

**TENABLE NETWORK SECURITY, INC.  
SCANNING SERVICES AGREEMENT**

This is a legal agreement (“Agreement”) between Tenable Network Security, Inc., a Delaware corporation having offices at 7063 Columbia Gateway Drive, Suite 100, Columbia, MD 21046 (“Tenable”), and you, the party whose systems will be scanned (“You”). This Agreement covers the services to be performed by Tenable. BY CLICKING THE “I ACCEPT” BUTTON OR CHECKBOX ON THE REGISTRATION PAGES, YOU HEREBY AGREE TO THE FOLLOWING TERMS OF SERVICE AND ANY TERMS INCORPORATED HEREIN BY SPECIFIC REFERENCE.

**1. Services.**

(a) You hereby authorize Tenable to perform a vulnerability scan of Devices owned by You (the “Services”), such scan to include Network Security Audits. “Devices” means computer hardware, network, storage, input/output, or electronic control devices, or software installed on such devices. “Network Security Audits” are audits conducted to ascertain the compliance of network Devices with certain published security standards and to disclose security vulnerabilities. Network Security Audits may include port scanning and port connections, evaluating services by checking versions and responses to certain requests, and crawling websites to perform testing of forms, application responses, or to confirm the existence of certain files. You agree that Tenable has the right to attempt to breach into Your systems and computers in the context of the Services. To allow Tenable to perform the Services, You agree to provide the IP range to be scanned. Tenable will provide You with a file of the scan results.

(b) You acknowledge that the Services may appear to be an attempt to breach the security of Your Devices, and that the Services may ultimately cause Your Devices to crash. Further, You acknowledge that the Services may modify Your Devices or their contents. You agree not to pursue any claims against Tenable if any of the foregoing occurs.

**2. Term.**

This Agreement commences on the date on which You initially purchase the Services (the “Effective Date”) and continues on an annual basis (provided You pay the appropriate annual fee) until it is terminated according to the terms of this Agreement.

**3. Support.**

During the term, Tenable will supply You with reasonable online and email support from 9 AM to 5 PM (Eastern Standard Time) Monday through

Friday, excluding holidays observed by Tenable, for the Services. Tenable does not guarantee that the Services will always be available, but will make reasonable efforts to respond to outages.

**4. Ineligible Parties.**

You may not use the Services if You: (1) are, or work for, a competitor of Tenable; (2) have been convicted of any computer or Internet-related crime within the last five (5) years; or (3) are located in a place where applicable law prohibits the use of the Services.

**5. Your Obligations.**

You must provide current, accurate information in all submissions made in connection with the Services, including registration information and the location of the networks to be scanned. You may only allow one (1) user to access the Services, and agree to safeguard all user names and passwords. You agree to use Your best efforts and to take all reasonable steps to ensure that no unauthorized parties have access to the Services. You are responsible for all use of the Services and for compliance with this Agreement; any breach by You or any user using the Services on Your behalf shall be deemed to have been made by You. You agree to notify Tenable of any unauthorized access to the Services or if a charge is made that You are not complying with any laws applicable to Your obligations hereunder. If You gain access through the Services to any information for which You are not authorized, You must immediately destroy such information and any copies.

**6. Restrictions on Use.**

You may not do any of the following: (1) request scanning of networks and devices for which You do not have the express authority to do so; (2) request Services that will constitute any attack, hack, crack, or any other malicious usage or unlawful activity; (3) use the Services in such a way as to create an unreasonable load on the Devices to which you have directed the Services to interact; (4) rent,

sell, lease, redistribute, transfer, or otherwise allow a third party to use the Services; (5) use the Services to access or reveal any personal information; or (6) impersonate or in any way misrepresent Your affiliation or authority to act on behalf of any entity. If You request scanning (intentionally or not) of a third party network, You agree to be fully responsible for any damages attributable to such scanning, and You further agree that Tenable may provide all relevant information to lawful authorities if they pursue an inquiry into such scanning.

## **7. Confidentiality; Privacy.**

As used in this Agreement, “Confidential Information” means any and all information and material that, from all the relevant circumstances, should reasonably be assumed to be confidential or proprietary. Confidential Information includes Tenable’s software, Service structure, and organization. Confidential Information will remain the property of disclosing party, and receiving party will not be deemed by virtue of this Agreement or any access to the Confidential Information to have acquired any right, title or interest in or to the Confidential Information. The receiving party agrees to hold the Confidential Information in strict confidence, affording the Confidential Information at least the same level of protection against unauthorized disclosure or use as the receiving party normally uses to protect its own information of a similar character, but in no event less than reasonable care. Receiving party will notify the disclosing party promptly of any unauthorized use or disclosure of the Confidential Information. You acknowledge that Tenable does not require any sensitive or personal information from You to perform the Services with the possible exception of: 1) IP addresses, 2) user names and passwords for certain services, and 3) dot audit files containing Your security policies. You agree not to provide any other sensitive or personal information in Your use of the Services, or provide such information to Tenable. To the extent that You do so, You agree to promptly remove it. If You provide such personal information to Tenable hereunder, Tenable agrees to use commercially reasonable efforts to protect its security in accordance with Tenable’s posted privacy policy (available at [www.tenable.com/privacy](http://www.tenable.com/privacy)) in effect at the time. You acknowledge that Tenable may be obligated to maintain copies of Your scans for compliance purposes.

## **8. No Warranty; Disclaimer.**

THE SERVICES ARE PROVIDED ON AN “AS IS, AS AVAILABLE” BASIS WITHOUT ANY

WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INTEGRATION, PERFORMANCE AND ACCURACY, AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. YOUR USE OF THE SERVICES IS AT YOUR OWN RISK. YOU UNDERSTAND THAT ASSESSING NETWORK SECURITY IS A COMPLEX PROCEDURE, AND TENABLE DOES NOT GUARANTEE THAT THE RESULTS OF THE SERVICES WILL BE ERROR-FREE OR PROVIDE A COMPLETE AND ACCURATE PICTURE OF YOUR SECURITY FLAWS, AND YOU AGREE NOT TO RELY SOLELY ON SUCH SERVICES IN DEVELOPING YOUR SECURITY STRATEGY. TENABLE MAKES NO GUARANTEE THAT A SUCCESSFUL COMPLETION OF A TENABLE PCI SCAN WILL MAKE YOU PCI-COMPLIANT. YOU ACKNOWLEDGE THAT THE SERVICES MAY RESULT IN LOSS OF SERVICE OR OTHER IMPACT TO NETWORKS OR COMPUTERS, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGES RELATING TO SUCH LOSS OR IMPACT.

## **9. Limitation of Liability.**

IF YOU SHOULD BECOME ENTITLED TO CLAIM DAMAGES FROM TENABLE (INCLUDING FOR NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT, MISREPRESENTATION AND OTHER CONTRACT OR TORT CLAIMS) TENABLE WILL BE LIABLE ONLY FOR THE AMOUNT OF YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (IN THE AGGREGATE FOR ALL CLAIMS) THE FEES YOU PAID TO TENABLE FOR THE SERVICES OVER THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM.

## **10. Exclusion of Other Damages.**

UNDER NO CIRCUMSTANCES WILL TENABLE BE LIABLE FOR LOST PROFITS, ANY DAMAGES RESULTING FROM LOSS OF DATA, SECURITY BREACH, PROPERTY DAMAGE, LOSS OF REVENUE, LOSS OF BUSINESS OR LOST SAVINGS, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, ARISING OUT OF OR IN

CONNECTION WITH THIS AGREEMENT OR THE SERVICES, WHETHER OR NOT TENABLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU ARE SOLELY RESPONSIBLE AND LIABLE FOR VERIFYING THE SECURITY, ACCURACY AND ADEQUACY OF ANY OUTPUT FROM THE SERVICES, AND FOR ANY RELIANCE THEREON.

#### **11. Indemnification.**

You agree to indemnify, defend and hold harmless Tenable, its officers, directors, employees, agents, suppliers, licensors, and other related parties from and against all costs, expenses (including reasonable attorneys' fees), losses, liabilities and damages that Tenable may incur as a result of any claim or suit arising out of or based on: (i) any violation of Your obligations under this Agreement; (ii) any results attributable to the properly-functioning Services; or (iii) Your use or application of the information provided through the Services. Tenable does not indemnify You against any claims made against You by others as a result of Your use of the Services.

#### **12. Your Payment Obligations.**

You agree to pay any and all amounts due or incurred by You, as are specified in an invoice or ecommerce transaction provided by Tenable in consideration for Your use of the Services. You agree to pay directly or reimburse Tenable for any taxes (including, sales or excise taxes, value added taxes, landing fees, import duties and the like), however designated and whether foreign or domestic, arising out of this Agreement, imposed on the Services or the use thereof, or Tenable's performance under this Agreement. You agree to pay Tenable without deducting any present or future taxes, withholdings or other charges except those deductions it is legally required to make. If You are legally required to make any deductions, You agree to pay Tenable such amounts as are necessary to make the net amounts remaining after such deductions equal to the stated amount due under this Agreement. The payments or reimbursements will be in such amounts as are sufficient to relieve Tenable from owing any further taxes, either directly or on the basis of the payments made under this Agreement. Notwithstanding the foregoing, Tenable will be solely responsible for its income tax obligations and all employer reporting and payment obligations with respect to its personnel. You agree to pay any interest and penalties imposed by any taxing authorities to the extent such interest and penalties are applicable to taxes not paid at Your request or as

a result of reliance by Tenable on Your representations. If a certificate of exemption or similar document or proceeding is necessary in order to exempt any transaction from a tax, You will obtain such certificate or document. You agree to promptly pay or reimburse Tenable for all costs and expenses, including all reasonable attorneys' fees, related to any breach of Your obligations under this Agreement.

#### **13. Termination.**

You may terminate this Agreement at any time by stopping use of the Services and providing notice to Tenable. Tenable may terminate this Agreement and Your access to the Services immediately if You fail to comply with any term or condition of this Agreement. In neither case will Tenable provide You with any refund.

#### **14. Governing Law.**

This Agreement shall be governed in all respects by the laws of the State of Maryland, USA, without regard to choice-of-law rules or principles. No aspect or provision of the Uniform Computer Information Transactions Act, as implemented under Maryland law, shall apply to this Agreement. You expressly agree with Tenable that this Agreement shall not be governed by the U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

#### **15. Dispute Resolution.**

You and Tenable submit to the exclusive jurisdiction of the courts of Howard County, Maryland, and the United States District Court for Maryland, Baltimore Division, for any question or dispute arising out of or relating to this Agreement. Due to the high costs and time involved in commercial litigation before a jury, the parties waive all right to a jury trial with respect to any and all issues in any action or proceeding arising out of or related to this Agreement.

#### **16. Modification of Terms.**

Tenable reserves the right to modify this Agreement from time to time by posting updated terms. You should check back from time to time for the updates. You agree that Your use of the Services after such a change will be deemed full and adequate acceptance of the modified Agreement. Tenable also reserves the right to modify, discontinue or make temporarily unavailable the Services and that any

new or modified features, unless explicitly stated otherwise, are subject to this Agreement.

#### **17. Notices.**

Any notices or other communication required or permitted to be made or given by either Party pursuant to this Agreement will be in writing, in English, and will be deemed to have been duly given when delivered if delivered personally or sent by recognized overnight express courier, to the address specified herein or such other address as Tenable may specify in writing. All notices to Tenable shall be sent to the address described in this Agreement to the attention of the Legal Department (unless otherwise specified by Tenable). Tenable may provide notices to you by email.

#### **18. Assignment.**

You may not assign or otherwise transfer this Agreement without Tenable's prior written consent which will not be unreasonably withheld.

#### **19. General.**

This Agreement constitutes the entire agreement between the parties, and supersedes all other prior or contemporaneous communications between the parties (whether written or oral) relating to the subject matter of this Agreement. No purchase order shall supersede this Agreement. The provisions of this Agreement will be deemed severable, and the unenforceability of any one or more provisions will not affect the enforceability of any other provisions. Section headings are for convenience only and shall not be considered in the interpretation of this Agreement. In addition, if any provision of this Agreement, for any reason, is declared to be unenforceable, the parties will substitute an enforceable provision that, to the maximum extent possible under applicable law, preserves the original intentions and economic positions of the parties. No failure or delay by a party in exercising any right, power or remedy will operate as a waiver of that right, power or remedy, and no waiver will be effective unless it is in writing and signed by the waiving party. If a party waives any right, power or remedy, the waiver will not waive any successive or other right, power or remedy the party may have under this Agreement. Any provision of this Agreement that imposes or contemplates continuing obligations on a party will survive the expiration or termination of this Agreement. "Including" and its derivatives (such as "include" and "includes") mean including without limitation; this term is as defined, whether or not capitalized in this Agreement.

#### **20. Language.**

The language of this Agreement is English and all notices given under this Agreement must be in English to be effective. No translation, if any, of this Agreement or any notice will be of any effect in the interpretation of this Agreement or in determining the intent of the parties. The parties have expressly agreed that all invoices and related documents be drafted in English.

#### **21. Third Parties.**

This Agreement is not intended nor will it be interpreted to confer any benefit, right or privilege in any person or entity not a party to this Agreement. Any party who is not a party to this Agreement has no right under any law to enforce any term of this Agreement.

