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UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, DAMAGES FOR LOSS OF PROFITS, LOSS OF GOODWILL, LOSS OF PERSONNEL SALARIES, WORK STOPPAGE AND/OR COMPUTER FAILURE OR MALFUNCTION AND/OR COSTS OF PROCURING SUBSTITUTE SOFTWARE OR SERVICES.

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a) the amount of total fees paid or payable by you for the Software giving rise to such claim during the 12 months immediately preceding the event giving rise to such claim or
b) the applicable McAfee list price, at the date of the purchase, for the Software giving rise to such claim ordered by you during the 12 months immediately preceding the event giving rise to such claim,
even if the other party has been advised of the possibility of such damages.

No provision of this Agreement shall exclude or limit in any way (i) the liability of either party for death or personal injury caused by negligence or (ii) your liability for excess usage of and/or any breach of McAfee’s intellectual property rights in the Software.

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   b) Remedy and Liability: In the event that the Software is held by a court of competent jurisdiction to constitute an infringement or use of the Software is enjoined, McAfee shall, at its sole discretion, do one of the following: (i) procure for you the right to continue use of the Software, (ii) provide a modification to the Software so that its use becomes non-infringing, (iii) replace the Software with software that is substantially similar in functionality and performance or (iv), if none of the foregoing alternatives is reasonably available to McAfee, McAfee shall refund the residual value of the purchase price paid by you for the infringing Software, depreciated using a straight-line method of depreciation over a three (3) year period from the date of delivery of the Software to you. This Section 7 states McAfee’s sole liability and your exclusive remedy for intellectual property infringement claims.

8) Termination.
   Without prejudice to your payment obligations, you may terminate your licence at any time by uninstalling the Software. McAfee may terminate your licence in the event that you materially breach the terms of this Agreement and you fail to cure such breach within thirty (30) days of receiving notice of such breach. Upon such termination, you shall promptly return or destroy all copies of the Software and Documentation.

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   a) Evaluation Software: If the Software has been identified as “Evaluation Software”, then the provisions of this section apply and shall supersede any other conflicting term of this agreement. Your royalty-free, non-transferable, limited licence to use the Evaluation Software, for evaluation purposes only, is limited to thirty (30) days unless otherwise agreed to in writing by McAfee. The Evaluation Software may contain errors or other problems that could cause system or other failures and data loss. Consequently, Evaluation Software is provided to you “AS IS” and McAfee disclaims any warranty or liability obligations to you of any kind. Any information about the Evaluation Software gathered from its use shall be used solely for evaluation purposes and shall not be provided to any third parties. The restrictions described in Section 3 g) apply. If you fail to destroy the Evaluation Software after the evaluation period has expired, McAfee may, at its discretion, invoice you in an amount equal to the McAfee List Price for the Evaluation Software and you shall pay such invoice upon receipt. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED, BUT MAY BE LIMITED, MCAFEE’S LIABILITY AND THAT OF ITS SUPPLIERS AND AUTHORIZED PARTNERS SHALL BE LIMITED TO THE SUM OF FIFTY (50) DOLLARS OR THE EQUIVALENT IN LOCAL CURRENCY IN TOTAL.
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a) The Software, Support or service subscription may employ applications and tools to collect personally identifiable, sensitive or other information about you and users (e.g., including, without limitation, your and users’ name, address, e-mail address and payment details), their computers, files stored on their computers, or their computers’ interactions with other computers (e.g., including, without limitation, information regarding network, licenses used, hardware type, model, hard disk size, CPU type, disk type, RAM size, 32 or 64 bit architecture, operating system types, versions, locale, BIOS version, BIOS model, total scanners deployed, database size, system telemetry, device ID, IP address, location, content, McAfee products installed, McAfee components, processes and services information, frequency and details of update of McAfee components, information about third party products installed, extracts of logs created by McAfee, usage patterns of McAfee products and specific features, etc.) (collectively, “Data”).

b) The collection of this Data may be necessary to provide you and users with the relevant Software, Support or service subscription functionalities as ordered (e.g., including, without limitation, detecting and reporting threats and vulnerabilities on your and users’ computer network), enable McAfee to improve our Software, Support or service subscription (e.g., including, without limitation, content synchronization, device tracking, troubleshooting, etc.) and to further or improve overall security for you and users. You may be required to uninstall the Software or disable Support or its service subscription to stop further Data collection that supports these functions.

c) By entering into this Agreement, or using the Software, Support or service subscription, you and users agree to the McAfee Privacy Policy on the McAfee web site (www.McAfee.com) and to the collection, processing, copying, backup, storage, transfer and use of this Data by McAfee and its service providers, in, from and to the United States, Europe, or other countries or jurisdictions potentially outside of your or user’s own as part of the Software, Support or service subscription. You are solely responsible for securing any privacy-related rights and permissions from your users as may be required by local law or by your internal policies. McAfee will only collect, process, copy, backup, store, transfer and use personally identifiable information in accordance with the McAfee privacy policy on the McAfee web site (www.McAfee.com).

12) **Audit.**

McAfee may, at its expense, upon reasonable prior written notice to you and during standard business hours, audit you with respect to your compliance with the terms of this Agreement no more than once per year. You understand and acknowledge that McAfee utilizes a number of methods to verify and support software use by its customers. These methods may include technological features of the Software that prevent unauthorized use and provide Software deployment verification. Upon reasonable request, you will provide a system-generated report verifying your Software deployment, such request to occur no more than two (2) times per year. McAfee will not unreasonably interfere with the conduct of your business.

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You acknowledge that the Software is subject to US and, when applicable, European Union export regulations. You shall comply with applicable export and import laws and regulations for the jurisdiction in which the Software will be imported and/or exported. You shall not export the Software to any individual, entity or country prohibited by applicable law or regulation. You are responsible, at your own expense, for any local government permits, licenses or approvals required for importing and/or exporting the Software. For additional information regarding exporting and
importing the Software, see http://mcafee.com/us/about/export_compliance/index.html (then click on US Export Compliance). McAfee reserves the right to update this website from time to time, at its sole discretion.

14) **Governing Law.**
This Agreement will be governed by and construed in accordance with the substantive laws in force: (a) in the State of New York, if you purchased the Software in the United States, Mexico, Central America, South America or the Caribbean, (b) in the Republic of Ireland, if you purchased the Software in Canada, Europe, Middle East, Africa, Asia (other than Japan) or the region commonly referred to as Oceania and (c) in Japan, if you purchased the Software in Japan. If you purchased the Software in any other country, then the substantive laws of the Republic of Ireland shall apply, unless another local law is required to be applied. This Agreement will not be governed by the conflict of laws rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The Uniform Computer Information Transactions Act as enacted shall not apply. The United States District Court for the Southern District of New York, when New York law applies, the courts of the Republic of Ireland, when the law of Ireland applies, the courts of Japan when Japanese law applies, shall each have non-exclusive jurisdiction over all disputes relating to this Agreement.

15) **Confidentiality**
Each Party hereto acknowledges that by reason of its relationship with the other party hereunder, it may have access to confidential information and materials concerning the other party’s business, technology, and/or products that is confidential and of substantial value to the other Party, which value could be impaired if such information were disclosed to third parties (“Confidential Information”). Written or other tangible Confidential Information must at the time of disclosure be identified and labeled as Confidential Information belonging to the disclosing Party. When disclosed orally or visually, Confidential Information must be identified as confidential at the time of the disclosure, with subsequent confirmation in writing within fifteen (15) days after disclosure. Each Party agrees that it will not use in any way for its own account or the account of any third party, such Confidential Information, except as authorized under this Agreement, and will protect Confidential Information at least to the same extent as it protects its own Confidential Information and to the same extent that a reasonable person would protect such Confidential Information. Neither Party may use the other Party’s Confidential Information except to perform its duties under this Agreement. The Confidential Information restrictions will not apply to Confidential Information that is (i) already known to the receiving Party, (ii) becomes publicly available through no wrongful act of the receiving Party, (iii) independently developed by the receiving Party without benefit of the disclosing Party's Confidential Information, (iv) has been rightfully received from a third party not under obligation of confidentiality or (v) is required to be disclosed by law, provided the Party compelled to disclose the Confidential Information provides the Party owning the Confidential Information with prior written notice of disclosure adequate for the owning Party to take reasonable action to prevent such disclosure, where reasonably possible. Unless otherwise agreed to by both Parties, upon termination of this Agreement or an applicable Addendum, each Party will return the other Party’s Confidential Information.

16) **Miscellaneous.**
   a) Except for actions for non-payment or breach of McAfee’s proprietary rights in the Software and Documentation, no action, regardless of form, arising out of this Agreement may be brought by either party more than 2 years after a party knew or should have known of the claim.
   b) Any terms of this Agreement which by their nature should survive the termination of this Agreement shall survive such termination.
   c) This Agreement, including all documents incorporated by reference, represents the entire agreement between the parties and expressly supersedes and cancels any other communication, representation or advertising whether oral or written, on the subjects herein. If you issue an order to an Authorized Partner or to McAfee and the terms and conditions of the order conflict with the terms and conditions of a) this Agreement or b) the Grant Letter, then the terms and conditions specified in this Agreement and in the Grant Letter shall control. This Agreement may not be modified except by a written addendum issued by a duly authorized representative of McAfee. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by McAfee. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect.
   d) All notices, requests, demands and determinations for McAfee under this Agreement (other than routine operational communications) shall be sent to: the applicable entity address on the first page of this Agreement addressed to “Attention: Legal Department”.

*Corporate End User Licence Agreement (Jan 2015)*