

NIMIS Pentesting Services Agreement

Version 1.3 — Last updated: 15 July 2026

1. The parties and acceptance

This NIMIS Pentesting Services Agreement ("**Agreement**") is entered into between:

- **NIMIS Cybersecurity Pty Ltd, ABN 25 619 710 655** ("**NIMIS**", "**we**", "**us**", "**our**"); and
- the individual or entity that accepts this Agreement or uses the Services ("**Client**", "**you**", "**your**").

You accept this Agreement by clicking to accept it, by enrolling an application for testing, or by running or authorising a Test, whichever occurs first. If you accept on behalf of an organisation, you represent and warrant that you are authorised to bind that organisation, and "**Client**" means that organisation. If you do not agree, you must not enrol any application or run any Test.

This Agreement governs your use of the NIMIS penetration-testing platform, dashboard, APIs, and related security-testing services ("**Services**"). It prevails over the general *Terms of Service* to the extent of any inconsistency in relation to the Services.

2. Definitions

- "**Test**" means a single penetration-testing engagement or run initiated through the Services against a Target.
- "**Target**" means a web application, API domain, host, or endpoint that the Client has enrolled and that NIMIS has verified as owned or controlled by the Client under clause 4.
- "**Ownership Verification**" means the mechanism described in clause 4 by which the Client demonstrates control of a Target before any Test runs.
- "**Findings**" means the reports, evidence, vulnerability records, and other outputs produced by a Test.

- **"Fees"** means the amounts payable for the Services under clause 15, including per-Test and subscription charges.
- **"Authorised Scope"** means the set of verified Targets against which the Client has authorised testing, together with any scope limits configured for a Test.
- **"Tested Entity"** means the entity that owns, controls, or operates the systems, applications, networks, or assets that are the subject of the Services, whether that entity is the Client or a third party for whom the Client procures the Services.
- **"Restricted Jurisdiction"** means each of Singapore, Malaysia, Ghana, the People's Republic of China, and the Kingdom of Saudi Arabia, and any further jurisdiction notified by NIMIS to the Client in writing from time to time.

3. The Services

NIMIS provides an automated, autonomous penetration-testing platform that discovers, probes, and actively tests web applications and APIs for security vulnerabilities, and produces Findings. The Services are **active and intrusive** by design: they send real attack traffic to the Target.

NIMIS grants the Client a limited, non-exclusive, non-transferable, non-sublicensable right to use the Services during the term, solely for the Client's own internal security purposes and strictly within the Authorised Scope.

4. Ownership and verification of Targets

No Test runs against a Target until ownership of that Target has been verified. The Client must complete Ownership Verification for each Target before its first Test:

- **Web application:** by publishing a NIMIS-issued verification meta tag (`<meta name="nimis-verify" content="[verification-token]">`) on the application's primary URL; and
- **Each API domain:** by serving the verification token as `text/plain` from `GET https://<api-host>/<base-path>/nimis-verify` .

All verification material must be served over HTTPS. NIMIS checks for the verification material before the first Test runs, and testing is confined to the verified web-app host and verified API host/path combinations. The NIMIS backend is authoritative as to whether verification has succeeded.

Ownership Verification is a **technical control**, not a warranty by NIMIS of your legal rights.

Verifying control of a Target does **not** relieve you of, and is **not** a substitute for, your obligations and warranties under clause 5. Control of a Target's DNS, hosting, or content does not by itself establish that you are legally entitled to have it tested.

5. Client authorisation and warranties — you may only test what you own or are authorised to test

This clause is fundamental to the Agreement and is a condition of it. You represent, warrant, and covenant, on a continuing basis, that for every Target you enrol and every Test you initiate or authorise:

- **(a) Ownership or control.** You own the Target, or you otherwise legally control it and are entitled to have it tested.
- **(b) Authorisation.** You have full authority and all necessary rights, consents, licences, and permissions to authorise penetration testing of the Target, and you hereby authorise NIMIS to conduct such testing within the Authorised Scope. **You are solely responsible for ensuring you have permission to test.**
- **(c) Third-party permissions.** Where the Target is hosted by, or depends on, third parties (for example, a cloud or hosting provider, CDN, WAF, or managed service), you have obtained any authorisation, notification, or clearance those third parties require for penetration testing under their acceptable-use or testing policies, and you will comply with those policies.
- **(d) No third-party or unauthorised systems.** You will not enrol, submit, direct, or configure the Services to test any system, application, domain, data, account, or infrastructure that you do not own or are not authorised to test, and you will not use the Services to test on behalf of any third party except as permitted under clause 14.
- **(e) Lawfulness.** Your use of the Services, and the testing you authorise, complies with all applicable laws, including computer-misuse, unauthorised-access, privacy, and data-protection laws in every jurisdiction connected with the Target and its data.
- **(f) Accuracy and maintenance.** The application details, API domains, credentials, and scope information you provide are accurate and current, and you will keep verification material in place for the duration of testing.

You acknowledge that NIMIS relies on these warranties, that NIMIS cannot independently determine your legal right to test a Target beyond the technical Ownership Verification, and that

you bear sole responsibility for the authorisation of every Test. A breach of this clause 5 is a material breach that is not capable of cure.

6. Client responsibilities and safe testing

You are responsible for the environment you choose to test. You agree to:

- take and maintain **current, restorable backups** of any Target and its data before a Test runs, and have a rollback plan;
- ensure appropriate change-management, monitoring, and stakeholder awareness are in place for the testing window;
- provide accurate scope, credentials, and configuration, and use any scope-limiting controls the Services make available;
- promptly disable or de-scope a Target you no longer own or are no longer authorised to test.

7. Production testing — strongly discouraged; the Client's choice and the Client's risk

NIMIS strongly recommends that you test only in a dedicated test or staging environment, and strongly discourages testing against production systems. Production testing risks impacting real users, live data, and live services.

If you nevertheless choose to enrol, configure, or run a Test against a production environment, you do so **entirely at your own election and your own risk**. You acknowledge and agree that:

- **(a)** the decision to test production, rather than a staging or test environment, is yours alone and is made against NIMIS's express recommendation;
- **(b)** NIMIS does not select your environment, cannot know whether a given Target is production, and relies on you to choose an appropriate environment;
- **(c)** you accept full responsibility for all consequences of testing production, including any data modification, data loss, corruption, outage, degradation, or disruption to your systems, your users, or third parties; and
- **(d)** to the maximum extent permitted by law, and subject to clauses 19 and 21, NIMIS has no liability for any loss or damage arising from your choice to test a production environment.

This clause operates in addition to, and does not limit, the acknowledgment and assumption of risk in clause 8.

8. Acknowledgment and assumption of risk

You acknowledge and accept that penetration testing is inherently risky. By enrolling an application and running a Test, you confirm your understanding that the Services actively probe the Target and **can cause data modification, creation of database entries, corruption or deletion of data, degraded performance, service disruption, and outages**, and that these effects can occur even when the Services operate correctly. This mirrors the acknowledgment you accept in the NIMIS dashboard when adding an application (*"I understand the risks and accept responsibility for this test environment"*).

You voluntarily assume these risks. To the maximum extent permitted by law, and subject to clauses 19 and 21, NIMIS is not liable for, and you release NIMIS from, any loss or damage arising from the intended, active operation of the Services against a Target you have authorised — including data modification, disruption, downtime, or consequential effects on the Target, its data, or its users — where NIMIS has operated the Services substantially as designed.

9. Nature and limits of testing — point-in-time; scope, tooling, and time

You acknowledge and agree that penetration testing is subject to inherent limitations, and that the following are fundamental assumptions on which NIMIS provides the Services:

- **(a) Bounded by scope.** A Test assesses only the Authorised Scope, as enrolled, verified, and configured. Anything outside that scope is not assessed.
- **(b) Bounded by tooling and technique.** The Services are automated and assess a Target using the techniques, coverage, and capabilities available to the platform. No tool or methodology can identify every vulnerability, misconfiguration, or weakness.
- **(c) Bounded by time.** A Test is performed within a finite time window. Additional time or different conditions may surface issues not found within that window.
- **(d) Reasonable efforts, not a guarantee.** NIMIS makes reasonable efforts to test the Authorised Scope as fully as the platform allows, but **does not guarantee that a Test will identify all, or any, vulnerabilities**, and gives no warranty of completeness.

- **(e) Point-in-time.** A Test and its Findings describe the Target only as it existed at the time of the Test. **Any change to the Target, its environment, dependencies, configuration, data, or surrounding systems after a Test may change its security posture and render the Findings inaccurate or out of date.** Findings should not be relied on as reflecting the current state of a changed environment.
- **(f) Not a certification. The absence of Findings is not a certification, warranty, or guarantee that a Target is secure or free of vulnerabilities.** Findings are informational, depend on scope, inputs, timing, and conditions, and do not constitute legal, compliance, or professional advice.
- **(g) Client's own programme.** The Services are one input into the Client's security programme and are not a substitute for it. Any decision to remediate, retest, or accept risk remains the Client's.

10. Findings, intellectual property, and licence

As between the parties, the Client owns the Findings relating to its Targets. NIMIS grants the Client a perpetual, worldwide licence to use the Findings for the Client's internal security and compliance purposes. NIMIS retains ownership of the Services, the platform, testing engines, models, methodologies, and any underlying or derived technology, and may use de-identified, aggregated data to operate and improve the Services.

The Client acquires **no right, title, or interest** in the Services, platform, testing engines, models, algorithms, methodologies, know-how, or any underlying or derived technology, and **no licence is granted by implication, estoppel, or otherwise** except the limited rights expressly granted in this Agreement. NIMIS's methods, models, and the manner in which the Services and any Test are performed are **NIMIS's Confidential Information and trade secrets**, and NIMIS is **under no obligation to disclose or explain how the Services, the platform, or any Test operate, detect, or produce results**.

11. Confidentiality

Each party may receive confidential information of the other. Each party will protect the other's confidential information with at least reasonable care, use it only to perform this Agreement, and not disclose it except to personnel and contractors who need it and are bound by confidentiality

obligations, or as required by law. Findings and Target vulnerability data are Client confidential information.

12. Data protection

NIMIS handles personal data in accordance with its Privacy Policy and, where NIMIS processes personal data on the Client's behalf, any applicable **Data Processing Addendum (DPA)**. NIMIS does not require, and does not intend to collect or create, personal data through testing, and **personal data should not be present in a test environment**. The Client is responsible for ensuring that any personal data present in a Target has a lawful basis, and acknowledges that active testing may nonetheless access, alter, or generate records within the Target (which the Client should assume may include personal data where the Client has placed it there).

13. Jurisdiction Warranty

The Client represents and warrants, as at the date it accepts this Agreement and again on each occasion that a test, scan, or assessment is initiated under this Agreement, that:

- **(a)** the Client is not incorporated, registered, or established in, and does not have its principal place of business or primary operations in, a Restricted Jurisdiction;
- **(b)** the Tested Entity is not incorporated, registered, or established in, and does not have its principal place of business or primary operations in, a Restricted Jurisdiction; and
- **(c)** the Client is not procuring, and will not use or make available, the Services for or on behalf of any entity that is incorporated, registered, or established in, or that has its principal place of business or primary operations in, a Restricted Jurisdiction.

Continuing obligation. The Client shall notify NIMIS immediately if any warranty in this clause becomes untrue at any time during the term, including as a result of any change in the corporate structure, ownership, place of incorporation, or principal place of business of the Client or any Tested Entity. NIMIS may suspend or decline to perform any Services where it reasonably believes a warranty in this clause is or may be untrue, without liability to the Client.

Risk allocation. The Client indemnifies NIMIS against all losses, liabilities, fines, penalties, and costs (including reasonable legal costs) arising from or in connection with any breach of this clause. The Client acknowledges that these warranties are a material inducement to NIMIS entering into this Agreement. This indemnity is not subject to the limitation of liability in clause 17.

14. Restrictions on use — no resale without approval

The Services are licensed to the Client for its **own internal use only**. The Client must **not**, without NIMIS's **prior written approval**:

- resell, rent, lease, sublicense, distribute, or otherwise make the Services available to any third party;
- use the Services to provide testing, managed security, or assessment services to third parties, or on a bureau, white-label, or "as-a-service" basis;
- permit any third party to access or use the Services or the Client's account.

The Client must **not**, whether through the Services or by any other means, **test, scan, probe, penetration-test, attack, disrupt, reverse-engineer, or attempt to discover, exploit, or circumvent any vulnerability in or security control of the NIMIS Services, platform, systems, or infrastructure**, or attempt to gain unauthorised access to them. The right granted under this Agreement is to test the **Client's own verified Targets only** and never NIMIS or its systems. Any such activity is a material breach, is unauthorised access, and may be reported to law-enforcement authorities.

NIMIS operates a separate **Partner Programme** (including co-delivery and white-label arrangements). Any resale, managed-service, or partner use requires a separate written **Partner Agreement** with NIMIS. Any use in breach of this clause is a material breach and unauthorised use of the Services.

Channel obligations. Where NIMIS has approved the Client (a "**Partner**") to resell, sublicense, embed, or otherwise make the Services available to any end customer, the Partner shall:

- **(a)** obtain from each end customer, for NIMIS's benefit, warranties materially equivalent to the Jurisdiction Warranty in clause 13, and pass through and enforce equivalent obligations in its own customer agreements;
- **(b)** not submit, route, initiate, or facilitate any Services where the end customer or the Tested Entity is incorporated, registered, or established in, or has its principal place of business or primary operations in, a Restricted Jurisdiction; and
- **(c)** represent and warrant, on each occasion Services are initiated, that no end customer or Tested Entity for which it procures the Services is connected to a Restricted Jurisdiction as described above, and indemnify NIMIS for any breach of this clause.

15. Fees and payment

The Client will pay the Fees for the Services, as presented at the point of purchase and administered through the NIMIS entitlement and billing system (including one-off and subscription plans and any per-Test or per-period limits). Fees are non-refundable except as required by law or expressly stated. The Client is responsible for applicable taxes. Tests may be subject to time windows and usage limits associated with the purchased plan.

16. Warranties and disclaimers

Except as expressly stated in this Agreement, and subject to clause 19, the Services and Findings are provided "**as is**" and "**as available**", and NIMIS disclaims all warranties, express, implied, or statutory, including merchantability, fitness for a particular purpose, title, non-infringement, and any warranty that the Services will be uninterrupted, error-free, secure, or will detect all vulnerabilities.

17. Limitation of liability — capped at the cost of the single Test

Subject to clause 19 (Australian Consumer Law):

- **(a) Exclusion of indirect loss.** To the maximum extent permitted by law, neither party is liable for any indirect, incidental, special, consequential, exemplary, or punitive loss, or for loss of profits, revenue, data, goodwill, business, or business interruption, however arising, whether in contract, tort (including negligence), statute, or otherwise, even if advised of the possibility.
- **(b) Liability cap.** To the maximum extent permitted by law, NIMIS's total aggregate liability arising out of or in connection with a Test, a Target, this Agreement, or the Services **will not exceed the Fees paid by the Client for the most recent Test** preceding the event giving rise to the claim. For subscription or multi-Test plans, the Fees attributable to a single Test are taken to be the amount payable for the applicable billing period divided by the number of Tests included in that period.
- **(c) Sole and exclusive remedy.** The remedy in (b) is the Client's **sole and exclusive** remedy against NIMIS, reflects the agreed allocation of risk and the price of the Services, and applies regardless of the number or theory of claims.
- **(d) Savings clause.** If the cap in (b) is held unenforceable or inapplicable for any claim, NIMIS's liability for that claim is limited to the **smallest** amount permitted by the applicable

law.

- **(e) Client obligations unaffected.** This clause does not limit the Client's obligations under clause 20 (indemnity) or its liability for breach of clause 5 (authorisation) or clause 14 (restrictions on use).

18. Client status; entire agreement; non-reliance

- **(a) Business acquisition.** The Client represents and warrants that it is entering into this Agreement, and acquiring the Services, **for the purposes of a business, trade, profession, or occupation**, and not as a natural-person consumer for personal, domestic, or household use.
- **(b) Sophisticated party.** The Client represents that it has had the opportunity to obtain independent legal and technical advice, understands the nature and risks of penetration testing, and enters this Agreement on an arm's-length basis.
- **(c) Entire agreement.** This Agreement, together with the applicable Order Form, plan terms, Privacy Policy, and any DPA or Partner Agreement, is the entire agreement between the parties for the Services and supersedes all prior or contemporaneous proposals, representations, and understandings, whether oral or written.
- **(d) Non-reliance.** The Client acknowledges that, in entering this Agreement, it has **not relied** on any representation, warranty, promise, forecast, or statement (including as to security outcomes, coverage, or results) that is not expressly set out in this Agreement. To the maximum extent permitted by law, the Client waives any claim (including in tort or under statute) based on any such representation, **except** for liability arising from fraud or any liability that cannot be excluded by law.

19. Australian Consumer Law

Nothing in this Agreement excludes, restricts, or modifies any consumer guarantee, right, or remedy under the **Competition and Consumer Act 2010 (Cth)** (including the **Australian Consumer Law**) or any other law that cannot lawfully be excluded ("**Non-Excludable Rights**").

The Services are of a kind **ordinarily acquired for business use and not for personal, domestic, or household use**. Accordingly, to the extent permitted by **section 64A of the Australian Consumer Law** and subject to the Non-Excludable Rights, NIMIS's liability for failure

to comply with a guarantee (other than a guarantee under sections 51 to 53 of the Australian Consumer Law) is limited, at NIMIS's option, to:

- resupplying the relevant services, or paying the cost of resupply; and, in the case of goods, replacing or repairing the goods, supplying equivalent goods, or paying the cost of doing so.

To the extent a Non-Excludable Right applies and this clause conflicts with clause 17, this clause prevails only to the minimum extent required by law.

20. Indemnity by the Client

To the maximum extent permitted by law, the Client will indemnify, defend, and hold harmless NIMIS and its officers, employees, contractors, and agents from and against all claims, liabilities, damages, losses, fines, penalties, costs, and expenses (including reasonable legal costs on a full-indemnity basis) arising out of or relating to:

- **(a)** the Client's breach of clause 5 (authorisation and ownership), including any testing of a system the Client did not own or was not authorised to test;
- **(b)** the Client's decision to test a production environment under clause 7;
- **(c)** the Client's breach of clause 13 (Jurisdiction Warranty) or clause 14 (restrictions on use / resale / channel obligations);
- **(d)** the Client's breach of any third-party acceptable-use, hosting, or testing policy;
- **(e)** any claim by a third party (including a data subject, hosting provider, customer, or system owner) arising from a Test the Client authorised or configured; and
- **(f)** the Client's violation of any law or third-party right in connection with the Services.

This indemnity is not subject to the limitation of liability in clause 17.

21. Time limit on claims

To the maximum extent permitted by law, any claim or proceeding by the Client arising out of or relating to this Agreement, a Test, or the Services **must be commenced within twelve (12) months** after the date on which the cause of action first accrued. Any claim not commenced within that period is permanently barred. This clause does not apply where the applicable law prohibits such a limitation.

22. Dispute resolution, governing law, and jurisdiction

- **(a) Governing law.** This Agreement is governed by the laws of **the State of Victoria** and the Commonwealth of Australia.
- **(b) Pre-action negotiation.** Before commencing any proceeding (other than for urgent injunctive or interlocutory relief), a party must give written notice of the dispute, and the parties' senior representatives must attempt in good faith to resolve it for at least **30** days.
- **(c) Exclusive jurisdiction.** The parties submit to the **exclusive** jurisdiction of the courts of **Victoria**, and courts competent to hear appeals from them, for any dispute arising out of or relating to this Agreement or the Services. The Client agrees not to commence or maintain any proceeding in any other forum and consents to the stay or dismissal of any proceeding brought contrary to this clause.
- **(d) Waiver of jury trial and class actions.** To the maximum extent permitted by law, each party **waives any right to trial by jury** and **waives any right to commence or participate in any class, collective, consolidated, or representative action** in connection with any dispute arising out of or relating to this Agreement. Disputes must be brought in an individual capacity only.

23. Suspension and termination

- NIMIS may **immediately suspend or terminate** the Services, a Test, or the Client's account if NIMIS reasonably suspects a breach of clause 5 or 14, unauthorised testing, unlawful use, non-payment, or a risk to NIMIS, a third party, or any system.
- Either party may terminate for the other's material, uncured breach on **30** days' written notice; breaches of clause 5 are not capable of cure.
- On termination, the Client's right to use the Services ends. Clauses that by their nature survive (including 5, 7–14, 16–22, and 24) survive termination.

24. General

- **Order of precedence.** In case of conflict: (1) a signed Master Services Agreement or Order Form; (2) this Agreement; (3) the general Terms of Service.
- **Variation.** NIMIS may update this Agreement; material changes take effect on posting a new version with a revised date, and continued use constitutes acceptance. **The version**

accepted at the time of a Test governs that Test, and NIMIS records the accepted version, timestamp, and account identifier.

- **No modification except in writing.** No variation by the Client is effective unless agreed by NIMIS in writing.
- **Assignment.** The Client may not assign or novate this Agreement without NIMIS's prior written consent. NIMIS may assign it in connection with a corporate transaction.
- **Force majeure.** Neither party is liable for delay or failure due to events beyond its reasonable control.
- **Severability / waiver.** If any provision is unenforceable, it is read down or severed to the minimum extent necessary and the remainder stands; no failure or delay in enforcing a provision is a waiver of it.
- **Relationship.** The parties are independent contractors; nothing creates a partnership, agency, employment, or joint venture.
- **Notices.** Notices to NIMIS may be sent to **legal@nimisintelligence.com**; notices to the Client may be sent to the account or billing contact on file.

By accepting this Agreement, enrolling an application, or running a Test, the Client acknowledges that it has read, understood, and agrees to be bound by this Agreement, including the authorisation warranties (clause 5), the production-testing risk allocation (clause 7), the acknowledgment and assumption of risk (clause 8), the point-in-time limits of testing (clause 9), the Jurisdiction Warranty (clause 13), the limitation of liability (clause 17), and the dispute-resolution and waiver provisions (clause 22).

Accepted version, timestamp, and account identifier are recorded by NIMIS at the time of acceptance.