

ZERO DAY INITIATIVE RESEARCHER AGREEMENT

THE FOLLOWING DESCRIBES THE TERMS ON WHICH YOU MAY PARTICIPATE IN 3COM'S ZERO DAY INITIATIVE.

Welcome to the researcher agreement (the "**Researcher Agreement**") for 3Com Corporation's Zero Day Initiative (the "**ZDI**"). This Researcher Agreement is between you and 3Com Corporation ("**3Com**"). This Researcher Agreement describes the terms and conditions applicable to your membership and participation as a security researcher in the ZDI (a "**ZDI Researcher**"). These terms and conditions supersede all prior terms and conditions previously in effect between 3Com and each ZDI Researcher.

You must read, agree with and accept all of the terms and conditions contained in this Researcher Agreement and the Privacy Policy, which include those terms and conditions expressly set out below and those incorporated by reference, before you may become a ZDI Researcher. We strongly recommend that, as you read this Researcher Agreement, you also access and read the information contained in the other pages and websites referred to in this document, as they may contain further terms and conditions that apply to you as a ZDI Researcher. Please note: underlined words and phrases are links to these pages and websites.

We may amend this Researcher Agreement at any time by posting the amended terms on the ZDI Web Site at <http://www.zerodayinitiative.com> (the "**Site**"). Except as stated below, all amended terms shall automatically be effective 10 days after they are initially posted on the Site. This Researcher Agreement may not be otherwise amended except in a writing signed by you and 3Com. This Researcher Agreement is effective upon acceptance in registration for new registering ZDI Researchers, and is otherwise effective on August 15, 2005 for all ZDI Researchers.

1. ELIGIBILITY

You may only become a ZDI Researcher and agree to this Researcher Agreement if you can form legally binding contracts under applicable law. Without limiting the foregoing, children (persons under the age of 18) or temporarily or indefinitely suspended ZDI Researchers are not allowed to become ZDI Researchers. If you are under the age of 18, you can become a ZDI Researcher only in conjunction with and under the supervision of your parents or guardians. If you do not qualify, please do not use our Site and do not register to become a ZDI Researcher. Further, your ZDI account and User ID may not be transferred or sold to another party. If you are registering as a business entity, you represent that you have the authority to bind the entity to this Researcher Agreement.

Your username and password are for your individual use only. You may not share your account information with others. Your accounts are authorized on an individual basis for individual use, unless specified otherwise by specific contract between 3Com and the ZDI Researcher. Participation in the ZDI is non-exclusive.

You are not eligible to participate in the ZDI if you are currently an employee of or consultant to 3Com. You represent that your participation in the ZDI does not violate or conflict with any agreement, obligation or duty you may have to any other person or entity. You agree to notify us immediately if and to the extent you are no longer permitted to participate in the ZDI. You must not disclose trade secrets or other proprietary or confidential information of an employer or other entity to which you have access to such information.

2. YOUR INFORMATION

2.1 Definition. "Your Information" is defined as any information you provide to us in the registration process or in connection with or relating to your participation in the ZDI as a ZDI Researcher or through any email feature of the Site; *provided that*, "Your Information" shall expressly exclude Vulnerability Information. You are solely responsible for Your Information.

2.2 Representations Regarding Your Information. You represent and warrant that Your Information is true and correct in all respects. If at any time Your Information becomes inaccurate or incorrect in any respect, you will promptly update Your Information through the Site or by contacting 3Com.

2.3 Restricted Activities. Your Information and your activities on the Site shall not: (a) be false, inaccurate or misleading; (b) be fraudulent; (c) infringe any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (d) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, antidiscrimination or false advertising); (e) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (f) be obscene; (g) contain any viruses, Trojan horses, worms, time bombs, cancelbots, easter eggs or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; or (h) create liability for us.

2.4 License. Solely to enable 3Com to use Your Information, so that we are not violating any rights you might have in Your Information, you agree to grant us a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sublicensable (through multiple tiers) right to exercise the copyright, publicity, and database rights (but no other rights) you have in Your Information, in any media now known or not currently known, with respect to Your Information. 3Com will only use Your Information in accordance with our Privacy Policy.

3. VULNERABILITY INFORMATION

3.1 Definition. In connection with your participation in the ZDI, you may submit genuine vulnerability and/or exploit code research data related to information security (any such data, "**Vulnerability Information**") to 3Com for review and potential acquisition. You agree that Vulnerability Information submitted through the Site is, to the best of your knowledge, not in the public domain at the time of submission and that all work and Vulnerability Information submitted to 3Com is proprietary to you and has not been stolen or obtained in any unethical or unlawful manner. You agree to provide Vulnerability Information in good faith and in all cases consistent with the terms of this Researcher Agreement.

3.2 License to Evaluate. In order to enable 3Com to assess and make a 3Com Offer (as defined below) for the Vulnerability Information you submit through the Site, you agree to grant 3Com a non-exclusive, worldwide, royalty-free right to take any actions we deem necessary or appropriate in order to internally evaluate, test and verify the Vulnerability Information. This license shall terminate immediately upon acceptance of a 3Com Offer, final rejection of a 3Com Offer by you or final withdrawal of a 3Com Offer by 3Com.

3.3 Acquisition of Vulnerability Information. After 3Com has received the Vulnerability Information, 3Com may, in its sole and absolute discretion, make an offer (a "**3Com Offer**") to purchase the exclusive rights to the Vulnerability Information from you. 3Com Offers will be made by electronic mail to you and shall include the United States dollar amount (the "**Offer Amount**") 3Com is willing to pay for exclusive right, title and interest to the Vulnerability Information. A 3Com Offer may only be accepted by you in accordance with the instructions contained in the electronic mail relating to such 3Com Offer and/or on the Site. Any time prior to your acceptance of a 3Com Offer, 3Com may withdraw any 3Com Offer by electronic mail. Upon your acceptance of a 3Com Offer, you sell, convey, assign, transfer and deliver to 3Com all of your right, title and interest in and to the Vulnerability Information in exchange for 3Com's agreement to pay the Offer Amount. If you either fail to accept a 3Com Offer in the time period specified in the 3Com Offer or reject a 3Com Offer in accordance with the instructions contained in the 3Com Offer and/or on the Site, or if 3Com withdraws a 3Com Offer prior to your acceptance of that 3Com Offer, then you will retain your right, title and interest in the Vulnerability Information. In such event, 3Com will treat such Vulnerability Information as confidential in accordance with [Section 4.1](#) of this Researcher Agreement.

3.4 Payment to ZDI Researchers. You must follow any existing employers' policies that may relate to payment by 3Com. Following the valid acceptance of a 3Com Offer, you may request payment through the Site or by mail and your compensation will be equal to the amount of the

3Com Offer accepted by you. Note that U.S. persons participating as ZDI Researchers will receive a U.S. I.R.S. Form 1099 from 3Com for any payments as required. If you will receive a Form 1099, then you must send your completed and signed Form W-9 to 3Com by fax at 512-681-8299 or by snail mail to:

Zero Day Initiative
TippingPoint, a Division of 3Com
7501 B North Capital of Texas Hwy.
Austin, Texas 78731

Non-U.S. ZDI Researchers may be asked to confirm such status.

4. CONFIDENTIALITY OF VULNERABILITY INFORMATION

4.1 Evaluated Vulnerability Information. 3Com understands that you will be submitting proprietary Vulnerability Information. In consideration of the parties' discussions and any access 3Com may have to your Vulnerability Information during the evaluation process, 3Com hereby agrees: (i) to hold your Vulnerability Information in confidence and to take all reasonable precautions to protect such Vulnerability Information (including, without limitation, all precautions 3Com employs with respect to its confidential materials), (ii) not to divulge such Vulnerability Information to any third person, and (iii) not to make any use whatsoever at any time of such Vulnerability Information except to the extent contemplated by [Section 3.2](#) above. You agree that the foregoing clauses (i), (ii), and (iii) shall not apply with respect to any Vulnerability Information (A) after one year following the disclosure thereof, or (B) that is or (through no improper action or inaction by 3Com or any affiliate, agent, consultant or employee) becomes generally known to the public, or (C) that was in 3Com's possession or known by 3Com prior to receipt from you, or (D) that was rightfully disclosed to 3Com by a third party, or (E) that was independently developed by 3Com without use of any of your Vulnerability Information, or (F) was or is provided by you to third parties without similar restrictions. Furthermore, 3Com may make disclosures of Vulnerability Information if legally compelled to do so by any court order, governmental investigative body, judicial agency or the like.

4.2 Acquired Vulnerability Information. With respect to any Vulnerability Information that acquired by 3Com in accordance with [Section 3.3](#) of this Researcher Agreement ("**Acquired Vulnerability Information**"), 3Com shall have all right, title and interest in and to such Vulnerability Information, and notwithstanding anything to the contrary contained herein, may exercise full ownership rights in such Acquired Vulnerability Information free and clear of any of the restrictions applicable to Vulnerability Information contained elsewhere in this Researcher Agreement, which provisions shall expressly not apply to 3Com's use of Acquired Vulnerability Information. Following the acquisition of Acquired Vulnerability Information from you, you hereby agree: (i) to hold the Acquired Vulnerability Information in confidence and to take all reasonable precautions to protect such Vulnerability Information (including, without limitation, all precautions you employ with respect to its confidential materials), (ii) not to divulge such Vulnerability Information to any third person, and (iii) not to make any use whatsoever at any time of such Vulnerability Information.

5. ACCESS AND INTERFERENCE

The Site contains robot exclusion headers. You agree that you will not use any robot, spider, scraper or other automated means to access the Site for any purpose without our express written permission. Additionally, you agree that you will not: (i) take any action that imposes, or may impose in our sole discretion an unreasonable or disproportionately large load on our infrastructure; (ii) copy, reproduce, modify, create derivative works from, distribute or publicly display any content (except for Your Information) from the Site without the prior expressed written permission of 3Com and the appropriate third party, as applicable; (iii) interfere or attempt to interfere with the proper working of the Site or any activities conducted on the Site; or (iv) bypass our robot exclusion headers or other measures we may use to prevent or restrict access to the Site.

6. BREACH

Without limiting other remedies, we may limit your activity, issue a warning, temporarily suspend, indefinitely suspend or terminate your membership in ZDI, withhold amounts to which you are otherwise entitled under this Agreement or refuse to provide further access to the Site to you if: (a) you breach this Researcher Agreement or the documents it incorporates by reference; (b) we are unable to verify or authenticate any information you provide to us; or (c) we believe that your actions may cause financial loss or legal liability for you, us or third parties.

7. PRIVACY

We do not sell or rent your personal information to third parties for their marketing purposes without your explicit consent and we only use your information as described in the Privacy Policy. We view protection of ZDI Researchers' privacy as a very important community principle. We understand clearly that you and Your Information is one of our most important assets. We store and process Your Information on computers located in the United States that are protected by physical as well as technological security devices.

8. NO WARRANTY

WE, OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES AND OUR SUPPLIERS PROVIDE OUR WEB SITE AND SERVICES "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. WE, OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES AND OUR SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to you. This warranty gives you specific legal rights and you may also have other legal rights that vary from state to state.

9. LIABILITY LIMIT

IN NO EVENT SHALL WE, OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR OUR SUPPLIERS BE LIABLE FOR LOST PROFITS OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH OUR SITE, YOUR PARTICIPATION IN THE ZDI OR THIS RESEARCHER AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE).

OUR LIABILITY, AND THE LIABILITY OF OUR SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AND SUPPLIERS, TO YOU OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO THE GREATER OF (A) THE DOLLAR AMOUNT WE PAY YOU IN THE 12 MONTHS PRIOR TO THE ACTION GIVING RISE TO LIABILITY, AND (B) \$100. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you.

10. INDEMNITY

You agree to indemnify and hold us and (as applicable) our parent, subsidiaries, affiliates, officers, directors, agents, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your breach of this Researcher Agreement or the documents it incorporates by reference, or your violation of any law or the rights of a third party.

11. LEGAL COMPLIANCE

You shall comply with all applicable domestic and international laws, statutes, ordinances and regulations regarding your use of our Site and your

participation in the ZDI. You further agree to comply fully with applicable export Laws with respect to the export of Vulnerability Information and shall not re-export any Vulnerability Information in violation of such applicable Law.

12. NO AGENCY

You and 3Com (including the ZDI and its representatives) are independent contractors, and no agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Researcher Agreement.

13. NOTICES

Except as explicitly stated otherwise, any notices shall be given by postal mail to 3Com Corporation, Attn: Legal Department, 350 Campus Drive, Marlborough, MA 01752-3064 (in the case of 3Com) or to the email address you provide to 3Com during the registration process (in your case). Notice shall be deemed given 24 hours after email is sent, unless the sending party is notified that the email address is invalid. Alternatively, we may give you notice by certified mail, postage prepaid and return receipt requested, to the address provided to 3Com during the registration process. In such case, notice shall be deemed given 3 days after the date of mailing.

14. RESOLUTION OF DISPUTES

Any claim or controversy at law or equity that arises out of this Researcher Agreement or our Site ("**Claims**") may be adjudicated by a court of competent jurisdiction located in Boston, Massachusetts. You and 3Com agree to submit to the personal jurisdiction of the courts located within the city of Boston, Massachusetts.

15. ADDITIONAL TERMS

The following policies or additional agreements are incorporated into this Agreement by reference and provide additional terms and conditions related to the ZDI:

- Any additional terms or conditions included in a 3Com Offer by 3Com.

16. GENERAL

This Agreement shall be governed in all respects by the laws of the Commonwealth of Massachusetts as such laws are applied to agreements entered into and to be performed entirely within Massachusetts between Massachusetts residents. We do not guarantee continuous, uninterrupted or secure access to our services, and operation of the Site may be interfered with by numerous factors outside of our control. If any provision of this Researcher Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. You agree that this Researcher Agreement and all incorporated agreements may be assigned by 3Com at any time, in our sole discretion. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. This Researcher Agreement and the agreements specifically incorporated by reference herein sets forth the entire understanding and agreement between us with respect to the subject matter hereof. Unless specifically incorporated into this Researcher Agreement, nothing on the Site is part of this Researcher Agreement. Sections 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 shall survive any termination or expiration of this Researcher Agreement.

17. DISCLOSURES

The ZDI Initiative is managed and operated by TippingPoint, a Division of 3Com Corporation, located at 7501B North Capital of Texas Highway, Austin, Texas 78731.

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