonably believe you are unaware of, We shall notify You via email or letter within 5 business days, and shall initiate measures to preserve forensic evidence.
- b) Additionally, We shall provide You with information necessary to enable You to fully understand the nature and scope of the Data Breach.

- c) Upon request, We shall provide You with a mitigation plan in the form of a Scope of Works (SOW) to mitigate and remediate any deleterious effects of the Data Breach.
- d) Such SOW to be activated after receipt of payment in full or as otherwise agreed in writing.

#### **4. Data Security**

- a) Jempitona agrees that, to the best of its knowledge, the security tools and processes employed do not contain any code or mechanism that collects personal information, maintains control of the system without your permission, or other such action which may restrict your access to or use of your data.
- b) Jempitona further warrants that we will not knowingly introduce, via any means, spyware, adware, ransomware, rootkit, keylogger, virus, trojan, worm, or other code or mechanism designed to permit unauthorised access to your data or which may restrict your access to or use of your data.

# Schedule 2 Educational Services

## 1. Application of these Terms

- (a) These Education Services terms will apply if education services are provided by SafeCyber Australia.
- (b) We shall provide these Services to You either on-demand (online) or live.
  - i. On-Demand educational packages are prepared learning packages, delivered online, usually (and unless otherwise specified or advertised) at a time of the student's choosing.
  - ii. Live educational sessions are instructor-led, real-time educational events and may be delivered remotely (by means of one or more Third-Party Services platforms), in-person, or a combination thereof.

## 2. On-Demand Education

- a) On-Demand educational packages may contain text, audio, images, videos, documents, code, quizzes and other components.
- b) They may be delivered by our own online learning technologies, or a contracted Third-Party Service.
- c) Your payment represents your purchase of a non-exclusive 12-month licence to use our online educational packages, subject to the Terms and Conditions in this document.
- d) Payment must be made in full before access to the relevant education package is granted.
- e) At the end of the 12-month period your access will be cancelled unless a renewal payment is received.
- f) We do not allow the transfer of our products once purchased.
- g) Each course taken by you is issued a single certificate of completion after all quizzes and other assessment materials have been successfully completed.

## 3. Live Educational Services

- a) A Proposal, Quote or SOW will specify the Services, the delivery approach (in person, online, computer based or a combination thereof), required travel and accommodation, and presentation dates and times for Live educational services.
- b) We shall provide the Teaching Services during Sessions commencing on the date(s) and at the time(s) either specified in the timetable published on our Website or agreed from time to time between the parties.
- c) Attendees must be confirmed 1 week before the delivery date.
- d) Session Rescheduling, Postponement or Cancellation:
  - i. You acknowledge that other commitments may from time-to-time lead to Our personnel being late for a Session and agree that We will not be in breach of the Contract by virtue of Our personnel being not more than 30 minutes late for a Session.
  - ii. If We wish to reschedule a Session, then We must advise You in writing at least 24 hours before the Session is due to commence. In these circumstances, each party will use all reasonable endeavours to agree an alternative Session date and time.
- e) Payments
  - i. We shall issue invoices for the Charges to You in advance of the period to which they relate.
  - ii. You must pay the Charges to us within seven days of invoice. All Charges must be paid in full at least seven days before the commencement of the educational activity or time-period to which they relate.
  - iii. You must pay the Charges using the order form on Our website, or following emailed invoice, using such payment details and services as notified by Us to You from time to time.
  - iv. If You do not pay any amount properly due to Us under these Terms and Conditions, We may, at our absolute discretion:
    - a) charge You interest on the overdue amount at the rate of 10% per annum above the Reserve Bank of Australia base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); and / or
    - b) claim statutory compensation from You; and / or
    - c) suspend or cancel the provision of any or all of the Services if any amount due to be paid by You to Us is overdue.
- f) Cancellations and Refunds
  - i. You may cancel a Session by giving Us at least 48 hours written notice of cancellation. If You cancel a Session in accordance with this requirement, then You shall be released from any liability to pay Charges in respect of that Session and shall be entitled to a refund of any Charges previously paid in respect of that Session.



- ii. If We are unable to attend a Session by reason of personnel shortage or illness, We may, by written notice to You within 1 business day of the proposed delivery date, cancel the Session, in which case:
  - a) We shall not be in breach of these Terms and Conditions or otherwise liable to You in respect of that cancellation; and
  - b) You shall be released from any liability to pay Charges in respect of that Session and shall be entitled to a refund of any Charges previously paid in respect of that Session.
- iii. Unless otherwise required by relevant law, we do not currently offer refunds or money-back guarantees on live educational offerings.
- g) Changes to bookings
  - i. You may request to reschedule or cancel a Session up to 8 weeks before delivery.
  - ii. On request, We undertake to make a reasonable attempt to reschedule such session to a mutually-agreeable time.
  - iii. You may not make more than three requests to reschedule a Session.
  - iv. Any cancellation requests less than 8 weeks before delivery are not refundable.
- h) Instructor Travel and Accommodation
  - i. Instructors will travel to the agreed education location the day before the arranged educational session.
  - ii. Accommodation will be at a hotel or similar facility of 4-star rating or higher within 10 minutes walking distance of the educational location.
  - iii. At the end of the educational program and subject to flight availability, if the return trip is:
    - a) (i) under 3 hours the presenter will return the same day; OR
    - b) over 3 hours the presenter will return the following day.
  - iv. (d) International travel and accommodation to follow scoping and agreement between the parties.

#### 4. Refunds

- a) Regarding our on-demand educational packages, we offer a 30-Day No-Questions-Asked money-back guarantee under the following conditions:
  - i. It is within 30 days of enrolment; AND
  - ii. No more than one end-of-lesson quiz has been attempted (either successfully or unsuccessfully); AND
  - iii. A final certificate of completion has not been awarded for the enrolled course.
- b) As an example only – This provision typically allows you to access and complete the first module of a paid course and preview the second module (but not attempt the quiz). If you attempt to complete the second or subsequent quizzes then you waive your right to refund. This is to allow genuine users to experience our online training materials and platform to decide if it is right for them. It does not allow fraudulent enrolment, rapid downloading of our materials and then cancellation for refund.
- c) You may request a refund using our website contact form or by replying to the enrolment confirmation email that we send after your enrolment payment has been received.
- d) Once your refund request has been received, we will send you an email to notify you that we have received your request, and we will also notify you of the approval or rejection of your refund request. If your request is approved then we will credit your original method of payment within 30 days of receipt.
- e) Once a refund is processed, you will no longer have access to any of the learning materials.
- f) We reserve the right to vary this refund policy at any time.

#### 5. Physical Items

- (a) If the delivery of educational services requires the physical delivery of goods (including but not limited to workbooks, manuals or technological devices), the Client must specify the number of attendees, delivery location, and a delivery date at least 4 weeks in advance of the arranged date of the relevant education session.

#### 6. Downloads

- a) We shall supply or make available to You those Downloads (if any) specified in the Order Form; and may make available to You additional Downloads at any time at our sole discretion.
- b) We may supply or make available the Downloads by means of Third-Party Services, or by such other means as We determine is reasonable.
- c) We shall use reasonable endeavours to supply or make available the Downloads in accordance with any agreed timetable; to the extent that there is no such timetable, the Downloads may be supplied or made available at any time during the Session delivery.
- d) Subject to the payment of the applicable Charges by the Client and the compliance of the Client with the other provisions of these Terms and Conditions, We grant You a worldwide, non-exclusive and non-transferable licence to:
  - i. download a copy of each of the Downloads;

- ii. store and view a copy of each of the Downloads on a desktop computer, notebook computer or smartphone; and
  - iii. print a copy of each of the Downloads.
- e) You must not:
  - i. publish, republish, sell, license, sub-license, rent, transfer, broadcast, distribute or redistribute the Downloads or any part of the Downloads;
  - ii. edit, modify, adapt or alter the Downloads or any part of the Downloads;
  - iii. use the Downloads or any part of the Downloads in any way that is unlawful or in breach of any person's legal rights under any applicable law.
- f) You must retain, and must not delete, obscure or remove, any and all copyright notices and other proprietary notices in the Downloads.
- g) You acknowledge that the Downloads may be protected by digital rights management technology and that the Provider may use that technology to enforce the provisions of these Terms and Conditions.

## **7. Third-Party Services**

- a) You acknowledge that access to the Services may require the use of Third-Party Services by You.
- b) The supply of Third-Party Services shall be under a separate contract or arrangement between You and the relevant Third-Party. We do not contract to supply the Third-Party Services and are not a party to any contract for, or otherwise responsible in respect of, the provision of any Third-Party Services. Fees may be payable by the Client to the relevant Third-Party in respect of the use of Third-Party Services.
- c) You must comply with the applicable terms and conditions of each provider of Third-Party Services.
- d) You acknowledge that the Provider has no control over, or responsibility for, any disclosure, modification, deletion or other use of data by any provider of Third-Party Services.
- e) We give no guarantees, warranties or representations in respect of any Third-Party Services; and shall not be liable to the Client in respect of any loss or damage that may be caused by Third-Party Services or any provider of Third-Party Services.
- f) If You are unable to access any of the Services as a result of any unavailability or failure of any Third-Party Services, then You shall have no right to the re-arrangement or re-performance of those Services; nor shall have any right to a refund of the corresponding Charges or compensation of any kind, subject to the other conditions in this agreement.

## **8. No guarantee of exam success**

- a) For the avoidance of doubt, We do not guarantee that Your use of the Services will lead to any particular certification or any particular grading or result in any course, examination or assignment.

## **9. Liability**

You specifically acknowledge that any and all advice, information, suggestions, instructions, code walkthroughs, code snippets and any other information provided to you on our Website and through any and all Educational Services is provided as general information only, and no warranty about its suitability or otherwise for your specific circumstances is made.