

NCC GROUP SERVICE MODULE NCC EQUIPMENT

1 Agreement Structure and Interpretation

This Service Module sets out the terms and conditions applicable to services that require the use of NCC Equipment and is to be read in conjunction with the NCC Group Master Services Agreement or the Short Form Terms and Conditions, as applicable. Capitalised terms in this Service Module shall have the same meaning ascribed to them in the NCC Group Master Services Agreement or the Short Form Terms and Conditions, as applicable, unless stated otherwise herein.

2 Definitions

- 2.1 **"Acceptable Use Policy"** means the acceptable use policy applicable to the Client's use of the NCC Equipment.
- 2.2 **"End User Statement"** means a statement to be completed by the Client in the format provided by NCC Group in connection with applicable Export Control Laws.
- 2.3 **"Export Control Laws"** means any import, re-import, export or re-export controls, laws or regulations in any country that the NCC Equipment may be exported from, held in or delivered or released into under the Agreement.
- 2.4 **"NCC Equipment"** shall have the meaning given to it in clause 3.1.
- 2.5 **"NCC Equipment Term"** shall have the meaning given to it in clause 3.2.

3 NCC Equipment

- 3.1 NCC Group (or its Affiliates) may temporarily provide hardware and/or software to the Client to assist in delivery or performance of the Services (the **"NCC Equipment"**). In such cases, this clause 3 shall apply.
- 3.2 NCC Group consents to the Client using the NCC Equipment, solely in relation to the Services, for such period as may be agreed (or, in the absence of agreement, for so long as NCC Group stipulates) (the **"NCC Equipment Term"**).
- 3.3 The Client:
 - 3.3.1 shall comply with the Acceptable Use Policy provided to the Client by NCC Group in respect of any NCC Equipment;
 - 3.3.2 shall correctly install and configure the NCC Equipment to the System pursuant to the Acceptable Use Policy;
 - 3.3.3 shall ensure that any hardware and/or software which is included or interoperable with the NCC Equipment is in good working order and functions fully and properly in accordance with the relevant manufacturer user manuals;
 - 3.3.4 acknowledges that all the Intellectual Property Rights, including copyrights, patents, trade marks and trade secrets in the NCC Equipment and its content are owned by NCC Group. Neither this Agreement (nor the Client's use of and/or access to the NCC Equipment) transfers to the Client or any third party any rights, title or interest in or to such Intellectual Property Rights;
 - 3.3.5 shall indemnify, keep indemnified and hold harmless NCC Group and its Affiliates in full and on demand from and against all liabilities, direct, indirect and consequential losses, damages, claims, proceedings and legal costs (on an indemnity basis), judgments and costs (including without limitation costs of enforcement) and expenses which NCC Group (or its Affiliates) incurs or suffers directly or indirectly in any way whatsoever arising out of or in connection with the Client's breach of the Acceptable Use Policy;
 - 3.3.6 use the NCC Equipment in accordance with the Agreement and as expressly directed by NCC Group and the Acceptable Use Policy;
 - 3.3.7 shall not:
 - 3.3.7.1 use the NCC Equipment for any purpose other than for the Services;
 - 3.3.7.2 modify, relocate or otherwise tamper with any NCC Equipment unless such modification, relocation or tampering is authorised by NCC Group in writing and undertaken under the supervision of NCC Group Personnel; and
 - 3.3.7.3 void any applicable manufacturer warranties.
- 3.4 Where the NCC Equipment constitutes hardware:
 - 3.4.1 NCC Group shall deliver the NCC Equipment to the Site specified in the Statement of Work or otherwise agreed between the parties in writing. Any delivery dates given by NCC Group are estimates only, and delivery shall be deemed to have occurred when the NCC Equipment arrives at the specified Site;

- 3.4.2 if the Client fails to take delivery of the NCC Equipment, NCC Group may (i) arrange (at the Client's cost) for the return and storage of the NCC Equipment until such other date for delivery is agreed between the Parties; or (ii) treat the Agreement as repudiated and dispose of the NCC Equipment in any way it sees fit, including by sale to another client;
- 3.4.3 the NCC Equipment shall be held by the Client in safe custody at Client's own risk and maintained and kept in good condition until returned to NCC Group and shall not be disposed of or used other than in accordance with the Acceptable Use Policy and/or any other written instructions or authorisation provided by NCC Group. Without prejudice to the generality of the foregoing, the Client agrees that it shall:
 - 3.4.3.1 ensure that the NCC Equipment remains at the Site and shall not be relocated without the prior written consent of NCC Group;
 - 3.4.3.2 ensure that the NCC Equipment is kept in a suitable secure location;
 - 3.4.3.3 allow NCC Group and/or its appointed agents and contractors (on reasonable notice during Business Hours) to attend the premises where the NCC Equipment is or may be stored to repair, recover, retrieve, replace or inspect the condition of the NCC Equipment;
 - 3.4.3.4 be responsible for any damage to or loss of the NCC Equipment from the point of deemed delivery to the Client until the safe return of the NCC Equipment to a location requested by NCC Group in writing, and accordingly shall at all times maintain in full force adequate insurance cover in respect of any and all loss of and/or damage to the NCC Equipment during such period. Such insurance shall be to the full replacement value of the NCC Equipment;
- 3.4.4 the Client acknowledges and agrees that it shall return the NCC Equipment to NCC Group within 14 (fourteen) days of the NCC Equipment Term ending unless otherwise agreed with NCC Group in writing ("**Return Period**");
- 3.4.5 delivery to the Client is at NCC Group's cost and any return of the NCC Equipment is at the Client's cost;
- 3.4.6 on returning of the NCC Equipment, risk in the NCC Equipment shall pass to NCC Group once the Client has received written signed acknowledgement of receipt of the NCC Equipment;
- 3.4.7 a return-to-base warranty is provided for the NCC Equipment for the NCC Equipment Term;
- 3.4.8 the Client shall notify NCC Group in writing of any fault or damage to the NCC Equipment within five (5) Business Days of deemed delivery and, at the request of NCC Group, return the NCC Equipment to NCC Group or make the NCC Equipment available for collection and/or inspection;
- 3.4.9 the Client shall be liable for all errors, failures and damage to the NCC Equipment that is detected by NCC Group and notified to the Client within thirty (30) days of the return of the NCC Equipment, save where such errors, failures or damage can reasonably be attributed to an inherent failure or error in the NCC Equipment; and
- 3.4.10 if NCC Group does not receive the NCC Equipment:
 - 3.4.10.1 within the Return Period;
 - 3.4.10.2 in good cosmetic condition;
 - 3.4.10.3 in good working order as determined by NCC Group in its reasonable opinion, taking into consideration fair wear and tear; and
 - 3.4.10.4 with any warranty sticker still intact and untampered with,then the Client shall be liable to pay to NCC Group either (i) the then replacement value of the NCC Equipment as at the end of the Return Period where the Agreement has expired; or (ii) the then current full retail price of the NCC Equipment as at the end of the Return Period, upon earlier termination of the Agreement.
- 3.5 In the event the NCC Equipment is subject to any Export Control Laws, the Client:
 - 3.5.1 acknowledges and agrees that any delivery dates in relation to the NCC Equipment are based on an export licence procedure and as such, any delivery dates stated by NCC Group or otherwise agreed between the parties shall be indicative only and not legally binding;
 - 3.5.2 shall comply with all Export Control Laws applicable to the NCC Equipment (including any technology part thereof) provided in connection with the Services and with any governmental end-user, end-use and destination restrictions, including but not limited to European "dual use" regulations and all other applicable laws relating to the export of "dual use" goods;
 - 3.5.3 shall not undertake any actions that conflict or could conflict with such Export Control Laws and/or that could reasonably harm the interests of NCC Group;
 - 3.5.4 represents and warrants to provide all cooperation and information requested by NCC Group to allow NCC Group to meet its Export Control Laws obligations, including (but not limited to) completing and duly signing the End User Statement;

- 3.5.5 represents and warrants that all information provided, or to be provided, to NCC Group is accurate and complete;
- 3.5.6 represents and warrants that it shall not sell, export, re-export, transfer, divert or otherwise dispose of the NCC Equipment received under the Agreement without obtaining the required prior authorisation from the competent government authorities. If allowed pursuant applicable laws and regulations, the Client is solely responsible for obtaining, at its own risk and expense, any export licence, import licence and other official authorisation for such actions;
- 3.5.7 shall immediately inform NCC Group in writing if and in so far as the Client is aware that it has not or not fully met any of its obligations under this clause 3.5;
- 3.5.8 shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any NCC Equipment that falls under the scope of Article 12g of Council Regulation (EU) No 833/2014. The Client shall use its best efforts to ensure that the purpose of this clause 3.5.8 is not frustrated by any third parties further down the commercial chain, including by possible resellers. As such, the Client shall: (i) set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of this clause 3.5.8; and (ii) immediately inform NCC Group about any problems in complying with this clause 3.5.8, including any relevant activities by third parties that could frustrate the purpose of this clause 3.5.8. The parties acknowledge and agree that any breach of this clause 3.5.8 shall constitute a material breach of the Agreement, and NCC Group shall be entitled to seek appropriate remedies; and
- 3.5.9 shall, at all times during and after the termination or expiry of the Agreement and/or the Statement of Work, indemnify, keep indemnified and hold harmless NCC Group, its Affiliates and their respective officers, employees, agents, contractors and sub-contractors in full and on demand from and against any and all claims, fines, losses, damages, demands, costs, expenses, fees (including, but not limited to, court and legal fees) and liabilities (in each case whether direct, indirect or consequential) of whatever nature, awarded against or agreed to be paid or otherwise suffered, incurred or sustained by NCC Group or its Affiliates directly or indirectly as a result of any breach by the Client of its obligations of this clause 3.5.
- 3.6 NCC Group shall:
 - 3.6.1 subject to clause 3.7, provide NCC Equipment which is in good working order and use reasonable endeavours to provide replacement NCC Equipment as soon as reasonably practicable, but in any event within 10 Business Days of receipt of the notification from the Client of the relevant fault or damage;
 - 3.6.2 upon request, provide support services in connection with the installation and configuration of the NCC Equipment, subject to the payment of additional charges as set out in the Statement of Work;
 - 3.6.3 subject to the Client's compliance with this clause 3, grant the Client a non-transferrable, revocable right:
 - 3.6.3.1 to install and configure the NCC Equipment to the System; and
 - 3.6.3.2 to use the NCC Equipment, solely in relation to the Systems and/or the Services and in accordance with the Acceptable Use Policy and as otherwise expressly instructed by NCC Group.
- 3.7 NCC Group shall not be required to repair or replace faulty or damaged NCC Equipment if:
 - 3.7.1 the NCC Equipment is damaged or a fault has occurred due to the improper use, handling, alteration, installation, repair, maintenance or storage of the NCC Equipment as determined by NCC Group (acting reasonably);
 - 3.7.2 the Client, its personnel, agents and/or contractors use the NCC Equipment for purposes other than permitted under this Agreement, the Acceptable Use Policy or the express instructions of NCC Group;
 - 3.7.3 the Client (or its appointed agent or contractor) has incorrectly installed the NCC Equipment to the Systems;
 - 3.7.4 the Client fails to notify NCC Group of any loss or damage to the NCC Equipment within the timescales required under clause 3.6.1;
 - 3.7.5 the manufacturer deems that the warranty has been voided;
 - 3.7.6 the Client makes further use of the NCC Equipment after discovering any fault or damage; or
 - 3.7.7 NCC Group (acting reasonably) determines that the fault or damage to the NCC Equipment is negligible and does not impact the delivery of the Services, and in such circumstances any replacement of the NCC Equipment by NCC Group shall be at NCC Group's sole option, and shall be charged to the Client at full retail cost plus reasonably incurred fees for such replacement.
- 3.8 NCC Group shall not be liable for:
 - 3.8.1 any breach of its obligations under this Agreement where such breach is caused by or related to an error or fault with the NCC Equipment, provided such error or fault was caused by the Client's breach of its obligations in respect of such NCC Equipment, including but not limited to its compliance with the Acceptable Use Policy;
 - 3.8.2 any claim or damages, of any kind or nature whatsoever, arising from or connected with the Client's breach of the Acceptable Use Policy; and



- 3.8.3 any loss of or damage to the Client's, its agents' and/or its subcontractors' property caused directly or indirectly by the NCC Equipment.