

## McAfee Purchase Order Terms and Conditions

### 1. DEFINITIONS

A. "Acceptance" means Supplier's (a) acknowledgment of a Purchase Order, (b) commencement of the Services (c) shipment of Product(s) to be purchased, (d) failure to raise any issues with a Purchase Order within forty-eight (48) hours of receipt, or (e) acceptance of payment from Buyer (in any form) for Product(s) to be purchased, whichever occurs first.

B. "Buyer" means McAfee, LLC or any other McAfee entity identified on the Purchase Order, wherever located.

C. "Buyer Information" means Personal Data, end user data, financial and banking data, Confidential Information, and any other non-public, proprietary information of Buyer that may be provided to or otherwise obtained by Supplier in connection with this Purchase Order.

D. "Personal Data" means any information that can be used, alone or in combination with other data, to identify an individual or is otherwise identified as "Personal Data" under other applicable data protection laws.

E. "Product(s)" mean the goods (including equipment or Software) provided by Supplier to Buyer under the applicable Purchase Order.

F. "Purchase Order" or "PO" means, collectively, these Purchase Order Terms and Conditions, the proposed purchase contract issued by an authorized representative of Buyer and any Statements of Work or addenda executed hereunder, providing for Supplier to ship, provide, or cancel, a specific quantity of Products or perform Services to a specified schedule.

G. "Service(s)" means any work to be performed by Supplier which may include development, training, consulting, support, and/or maintenance.

H. "Software" means the software or firmware, licensed by the Supplier or its authorized partners to Buyer, including, but not limited to, any updates, upgrades, modifications, enhancements, subsequent versions or releases, and software or firmware provided in connection with Products and updates.

I. "Statement of Work" or "SOW" means a written document describing the Services to be performed by Supplier under this Purchase Order as set forth in an addendum or another document(s) executed by the parties describing such Products and referencing this Purchase Order.

J. "Supplier" means the party receiving a Purchase Order from Buyer.

### 2. TERMS

SUPPLIER'S ACCEPTANCE OF THIS PURCHASE ORDER IS LIMITED TO ACCEPTANCE OF THE EXPRESS TERMS CONTAINED IN THIS DOCUMENT AND DOES NOT INCLUDE ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY SUPPLIER OR ANY ATTEMPT BY SUPPLIER TO VARY THE TERMS HEREOF. Unless specifically agreed to in writing by Buyer's authorized purchasing representative, Buyer objects to, and is not bound by, any term or condition in Supplier's quotation, invoice or other Supplier preprinted form that differs from or adds to this Purchase Order. Supplier's commencement of performance, or acceptance of this Purchase Order in any manner, will conclusively evidence acceptance of this Purchase Order as written.

### 3. PRICING AND TAXES

A. The price charged to Buyer for any Product(s) or Service(s) shall always be Supplier's lowest price charged to any customer for any

similar product or equivalent service regardless of any special terms, conditions, rebates, or allowances of any nature. Supplier bears the burden of proof by clear and convincing evidence that products being compared are not "similar" or services being compared is not "equivalent". If Supplier sells or licenses any similar product or equivalent service to any customer at a price less than that set forth within the applicable Statement of Work or another document executed by the parties, Supplier must immediately notify Buyer of this lower price, and Supplier shall adjust its price to the lower price for any un-invoiced Products and for all outstanding and future invoices for such Product or Service, and shall rebate to Buyer an aggregate amount equal to the difference in the price paid by Buyer and the lower price for any invoices already paid by Buyer for such Products or Services. Each of the above adjustments and the rebate shall be calculated from the date Supplier first sells the similar product or equivalent service at the lower price.

B. All prices and fees are exclusive of any applicable taxes, including, but not limited to, sales/use taxes, transaction privilege taxes, gross receipts taxes, and other charges such as duties, customs, tariffs, imposts, and government imposed surcharges now or hereafter imposed on the sale, import or export of the Products or Services ("Transaction Taxes"). Transaction Taxes shall be stated separately on Supplier's invoice. Supplier shall remit all such charges to the appropriate tax authority unless Buyer provides sufficient proof of tax exemption. Buyer shall not be responsible for any Transaction Taxes (or interest or penalty thereon) arising on account of the negligent failure of Supplier to properly invoice, report, or remit any Transaction Taxes. Supplier will timely report and remit Transaction Taxes imposed under this Purchase Order to the appropriate taxing authorities.

Each party is responsible for its own respective income taxes or taxes based upon gross revenues, including, but not limited to, business and occupation taxes.

Notwithstanding anything to the contrary in this Purchase Order, Buyer shall have the right to deduct or withhold any portion of an amount payable under this Purchase Order as required by applicable law ("Withholding Taxes") and will pay to Supplier the remaining net amount after the deduction of Withholding Taxes. In the event Buyer determines that such deduction or withholding is required by applicable law, Buyer shall remit the Withholding Taxes to the applicable taxing authority and provide Supplier with any receipt received by Buyer from the applicable taxing authority or other record evidencing the Withholding Taxes have been remitted to the taxing authority.

C. Supplier and Buyer shall cooperate with each other to enable the other to more accurately determine its own tax liability and to minimize such liability to the extent permitted by applicable law. Supplier shall in a timely manner notify Buyer of any tax proceeding (including an examination, assessment, appeal, or litigation) that could result in additional taxes for Buyer. Buyer shall have a right to participate in any such tax proceeding.

### 4. INVOICING AND PAYMENT

Payment is made when Buyer's check is mailed; credit card number is provided to Supplier or EDI funds transfer initiated. Buyer shall make payment, without offset, within sixty (60) days from submission of Buyer's valid receipt of the proper original invoice or Buyer's receipt of Products, whichever is later. Supplier will not submit an invoice for Products or Services prior to the shipment date of such Products or completion of such invoiced Services. Original invoices or packing lists must be submitted to the Buyers Accounts Payable Department (refer to the mailbox included in the PO comments) and must include to be valid a: Purchase Order number, line item

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number, part number, complete bill to address, description of Products, quantities, unit price and extended totals. All costs forwarded to Buyer for reimbursement of expenses agreed under the terms of this Purchase Order shall be in compliance with Buyer policies, without markup and net of any reclaimable Value Added Taxes ("VAT") incurred on such expenses. Buyer's payment shall not constitute acceptance. Supplier agrees to invoice Buyer no later than one hundred eighty (180) days after shipment of Products or availability of Software for download. Buyer will not be obligated to make payment against any invoices submitted after such period. Buyer reserves the right to request separate billing in certain jurisdictions.

### 5. TERMINATION FOR CONVENIENCE

Buyer may terminate this Purchase Order or any part thereof, at any time for its sole convenience by giving written notice of termination to Supplier. Upon Supplier's receipt of such notice, Supplier shall, unless otherwise specified in such notice, immediately stop all work hereunder and give prompt written notice to and cause all of its suppliers or subcontractors to cease all related work.

### 6. FORCE MAJEURE

Except for McAfee's payment obligations to Supplier, neither party will be liable for any delay in performing, or for failing to perform, its obligations under this Purchase Order due to causes beyond its reasonable control such as acts of God, fire, theft, war, riot or civil disturbances, terrorism, embargoes or acts of civil or military authorities. If delivery is to be delayed by such contingencies, Supplier shall immediately notify Buyer in writing and Buyer may either (i) extend time of performance, or (ii) terminate the uncompleted portion of the Purchase Order at no cost to Buyer.

### 7. DELIVERY AND SCHEDULING

A. Supplier shall notify Buyer in writing within two (2) business days of receipt of a Purchase Order if Supplier is unable to make any scheduled delivery or perform any Services, and shall state the reasons therefore. The absence of such notice constitutes Acceptance of a Purchase Order.

B. Supplier shall deliver Products per the Purchase Order schedule and Buyer may return non-conforming shipments at Supplier's risk and expense. Buyer may reschedule any Purchase Order in whole or in part prior to the date of delivery of Products or commencement of performance of Services at no additional charge. Buyer may place any portion of a Purchase Order on hold by notice that shall take effect immediately upon receipt. Purchase Orders placed on hold will be rescheduled or terminated in accordance with Section 5 within a reasonable time.

### 8. INSPECTION AND WARRANTY

A. Buyer may inspect and test all Product(s) at reasonable times before, during, and after delivery. All Products shall be received subject to Buyer's inspection, testing, and approval at Buyer's premises notwithstanding any inspection or testing at Supplier's premises or any prior payment for such Products. The completion of any inspections, will not constitute or be interpreted as a waiver of any of Buyer's rights or remedies with regard to any subsequently discovered defect or nonconformity with respect to the quality of the Products. Products rejected by Buyer as not conforming to this Purchase Order or Product specifications, whether provided by Buyer or furnished with the Product, may be returned to Supplier at Supplier's risk and expense and, at Buyer's request, shall immediately be repaired or replaced.

B. Supplier makes the following warranties regarding Product(s) furnished hereunder, which warranties shall survive any delivery,

inspection, acceptance, or payment: (i) Product(s) will not infringe any third party's intellectual property rights; (ii) Supplier has the necessary right, title, and interest to provide said Product(s) to Buyer, and the Products will be free of liens and encumbrances; and (iii) all Products shall be new, of the grade and quality specified, free from defects in workmanship and material and conform to all descriptions, and specifications furnished or published by Supplier. If Supplier breaches any of the foregoing warranties, or Products are otherwise defective or non-conforming, after Buyer's acceptance of Products, Supplier shall, at Buyer's option, promptly repair, replace, or refund the amount paid for such Products. Supplier shall bear the cost of shipping and risk of loss of all defective or non-conforming Products while in transit.

### 9. TITLE AND RISK OF LOSS

All Products shall be prepared for shipment in a manner that: (i) follows good commercial practice; (ii) is acceptable to common carriers for shipment at the lowest rate; and (iii) is adequate to ensure safe arrival. Supplier shall mark all containers with necessary lifting, handling and shipping information, Purchase Order number, date of shipment, and the names of Buyer and Supplier. Title and risk of loss shall pass to Buyer or Buyer's agent(s) upon delivery of Products to Buyer's dock.

### 10. OWNERSHIP/BAILMENT RESPONSIBILITIES

Any specifications, drawings, schematics, technical information, data, tools, dies, patterns, masks, gauges, test equipment, and other materials furnished or paid for by Buyer ("Buyer's Pre-Existing Material") shall: (i) be kept confidential; (ii) remain or become Buyer's property; (iii) be used by Supplier exclusively for Buyer's orders; (iv) be clearly marked as Buyer's property and segregated when not in use; (v) be kept in good working condition at Supplier's expense; and (vi) be shipped to Buyer promptly on demand or upon termination, whichever occurs first.

### 11. CONFIDENTIALITY AND PUBLICITY

During the course of performance under this Purchase Order, either party may have or may be provided access to the other's confidential or proprietary information and materials ("Confidential Information"). Provided such are marked in a manner reasonably intended to make the recipient aware, or the recipient is sent written notice within forty-eight (48) hours of disclosure, that the information or materials are "Confidential", each party agrees to maintain such information in accordance with the terms of this Purchase Order and any applicable separate confidentiality agreement between Buyer and Supplier. In the absence of a confidentiality or other written agreement, at a minimum each party agrees to maintain such information in confidence and limit disclosure on a need to know basis, to take all reasonable precautions to prevent unauthorized disclosure, and to treat such information as it treats its own information of a similar nature, until the information becomes rightfully available to the public through no fault of the non-disclosing party.

The provisions of this Section 11 will not apply to information: (i) generally available to, or known by, the public prior to the time of disclosure by the disclosing party; (ii) that becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) which can be documented as previously known by the receiving party prior to disclosure thereof by the disclosing party; (iv) disclosed to the receiving party by a third party having no confidentiality obligations with respect to such information; (v) required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure; (vi) is independently developed by the receiving party without breach of any confidentiality obligations; or (vii) to the extent the receiving party has

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obtained written consent of the disclosing party, but only to the extent expressly authorized in such written consent.

The parties agree that neither will disclose the existence of this Purchase Order, nor any of its details or the existence of the relationship created by this Purchase Order, to any third party without the specific, written consent of the other. Neither party may use the other party's name or trademarks in any type of advertisement materials, web sites, press releases, interviews, articles, brochures, business cards, project reference or client listings without the other's written consent. Written consent by Buyer is only valid if authorized by the Buyer's Public Relations Department and such usage shall be pursuant only to the trademark and usage guidelines available at: <https://www.mcafee.com/us/about/legal/trademark-policy-and-guidelines.aspx>.

### 12. INTELLECTUAL PROPERTY ("IP") INDEMNIFICATION

Supplier shall defend, indemnify, and hold Buyer, its subsidiaries, agents, directors, officers, employees, consultants and subcontractors ("Buyer Indemnified Parties") harmless from any costs, expenses (including reasonable attorneys' fees), losses, damages, or liabilities incurred as a result of actual or alleged third party infringement of any patent, copyright, trade secret, trademark, mask work, or other intellectual property right arising out of the use of Product(s) or Services. Buyer shall promptly notify Supplier of any such claim or demand. If an injunction issues as a result of any claim or action, Supplier agrees at its expense and Buyer's option to either: (i) procure for Buyer the right to continue using Products or Services; (ii) replace them with non-infringing Products or Services; (iii) modify them so they become non-infringing; or (iv) refund to Buyer the amount paid for any infringing Products or Services.

### 13. LIMITATION OF LIABILITY

Under no circumstances is Buyer liable for any indirect, special, incidental, punitive or consequential damages, or damages for loss of profits, loss of goodwill, or loss of personnel salaries in connection with this Agreement. Buyer's liability for direct damages shall be limited to the fees paid for the Product or Service giving rise to the claim under the applicable Purchase Order.

### 14. HAZARDOUS MATERIALS

If Products or any Services provided hereunder include hazardous materials, Supplier represents and warrants that Supplier and its personnel providing Services to Buyer understand the nature of and hazards associated with the design and/or service of Products including handling, transportation, and use of such hazardous materials, as applicable to Supplier. Prior to causing hazardous materials to be on Buyer's property, Supplier shall obtain written approval from Buyer's Facility Management (email approval will suffice). Supplier will be responsible for, and indemnify Buyer from, any liability resulting from the actions of Supplier or its contractors in connection with: (i) providing such hazardous materials to Buyer; and/or (ii) the use of such hazardous materials in providing Services to Buyer. Supplier will timely provide Buyer with material safety data sheets and any other documentation reasonably necessary to enable Buyer to comply with applicable laws and regulations.

### 15. CUSTOMS CLEARANCE

Upon Buyer's request, Supplier will promptly (at Supplier's sole cost) provide Buyer with a statement of origin for all Products and with applicable customs documentation for Products wholly or partially manufactured outside of the country of import.

### 16. COMPLIANCE WITH LAWS

Supplier represents and warrants that it shall comply with all national,

state, provincial and local laws and regulations governing the manufacture, transportation, import, export, and/or sale of Products and/or the performance of Services in the course of this Purchase Order. Neither Supplier nor any of its subsidiaries will export/re-export any technical data, process, product, or service, directly or indirectly (including the release of controlled technology to foreign nationals from controlled countries), to any country for which the United States government or any agency thereof requires an export license or other government approval without first obtaining such license. Supplier must comply with all employment and labor laws when providing Services or manufacturing Products. Supplier shall comply with all applicable laws regarding non-discrimination in terms and conditions of employment, payment of minimum wage and legally mandated employee benefits and compliance with mandated work hours. Supplier shall comply with all applicable laws regarding employment of underage or child labor and shall not employ children under the age of 16. Supplier represents and agrees that it is in compliance with Executive Order 11246 (non-segregated facilities), Executive Order 11375 (equal opportunity) and fulfilling all other Equal Opportunity regulations to include; the Vietnam Era Veterans' Readjustment Assistance Act as amended by the Veterans Employment Opportunities Act of 1998 (to include Vietnam-era Veterans and other Veterans who served on active duty during a war or campaign or expedition for which a campaign badge has been authorized), and the Immigration Act of 1987, unless exempted or inapplicable. Supplier shall abide by the requirements of 41 C.F.R. §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. These Purchase Order Terms and Conditions are subject to the requirements of 41 C.F.R. 60-1.4(a), 41 C.F.R. 60-250.5(a), 41 C.F.R. 60-300.5(a), 41 C.F.R. 60-741.4, et seq., and 29 C.F.R. part 470, which are incorporated into this Purchase Order by reference, if applicable.

For Services provided in the U.S., Supplier agrees not to provide foreign nationals (non-U.S. citizens or U.S. permanent residents) as employees or contingent workers for work on any Buyer site unless that foreign national is covered under a valid U.S. Export License or is not exposed to controlled technology. Additionally, for Services performed outside of the U.S., Supplier agrees not to provide foreign nationals as employees or contractors for work on any Buyer site unless the foreign national (i) is a citizen or permanent resident of the country of that Buyer site, or (ii) is covered under a valid U.S. Export Authorization, or (iii) is not exposed to controlled technology, or (iv) does not require a valid U.S. Export License. Refer to <http://www.bis.doc.gov/licensing/exportingbasics.htm> for further information. It is a requirement of this Purchase Order that Supplier shall be responsible for obtaining all such approvals, authorizations, permits and licenses and shall indemnify and hold Buyer harmless from any failure to comply with such requirement.

### 17. PRIVACY

A. Supplier warrants that it shall only use Personal Data collected hereunder to the extent required to perform its obligations. Supplier may not, under any circumstances, sell, trade or rent all or any portion of the Personal Data collected in connection with this Purchase Order. Supplier will not provide third parties (including, without limitation, Supplier's subcontractors) with access to Personal Data for any purpose without Buyer's prior written consent. Supplier shall comply with all laws, regulations, orders or directives designed to protect Personal Data. In the event Supplier is authorized by Buyer to allow access to any Personal Data to any subcontractor of Supplier, such



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subcontractor shall agree to protect and process Personal Data under terms no less privacy protective than those contained in this Purchase Order. Furthermore, Buyer reserves the right, at its sole option, to enter into additional confidentiality agreements directly with such subcontractors in order to ensure adequate protection of Personal Data or comply with any applicable law.

B. This Purchase Order does not authorize the transfer or processing of any Personal Data of individuals residing in the European Economic Area or Switzerland without the execution of the Privacy Exhibit set forth at <https://www.mcafee.com/enterprise/en-us/assets/legal/mcafee-gdpf-exhibit.pdf> ("Privacy Exhibit"), as amended from time to time. Supplier must execute the Privacy Exhibit and provide such executed Privacy Exhibit to Buyer prior to processing or transferring Personal Data under these PO Terms and Conditions. Supplier shall strictly limit the disclosure of Personal Data to only those Supplier employees who need to know and only to the extent necessary for the performance of its obligations under this Purchase Order. Supplier shall ensure that its employees processing Personal Data have received timely and appropriate privacy training, and are bound by confidentiality obligations not less restrictive than those contained in this Purchase Order.

C. Supplier shall maintain appropriate administrative, technical and organizational controls to safeguard Personal Data against loss, destruction, improper use or unauthorized access. Should any Personal Data become subject to such destruction, use or access, Supplier will promptly notify Buyer. Buyer may conduct an audit of Supplier's controls referenced in this paragraph as required to safeguard the Personal Data.

D. Supplier shall permanently delete all Personal Data upon Buyer's request or, in the absence of such a request, within thirty (30) days after the Personal Data is no longer being actively used in fulfilling Supplier's obligations to Buyer under this Purchase Order.

### 18. SECURITY

A. Supplier shall maintain commercially reasonable security measures in substantial compliance with industry standards and best practices applicable to organizations which sell products and perform services similar to those provided by Supplier to Buyer under this Purchase Order, including organizational, technical, and administrative safeguards to protect Buyer Information in the possession, custody, or control of Supplier.

Supplier shall protect Buyer Information in accordance with the security and privacy terms contained in the Supplier Security Requirements and Expectations, as set forth at <https://www.mcafee.com/hk/resources/misc/ms-supplier-security-requirements.pdf>. Supplier shall use the same degree or greater care to prevent unauthorized use, dissemination, or disclosure of Buyer Information as it uses to protect Supplier's own information of a similar nature.

B. Audit. Supplier shall periodically (at least annually) conduct an audit of the security of Buyer Information in its possession, custody, or control to verify reasonable and appropriate security measures are in place and Supplier is in compliance with this Purchase Order. Supplier shall make the results of any such audit available to Buyer upon request.

### 19. ELECTRONIC TRANSACTIONS

A. The parties agree to accept electronic records and electronic signatures relating to transactions contemplated by this Purchase Order.

B. In connection with system-to-system implementations:

(i) The parties will implement the particular transaction sets and/or message specifications mutually agreed upon by the parties. Each party's implementation will comply with applicable standards except as otherwise mutually agreed.

(ii) Where applicable standards require that the receiving party issue a notice to the other confirming message receipt, such notice will not constitute a binding acceptance or acknowledgement of anything more than mere receipt. In the event that any element of an applicable standard conflicts with a provision of this Purchase Order, the provision of this Purchase Order will control.

(iii) If a party has adopted an electronic identifier (e.g., a digital signature), the other party is entitled to rely on the authenticity of messages signed by or otherwise associated with such electronic identifier unless and until notified otherwise by the adopter.

C. Either party may use a third-party service provider in connection with e-business activities (e.g., to route or translate EDI or XML messages, or to host web based services). The party contracting with a service provider must require that such service provider (a) use information disclosed to or learned by such service provider in connection with providing services solely for the purpose of providing the applicable services, and (b) not disclose such information to any third party. Either party may begin to use or may change a service provider upon reasonable prior written notice. Each party will be liable for the acts or omissions of its service provider in connection with activities contemplated by this Purchase Order.

### 20. DISPUTE RESOLUTION

Any dispute arising directly under the express terms of this Purchase Order or the grounds for termination of any rights granted under this Purchase Order shall be resolved as follows: First, within thirty (30) calendar days from one party's written request to the other, senior executives of both parties shall meet to attempt to resolve such dispute. If the senior executives cannot resolve the dispute within thirty (30) calendar days of the dispute notice, either party may deliver to the other party a demand for mediation. The parties agree to try to resolve the dispute with an impartial mediator selected by mutual agreement. If the parties have not resolved the dispute or claim within sixty (60) calendar days after the mediation demand, either party may begin litigation.

### 21. GENERAL

A. No waiver of any breach hereof or delay in enforcing this Purchase Order shall be held to be a waiver of any other or subsequent breach. If any provision of this Purchase Order is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination shall modify this Purchase Order to the minimum extent necessary to be valid and enforceable, or if it cannot be made valid and enforceable, the court will sever and delete the provision. Such a determination will not affect the validity of the remaining provisions. Buyer's rights and remedies herein are in addition to any other rights and remedies provided by law or in equity.

B. Buyer may assign or delegate its rights and/or obligations, or any part thereof under this Purchase Order to any or all of its subsidiaries. Supplier may not assign or delegate its rights and obligations under this Purchase Order without the prior written consent of Buyer. For purposes of this Section, the acquisition, merger, consolidation, or change in control of Supplier or any assignment by operation of law shall be deemed an assignment that requires Buyer's written consent. Buyer may terminate this Purchase Order for cause should Supplier attempt to make an unauthorized assignment of any right or obligation arising hereunder.

### C. EICC/FCPA/ETHICS

Supplier agrees to fully comply with the McAfee Supplier Ethics Expectations set forth at <https://www.mcafee.com/us/partners/mcafee->

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[supplier-ethics.aspx](#), and the Electronic Industry Citizenship Coalition Code of Conduct set forth at [http://www.eicc.info/eicc\\_code.shtml](http://www.eicc.info/eicc_code.shtml). Additionally, Supplier agrees to abide by all Buyer's rules and regulations while on Buyer's premises or performing Services including, but not limited to, safety, health and hazardous material management rules, and rules prohibiting misconduct on Buyer's premises including, but not limited to, use of physical aggression against persons or property, harassment, and theft. Supplier will perform only those Services identified in a Statement of Work and will work only in areas designated for such Services. Supplier shall take all reasonable precautions to ensure safe working procedures and conditions for performance on Buyer's premises and shall keep Buyer's site neat and free from debris. Supplier agrees not take any actions whatsoever to wrongfully influence any decisions in its or Buyer's favor, either directly or indirectly. Supplier further agrees to comply with all applicable anti-bribery and anti-corruption laws, including, but not limited to, the United States Foreign Corrupt Practices Act ("FCPA"), which specifically prohibits the offering, paying, or promising to pay anything of value, directly or indirectly, to a US government official (which includes officers of a government, persons officially acting on behalf of a government, employees of a government corporation, officials of a political party; and candidates for political office) for the purpose of (1) improperly influencing an act or decision of the government official in his or her official capacity, (2) inducing the government official to do or omit to do any act in violation of the lawful duty of such official, (3) securing an improper advantage, or (4) improperly inducing the government official to use his influence to affect or influence any act or decision of a government or instrumentality, in order to affect or influence any act or decision of a government or instrumentality, in order to assist Buyer or any of its subsidiaries or affiliates in obtaining or retaining business.

Supplier represents that, unless disclosed to Buyer in a separate written statement, none of its employees, directors, officers or principals is a government official with jurisdiction or influence over the this Purchase Order or the respective, applicable businesses of Buyer and Supplier. Supplier must notify Buyer in writing within five (5) business days if at any time during the term of this Purchase Order any of its employees, directors, officers or principals is named, appointed, or otherwise becomes a Government Official with jurisdiction or influence over the Included Scope.

The parties acknowledge and agree that in the event that Buyer believes, in good faith, that Supplier has breached this section, Buyer shall have the right to immediately terminate any or all agreements between Buyer and Supplier.

### D. APPLICABLE LAW

The validity, performance and interpretation of this Purchase Order will be governed by and construed in accordance with the laws of the State of New York, without reference to conflict of laws principles. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Purchase Order.

### E. INSURANCE

Without limiting or qualifying Supplier's liabilities, obligations, or indemnities otherwise assumed by Supplier pursuant to this Purchase Order, Supplier shall maintain, at its sole cost and expense, with companies of an AM BEST rating A-VIII, (i) commercial general liability insurance covering all operations of the Supplier, including, but not limited to, products/completed operations and blanket contractual liability specifically covering the indemnification provisions herein, against claims for personal and bodily injury and property damage with a combined single limit of U.S. \$2,000,000; (ii) Automobile liability insurance covering bodily injury and property damage liability arising out of the use by or on behalf of the Supplier, its agents and employees of any owned, non-owned or

hired automobile with combined single limits not less than U.S. \$1,000,000; (iii) employee theft policy covering loss of money, securities and other property for which Supplier is legally liable or which is held by Supplier in any capacity, whether or not Supplier is liable, caused by theft of an employee acting alone or collusion with others subject to a minimum limitation of U.S. \$1,000,000; and (iv) Property insurance covering all real and personal property and inventory, including Supplier products, for "all risks" of physical loss or damage, including business interruption and boiler and machinery breakdown, subject to a minimum limitation of U.S. \$1,000,000. Supplier's insurance shall be primary, and any applicable insurance maintained by Buyer shall be excess and non-contributing. The above coverage shall name Buyer as an additional insured. Supplier shall also maintain statutory workers' compensation coverage and employers' liability insurance in the amount of \$1,000,000.00 per occurrence. Such insurance shall include an insurer's waiver of subrogation in favor of Buyer. If Supplier is providing any professional service to Buyer, Supplier shall maintain professional liability insurance (including errors and omissions coverage) with liability limits not less than \$1,000,000. Supplier shall also provide written notice to Buyer of any cancellation, termination or material change to the insurance required herein along with a copy of any cancellation or termination notice received from its' insurer(s), no later than fifteen (15) business days upon first becoming aware of any such cancellation, termination or material change. Supplier will not permit any such insurance policy to lapse. If Supplier cancels such insurance policy, it will provide thirty (30) days' notice to Supplier prior to canceling such insurance policy and will promptly replace such insurance policy in accordance with this Section, without lapse in coverage.

### F. LANGUAGE

In the case of any doubt or controversy arising out of, or in connection with the interpretation of any of the terms and conditions of this agreement, the English version shall prevail at all times.

### G. ORDER OF PRECEDENCE

IF THERE IS ANY CONFLICT OR INCONSISTENCY BETWEEN THESE PURCHASE ORDER TERMS AND CONDITIONS AND ANY OTHER DOCUMENT, THE FOLLOWING ORDER OF PRECEDENCE WILL APPLY:

- I. THESE PURCHASE ORDER TERMS AND CONDITIONS;
- II. ANY STATEMENT OF WORK DULY EXECUTED BY BOTH PARTIES; OR
- III. ANY FULLY EXECUTED ADDENDA TO THE PURCHASE ORDER.

### H. SURVIVAL

The following Sections shall survive the termination or expiration of this Purchase Terms and Conditions by either party for any reason: 1, 3-6, 8-15, 17-18, 20-21, 23, and 27- 30. In addition, any right or legal obligation of a party that by its express term or nature would reasonably extend beyond the term of this Purchase Order shall survive for such extended period.

### I. NOTICES

All notices and consents required or permitted to be given under this Purchase Order shall be in writing and sent to recipient's address specified in the Purchase Order. Any notice shall be treated as having been delivered: (i) when received if delivered by hand; (ii) the next business day after being sent by pre-paid, nationally-recognized, overnight air courier with tracking capabilities; or (iii) five (5) business days after posting if sent by registered first class mail, return receipt required, postage prepaid.

### J. ENTIRE AGREEMENT

This Purchase Order and any amendments to those documents shall

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constitute the entire agreement between the parties with respect to the subject matter herein and shall replace all prior promises or understandings, written or oral. These Purchase Order Terms and Conditions may not be amended except by a written document signed by both parties.

### K. NO GUARANTEE

**Buyer appoints Supplier to provide the Products and Services on a non-exclusive basis and nothing contained in this Purchase Order shall or shall be deemed or interpreted as guaranteeing a certain volume of purchasing by the Buyer from the Supplier. Furthermore, the Buyer reserves the right to purchase the products from third parties that supply similar Products without notice or liability to the Supplier.**

### L. TUPE

The parties agree that the Acquired Rights Directive 98/50/EC (TUPE) shall not apply to this Purchase Order. In the unlikely event that TUPE is deemed to apply, Supplier shall be responsible for the transfer of personnel falling within the application of TUPE, and Supplier shall be responsible for the costs of the parties for the application of TUPE. Supplier shall further keep McAfee indemnified in full in respect of any and all liabilities, loss, damage, cost or expense sustained by McAfee as a result of the application of TUPE under this Purchase Order.

**If this Purchase Order is for Services, the following additional terms and conditions also apply:**

### 22. SOLE COMPENSATION

Supplier acknowledges and agrees that Supplier's sole compensation is as set forth in this Purchase Order and that neither Supplier nor Supplier's employees are entitled to participate in any of Buyer's benefit plans, including, but not limited to, stock option plans, stock participation plans, profit sharing, retirement or pension plan contributions or savings or medical plans.

### 23. GENERAL INDEMNITY

Supplier shall, to the fullest extent permitted by law, protect, defend, indemnify, and hold Buyer Indemnified Parties harmless from and against any and all claims, liabilities, demands, penalties, forfeitures, suits, judgments, and the associated costs and expenses (including attorney's fees), which Buyer may hereafter incur, become responsible for, or pay out as a result of: violations by Supplier of applicable laws including those specifically referenced in this Purchase Order, death or personal injury (including bodily injury) to any person, destruction or damage to any property, contamination of or adverse effects on the environment, and any cleanup costs in connection therewith, caused in whole or in part by any negligent or willful acts, errors, or omissions by Supplier, its employees, officers, agents, representatives, or subcontractors while performing Services under this Purchase Order on the premises of Buyer. The foregoing indemnity shall include any claim made or threatened, whether by legal proceedings or otherwise, against Buyer by a third party on the grounds that any person supplied or engaged by Supplier is or was deemed to be an employee of Buyer. Supplier further agrees that if Buyer is required by law or otherwise to include Supplier or any Supplier's employees in any of Buyer's benefit plans or provide severance benefits under law, Supplier shall reimburse Buyer for the actual amount required to be paid, or the fair market value of any benefit received by Supplier or Supplier's employees arising from work performed under this Purchase Order.

### 24. COMPLIANCE WITH GLOBAL EXTERNAL WORKER POLICY

Suppliers who provide Services to Buyer and who assign their employees or contractors to Buyer's premises to provide Services are responsible for complying with Buyer's global external workforce

policy available at <https://www.mcafee.com/us/partners/mcafee-supplier-portal.aspx>. This includes, but is not limited to, adhering to requirements for site and network access and complying with all relevant restrictions including waiting periods to satisfy workforce stabilization guidelines and adherence to applicable tenure restrictions for staff augmentation workers.

### 25. SUPPLIER COMPLIANCE

Supplier is responsible for ensuring that Supplier and all of its employees and subcontractors comply with all Buyer access and security requirements, including, but not limited to, cooperation with access paperwork, relevant vetting requirements, and completion of any required orientation required by Buyer. Buyer is committed to fulfilling its legal and ethical responsibility to maintain a safe and efficient working environment on Buyer premises. Supplier shall actively support Buyer's objective to provide a "drug free" environment for Buyer's employees, suppliers, and contractors.

### 26. INDEPENDENT CONTRACTOR

In performing Services under this Purchase Order, Supplier is an independent contractor and its personnel and other representatives shall not act as nor be agents or employees of Buyer. This Purchase Order is not intended to create a relationship such as a partnership, franchise, joint venture, agency or employment between the parties. Neither party may act in a manner which expresses or implies a relationship other than that of independent contractor, nor bind the other party.

### 27. IP OWNERSHIP

Supplier represents and warrants that Supplier has no outstanding agreement or obligation that is in conflict with any of the provisions of this Purchase Order, or that would adversely affect Supplier's performance hereunder and Supplier agrees that Supplier shall not enter into any such conflicting agreement during the term of this Purchase Order.

### 28. SERVICES WARRANTY

The Services shall be provided in a good workmanlike and competent manner in accordance with the highest professional standards in Supplier's trade or industry, and shall meet the descriptions, specifications, and the performance standards stated in Statement of Work. Supplier shall guarantee workmanship for twelve (12) months after Services are provided. If Supplier breaches any the foregoing warranty, Supplier shall, at Buyer's option, promptly re-perform the Services, or refund the amount paid for such defective Services.

**If this Purchase Order is for Software, the following additional terms and conditions also apply:**

### 29. LICENSE GRANT

Supplier grants to Buyer a non-exclusive, perpetual, royalty-free, and worldwide license, to use, copy, and distribute internally all associated documentation and technical materials listed on an applicable order form or other type of documentation for Buyer's internal purposes only, including the right to (i) use copies of the Software for internal training, (ii) permit Buyer's subcontractors to exercise Buyer's rights under this Purchase Order solely in performance of work for Buyer; and (iii) make archival copies pursuant to Buyer's standard backup and archival policies and procedures. This license supersedes any and all "click-to-accept" or shrink-wrapped licenses, in hard-copy or electronic form, embedded in or included with the Software. Supplier shall provide Buyer with the latest releases, updates, and upgrades made to each Software program licensed hereunder as soon as they are made available to Supplier's other customers, provided Buyer is receiving support and maintenance from Supplier. Title to and ownership of the Software shall at all times remain with Supplier. Buyer will include on any authorized copies the copyright notices or

## McAfee Purchase Order Terms and Conditions

proprietary legends contained within the Software or on the associated documentation.

published specifications or as otherwise expressly agreed in writing;

Buyer shall own all right, title, and interest in such modifications, enhancements, or derivatives made to the Software by Buyer or by Supplier at Buyer's request, subject to Supplier's underlying intellectual property rights and the licenses granted hereunder. Supplier shall not use or incorporate Buyer's modifications, enhancements, or derivatives into Supplier's Software without the express written permission of Buyer.

B. The Software and any updates provided by Supplier contain no disabling code and is free from any viruses, Trojan horses, trap doors, time bombs or other malware at the time of delivery to Buyer;

C. Supplier has legal title and rights of ownership of the Software and supplemental documentation; and

D. Supplier has all necessary rights, title and interest to grant the rights set forth herein to Buyer, free of any claims, liens or conflicting rights in favor of any third party.

### 30. SOFTWARE WARRANTIES

In addition to the warranties set forth in Section 8(B) herein, Supplier makes the following representations and warranties to Buyer regarding the Software:

A. The Software is free from any significant programming errors and defects in workmanship and materials, and substantially complies with functionality and performance set forth in Supplier's

### 31. SOFTWARE SUPPORT AND MAINTENANCE

Supplier shall provide Buyer with any maintenance services, installation assistance, customized support, consulting or similar assistance that Supplier provides to Buyer related to the Software or to facilitate Buyer's productive use of the Software.

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