

McAfee Professional Service Terms

1. Agreement Structure These Professional Service Terms (“**Terms**”) apply to the services provided by McAfee, including, without limitation, such services performed in relation to McAfee branded products, (“**Services**”). The Services may be set forth in (i) a Statement of Work executed by McAfee and Customer (“**SOW**”) or (ii) other Customer ordering documentation e.g. a purchase order (“**Customer Order**”) applicable to the relevant Services, and as required by McAfee from time to time. For the avoidance of doubt, these Terms do not apply to technical maintenance and support services for McAfee products.

2. Price, Payment and Performance. Service fees are specified in the SOW or the Customer Order. Any completion times in the SOW or the Customer Order are only estimates for Customer’s and McAfee’s resource scheduling. Customer will pay all invoices within thirty (30) days of the invoice date without any right to offset, counterclaim, holdback or deduction. In the event of a delay in payment, McAfee reserves the right to charge interest on the unpaid amounts calculated as the lesser of (i) 1.5% per month or (ii) the highest rate allowed by relevant law, accrued and compounded from the date due until payment is received by McAfee. The parties agree that McAfee’s acknowledgement of receipt of the Customer Order shall constitute McAfee’s acceptance of such order. Unless otherwise agreed in writing between the parties, Customer will schedule Services to be performed within one (1) year of the date of the relevant SOW or Customer Order. McAfee may use sub-contractors to perform its contractual obligations under this Agreement, SOW or Customer Order. In the event McAfee uses subcontractors, McAfee shall be fully responsible for supervising and directing the sub-contractor’s performance.

3. Taxes. Customer shall pay all sales and other taxes applicable under local jurisdiction, however designated, which are levied or imposed in connection with the Services, excluding taxes based on McAfee’s net income.

4. Access. Customer shall provide McAfee with sufficient, free, safe and timely access to Customer’s facilities, computer systems and networks to enable performance of the Services.

5. Proprietary Rights. McAfee acknowledges Customer’s and its licensors’ proprietary rights in preexisting works of authorship provided by Customer to McAfee pursuant to this Agreement (“**Customer IP**”). Customer hereby grants to McAfee a fully paid-up, non-exclusive, non-assignable, non-transferable, non-sublicensable license, during McAfee’s provision of the Services and the term of a SOW, to use, reproduce, and distribute to McAfee’s subcontractors and agents the Customer IP to the extent necessary to perform the Services and provide the Deliverables as stated in the Agreement. Unless the SOW expressly states otherwise, McAfee owns all patents, copyrights, trademarks, or trade secrets, or any underlying intellectual property rights, including but not limited to materials, work product, know-how, methodologies, processes, techniques, tools, forms, templates, software information, reports, findings discoveries, inventions, designs, copyrightable works, trademarks, trade secrets, formulas, processes, and ideas

which are (i) owned or licensed by McAfee or its third party licensors prior to performing the Services; (ii) developed, acquired, conceived, or reduced to practice by McAfee or its agents, during the provision of the Services including without limitation the Deliverables, and (iii) modifications, enhancements and derivative works of the foregoing (“**McAfee Materials**”), and any McAfee Materials that McAfee has embedded or incorporated into a Deliverable. The Agreement does not apply to and Services will not be interpreted as ‘work for hire’. Notwithstanding McAfee’s ownership of the items set forth above, subject to the terms of the Agreement and the payment of applicable fees stated in the SOW or Customer Order, McAfee hereby grants to Customer a fully paid-up, limited, non-exclusive, non-assignable, non-transferable, non-sublicensable, perpetual license to use and reproduce, for Customer’s own internal business operations, the Deliverables, under McAfee’s copyrights, trade secrets and Licensed Patent Claims in the form originally furnished by McAfee to Customer. For the purpose of this section, “**Licensed Patent Claims**” means those claims of patents that McAfee owns or has the right to license. No rights or licenses are granted by McAfee under this Agreement, expressly, by implication, inducement, estoppel or otherwise with respect to any proprietary information or patent, copyright, trade secret, mask works or other intellectual property right owned or controlled by McAfee, except as expressly provided in this Agreement. Any further license under such intellectual property rights must be express and in writing signed by an authorized officer of McAfee.

6. Indemnity. McAfee will indemnify, and, at its election, defend, Customer against claims asserted against Customer in a suit or action if: (i) the claim is for direct patent infringement or direct copyright infringement, or for McAfee’s trade secret misappropriation and (ii) the claim is (a) asserted against the Services or McAfee Materials alone and not in combination with anything or (b) a combination of the Services or McAfee Materials. Notwithstanding anything else in the Agreement, McAfee will not indemnify or defend Customer for claims asserted in whole or part, against: (x) technology or designs Customer gave to McAfee, (y) modification or programming to the Services, Deliverables, or McAfee Materials by anyone other than McAfee, or (z) the Services, Deliverables or McAfee Materials alleged implementation of some or all of a Standard. McAfee’s obligations under this Section 6 are conditioned on Customer’s prompt written notice to McAfee of a claim, Customer’s agreement to give McAfee sole control over the defense and settlement of the claim, and Customer’s full and timely cooperation including providing McAfee with all reasonably requested authority, information and assistance. McAfee will not be responsible for any costs, expenses or compromise incurred or made by Customer without McAfee’s prior written consent. McAfee may, in its sole discretion and at its own expense: (i) procure for Customer the right to continue using the affected Services or McAfee Materials; (ii) replace the affected Services or McAfee Materials with a non-infringing Services or McAfee Materials; (iii) modify the affected Services or McAfee Materials so that it becomes non-infringing; or (iv) terminate the provision of the Services; and, if the fees are paid prior to the performance of the

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Services, McAfee shall refund the residual value of the fees paid by Customer for the affected Services, depreciated using a straight line method of depreciation over a three (3) year period from the date of performance of the Services. The foregoing indemnity is personal to Customer. Customer may not assign, transfer or pass through this indemnity to Customer's customers. The foregoing states McAfee's entire obligation and Customer's exclusive remedy for claims of patent or copyright infringement, or trade secret misappropriation, by the Services or the McAfee Materials. For the purpose of this Section 6, "**Standard**" means a technology specification created by a government sponsored group, an industry sponsored group, or any similar group or entity that creates technology specifications to be used by others. Examples of Standards include GSM, LTE, 5G, Wi-Fi, CDMA, MPEG, and HTML. Examples of groups that create Standards include IEEE, ITU, 3GPP, and ETSI.

7. Non-Disclosure. "Confidential Information" shall mean all information (i) that is designated as "confidential" or by similar words at the time of disclosure and if oral or visual is confirmed as confidential by the disclosing party in writing within fifteen (15) days of disclosure, or (ii) which the receiving party should reasonably have considered to be confidential under the circumstances surrounding disclosure. Each party agrees it will not disclose any such Confidential Information to any third party for a period of five (5) years following the date of disclosure. Each party will take reasonable precautions to prevent disclosure to any third party, at least as great as the precautions it takes to protect its own confidential information. Confidential Information will not include any information that (i) was previously known to the receiving party, (ii) is received from a third party without similar restriction, (iii) is or becomes publicly available other than through unauthorized disclosure, (iv) is independently developed by the receiving party without the use of Confidential Information, (v) is in writing approved for release, or (vi) is required to be disclosed pursuant to any court order provided that the receiving party has informed the disclosing party of such request in a timely manner. Either party may disclose Confidential Information to auditors and McAfee to its affiliates and subsidiaries under an obligation of confidentiality no less stringent. McAfee may share Confidential Information with its subcontractors involved in the delivery of the Services provided (i) it is strictly on a need to know basis and (ii) such subcontractors shall be bound by such terms of confidentiality at least as restrictive as those contained herein.

8. Warranty. McAfee warrants that the Services will be performed in a professional manner consistent with relevant industry standards ("Services Warranty"). EXCEPT AS EXPRESSLY PROVIDED HEREIN, MCAFEE MAKES NO WARRANTIES, EXPRESS OR IMPLIED AND DOES NOT GUARANTEE FOR (i) VULNERABILITY SERVICES TO FIND ALL VULNERABILITIES (ii) SERVICES TO BE UNINTERRUPTED (iii) SERVICES TO HAVE 100% AVAILABILITY; OR (iv) SERVICES TO BE ERROR FREE. MCAFEE DISCLAIMS ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND TITLE. MCAFEE SHALL USE ALL REASONABLE EFFORTS TO ENSURE THAT ALL INFORMATION IT PROVIDES OR MAKES AVAILABLE IS

ACCURATE HOWEVER, CUSTOMER AGREES THAT MCAFEE SHALL NOT BE LIABLE FOR ANY ERRORS, OMISSIONS OR INACCURACIES WITH RESPECT TO SUCH INFORMATION.

9. Exclusive Remedy. Provided Customer notifies McAfee (in writing and in sufficient detail) of a breach of the Services Warranty within thirty (30) days after provision of the non-conforming Services, McAfee, at its option, will (a) re-perform the Services at no additional cost to Customer, or (b) refund or credit to Customer's account the fees associated with the non-conforming Services. This states Customer's sole and exclusive remedy, and McAfee's sole and exclusive liability, with respect to any breach of warranty relating to the Services. This warranty is personal to Customer and may not be assigned, transferred or passed-through to any third party.

10. Limitation of Liability. MCAFEE'S LIABILITY FOR DAMAGES FROM ANY CLAIM OR CAUSE OF ACTION WHATSOEVER RELATING TO THE SERVICES OR DELIVERABLE SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY CUSTOMER FOR THE APPLICABLE SERVICES. MCAFEE SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR LOSS OF DATA, EVEN IF MCAFEE IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Neither the foregoing nor any other provision of the Agreement shall exclude or limit in any way the liability of McAfee for death or personal injury caused by McAfee's gross negligence, willful misconduct or intention.

11. Insurance. Each party shall maintain insurance with coverage at least equal to what a prudent company would carry under similar circumstances or as required by law and will provide details upon request.

12. Termination and Rescheduling. In the event of any material breach of the Agreement by either party, the non-breaching party may cancel the Agreement by giving thirty (30) days' prior written notice thereof; unless the party in breach has cured the breach prior to the expiration of the thirty (30) day period. Any terms which by their nature extend beyond termination will remain in effect until fulfilled. Customer is permitted to reschedule the start date of the Services one time, with at least five (5) business days prior notice, without incurring additional fees. If any additional or alternative rescheduling, suspension, or delays are requested by Customer, and agreed to by McAfee, Customer agrees to pay an additional fee equal to 25% of the applicable fees in each instance where the McAfee accommodates the rescheduled or delayed Services in order to, among others, compensate McAfee for its costs associated with rescheduling. This Agreement may be terminated for convenience upon a party providing the other party with sixty (60) days prior written notice. Upon such termination for convenience, the parties agree that (i) McAfee shall have no further obligation to provide any Services to the Customer unless scheduled during the term of this Agreement and (ii) all orders for Services as ordered by the Customer and accepted by McAfee prior to the effective date of termination

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shall remain effective, due and payable in accordance with the relevant SOW or Customer Order.

13. Notice. Any notice under these Terms or a SOW shall be given in writing.

14. Internal Purpose and Assignment. Any Services are made available to Customer for its own internal business purposes and not for the benefit of third parties. Assignment of this Agreement is prohibited without the express written consent of the other party; except that such consent will not be required (i) for an assignment or transfer by McAfee to one of its affiliates or (ii) if McAfee or any of its affiliates undergoes a change of control in connection with a merger, acquisition, divestiture, or sale of all or substantially all its assets.

15. Third party Rights. This Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

16. Data Protection. Customer warrants and represents that Customer has obtained all necessary consents to provide personal data (as required by applicable data protection or privacy laws in the Territory) to McAfee and that McAfee may legally possess and process personal data in accordance with this Agreement. Customer shall remain the controller of the personal data. In addition, McAfee may use, reproduce, and disclose services-related information, data, and material that is anonymized, de-identified, or otherwise rendered not reasonably associated or linked to an identifiable individual person or entity for product or services improvement and other purposes consistent with McAfee's Privacy Notice available at www.mcafee.com/common/privacy/english.

17. Governing Law. This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the relevant country as stated in [Exhibit A](#) (Territory Table). The parties irrevocably agree that the courts of the relevant country and state or province provided in the [Exhibit A](#) have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims). The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (1980) does not apply to the Agreement.

18. Export and Money Laundering. Customer agrees to comply with all applicable export and import laws and regulations in the use of any Deliverables or McAfee Material. Customer agrees to comply with payment terms and conditions contained in the Corporation Money Laundering Prevention Policy (as provided by McAfee from time to time); non-compliance with these terms and conditions may result in refusal by McAfee to accept the forms of payment from Customer.

19. Complete Agreement. These Terms and, if any, the relevant SOW set out the entire understanding of the parties, superseding and excluding all prior agreements and understandings as to the subject matter hereof, notwithstanding any oral representations or statements to the contrary, including, without limitation any such pre-printed terms and conditions of the Customer Order (if any). If applicable, in the event of any conflict between these Terms and any SOW, the terms of the SOW shall prevail. These Terms may only be modified in writing, executed by both parties. A failure of either party to exercise any right provided for herein, shall not be deemed to be a waiver of any right hereunder. If any provision, or part thereof, in these Terms is held to be invalid or unenforceable, the remaining provisions of these Terms shall remain in full force and effect. References in these Terms or any SOW to hyperlinked terms are references to the terms or content linked to such hyperlink (or such replacement hyperlink as McAfee may identify from time to time). The content in the hyperlink may be modified from time to time by McAfee and such modifications are not subject to the amendment requirements of this [Section 19](#). Customer acknowledges that the terms or content in the hyperlink are incorporated herein by reference and that it is Customer's responsibility to review the terms or content in the hyperlinks referenced in these Terms or SOW.

20. Force Majeure. Neither party will be liable for delays or failures to perform its obligations under the Agreement to the extent caused by events or circumstances beyond its reasonable control provided such party provides the other party with written notice of such force majeure condition. McAfee's delays or failures to perform are additionally excused to the extent they result from (a) any act or omission of Customer, its employees, agents, users, affiliates, or contractors; (b) any failure or delay by Customer in the performance of a particular task, obligation, or responsibility under the Agreement that is a condition or requirement for a particular McAfee task, obligation, or responsibility; (c) reliance upon instructions, authorizations, approvals, or other information from any representative of Customer; or (d) acts or omissions of third parties (unless directed by McAfee). McAfee will use commercially reasonable efforts to perform and Customer will pay any additional costs and reimburse any additional expenses incurred by McAfee as a result of any Customer delays or failures. Force majeure situations do not give the parties other rights aside from those specified herein.

21. Additional Terms for Training Services. In addition to the above terms and conditions the following terms shall apply solely for any training Services ordered by Customer:

(i) **Training Services.** McAfee shall provide confirmation of the training Services to Customer prior to the start date of the training course. All courses for training Services must be booked by Customer within one (1) year of the date of McAfee's invoice for such training Services otherwise McAfee may, in its sole discretion, cancel all or a portion of the training Services which have not been booked by Customer. Customer agrees that any fees for training Services are not refundable or available for credit or

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exchange, except as expressly agreed to in writing by McAfee.

(ii) Training Services Fees. Fees paid for training Services to be performed at McAfee training centers will cover the fees for the trainer, use of the training systems, reasonable refreshments and course materials for participants. McAfee is not liable for any travel or accommodation costs incurred by Customer or any of its attendees to attend the relevant training course. Unless otherwise specified in writing, all training Services shall be provided in the English language.

(iii) Payment. All training Services fees must be received by McAfee at least fourteen (14) days prior to the start date of the relevant training Services course.

(iv) Cancellation.

(a) By Customer. All Customer cancellations for training must be provided to McAfee in writing within fourteen (14) days of the training course start date to avoid penalty fees. If Customer cancels training and notice is received by McAfee less than seven (7) days prior to the training course start date, McAfee will be entitled to the full amount of fees costs and expenses relating to the cancelled training course (including invoicing costs for this amount). If Customer cancels the training and the notice is received by McAfee between seven (7) and fourteen (14) days of the training course start date, McAfee will be entitled to fifty percent (50%) of the fees costs and expenses relating to the cancelled training course.

(b) By McAfee. If training Services fees are not received by McAfee as set forth in Section 21(iii), then McAfee may immediately cancel such training Services course without liability or penalty. If McAfee cancels a training Services course for its convenience, and is unable to provide a suitable substitute training course, McAfee's sole liability shall be to refund the Customer the training fees paid by the Customer. For the avoidance of doubt, McAfee shall not be liable for any travel or hotel costs associated with the cancellation.

(v) Substitution and Rescheduling. Customer may substitute training course attendees with employees with substantially equivalent qualifications required for participation in the training course at Customer's discretion. McAfee, however, reserves the right to refuse or to limit any training Services if a Customer attendee fails to satisfy the requirements for the relevant training course. McAfee reserves the right to use substitute instructors, to modify the content slightly and to make changes to the dates and locations upon notice to Customer. If Customer cannot attend as a result of such changes, Customer may rebook for another available course. McAfee will not be liable for any Customer costs associated with the rescheduling. Customer may reschedule the training course, subject to availability, by providing McAfee with fourteen (14) days prior written notice.

(vi) Training Materials. All training materials and systems provided by McAfee as part of the training Services are provided on an "as-is" basis, without warranty of any kind, whether express, implied, statutory or otherwise including without limitation as to quality, reliability, timeliness, usefulness, sufficiency and accuracy.

(vii) Conduct. McAfee reserves the right to refuse, limit or cancel any training Services if a Customer attendee, in the sole opinion of McAfee, has displayed unreasonable behavior or is deemed to be violent, abusive or disruptive. In such case, Customer will not be entitled to any refunds.

22. Definitions. Capitalized terms used in these Terms have the meanings assigned below or as otherwise set forth herein:

"**Agreement**" means the Terms and SOW or Customer Order.

"**Customer**" means the entity to which the Services are to be provided.

"**Deliverable(s)**" means any tangible deliverables identified in an applicable SOW to be provided to Customer.

"**McAfee**" means either (i) the relevant McAfee entity as listed in Exhibit A (Territory Table) and which has primary responsibility for providing the Services in the Territory within which Customer is located, or (ii) the McAfee entity as stated in the SOW (if any).

"**Territory**" means the country where Customer is incorporated.

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EXHIBIT A

Territory Table

Region	Territory	McAfee Entity	Laws and relevant courts
North America	United States, Mexico, Central America, South America, Caribbean	McAfee, LLC.	New York, N.Y., USA
North America	U.S. Government, State or Local Government, Healthcare organization or Educational institution within the United States	McAfee Public Sector LLC.	New York City, N.Y., USA
North America	Canada	McAfee Canada ULC	Ontario, Canada