

McAFEE TECHNICAL SUPPORT AND MAINTENANCE TERMS AND CONDITIONS

McAfee will provide Technical Support services in accordance with the following terms and conditions (“Support Terms”). All capitalized terms not defined herein are defined in the applicable licensing or terms of service agreement.

1. Definitions.

- a. “**Authorized Partner**” means any of McAfee’s authorized distributors, resellers or other business partners.
- b. “**Cloud Client Software**” means Software that facilitates Ordering Activity’s access and use of the Cloud Services, and that does not perform functionality without active support or a subscription to the Cloud Services, and that does not perform functionality without active support or a subscription to the Cloud Services, as required by the specific offering. Cloud Client Software is provided as part of a subscription to Cloud Services, and may or may not necessarily be identified in a Grant Letter.
- c. “**Cloud Services**” means the cloud services that McAfee provides to Ordering Activity as specified in one or more Grant Letters. Access to the Cloud Services requires either an active support agreement or an active subscription, as required by the specific offering.
- d. “**Ordering Activity**” means the entity which has purchased Products and to which Intel provides Support.
- e. “**Grant Letter**” means any written (electronic or otherwise) confirmation notice that Intel issues to Ordering Activity confirming Products and Support purchased by Ordering Activity, including without limitation Ordering Activity’s Support Level entitlement, the Grant Number, the Support Period and download details.
- f. “**Grant Number**” means a unique number communicated by Intel in a Grant Letter confirming an Ordering Activity’s Support entitlement and is required when accessing Support.
- g. “**Hardware**” means McAfee branded hardware equipment purchased from McAfee or its Authorized Partners, but excludes any Software or other intangible products.
- h. “**Product(s)**” means McAfee’s Software and Hardware product specified in a Grant Letter or Cloud Services and Cloud Client Software purchased from McAfee or an Authorized Partner.
- i. “**Support**”, “**Technical Support**” or “**Technical Support and Maintenance**” means the support services for McAfee Products purchased by Ordering Activity either from McAfee or from McAfee’s Authorized Partner which are dependent on the Support Level purchased.
- j. “**Software**” means each McAfee software program in object code format and components licensed by McAfee or its Authorized Partners to Ordering Activity.
- k. “**Support Period**” means the effective time period for which the Ordering Activity has purchased Support that is confirmed in a Grant Letter or in the case of Cloud Services means the effective time period for which the Ordering Activity has purchased the Cloud Services and has an active entitlement and valid account.
- l. “**Support Region**” means any one of the following five (5) regions: (i) North America, (ii) Europe, Middle East and Africa (“EMEA”); (iii) Asia Pacific (“APAC”); (iv) Japan, and (v) Latin America (“LTAM”).
- m. “**Support Level(s)**” means the McAfee Support offering purchased by Ordering Activity and defined at: <https://support.mcafee.com/supportoptions>.
- n. “**Upgrade**” means any and all improvements in the Cloud Services or Software which are made generally available to McAfee’s customer base as a part of purchased Support and which are not separately priced or marketed by McAfee.
- o. “**Updates**” means updates to the content of the Cloud Services or Software, and include without limitation all DATs (“DATs” or detection definition files, also referred to as signature files, are the code anti-malware software uses to detect and repair viruses, Trojan horses and potentially unwanted programs), signature sets, policy updates, database updates for the Cloud Services or Software which are made generally available to McAfee’s customer base as a part of purchased Support and which are not separately priced or marketed by McAfee.

2. **Provision of Support.** McAfee will provide Support to Ordering Activity during the Support Period at the Support Level that has been purchased by Ordering Activity and is confirmed to Ordering Activity in a Grant Letter or in the case of Cloud Services, based on the initial order or renewal. Ordering Activity will not be entitled to receive Support outside of the Support Period.

3. **Updates and Upgrades.** McAfee grants to Ordering Activity a non-exclusive, non-transferable license to use Upgrades and Updates provided by McAfee during the Support Period as a part of purchased Support. Such Upgrades and Updates are subject to the terms of the license granted by McAfee to the Ordering Activity for the Software. With the exception of Cloud Services, (a) Ordering Activity shall promptly download, distribute and install all Updates as released by McAfee during the Support Period and (b) McAfee strongly suggests that Ordering Activity also downloads, distributes and installs all Upgrades as released by McAfee during the Support Period. Ordering Activity acknowledges that any failure to do so could result in Ordering Activity's inability to receive Updates and Technical Support and therefore could cause major security risks. An Upgrade may require a hardware upgrade or new platform conversion to function properly.
4. **Supported Versions and End of Life.** The provision of Support is limited to (a) the current version and (b) the immediately preceding version of the Product. Only the current version of Cloud Services will be supported. Notwithstanding any of the foregoing, Support is subject to McAfee's End-of-Life Policy as an attached document to the GSA Schedule 70 contract. It is Ordering Activity's responsibility to review McAfee's Product Support Lifecycle webpage at: <http://www.mcafee.com/us/support/support-eol.aspx> to determine whether a Product qualifies for Support. Furthermore, Ordering Activity proactive Support notifications can be accessed by subscribing to McAfee Support Notification Service (SNS) available at <http://sns.snssecure.mcafee.com>.
5. **Response Times.** McAfee uses commercially reasonable efforts to meet the response times set forth in the escalation and response charters listed under <https://support.mcafee.com/charters>. Access to McAfee's websites for the provision of Support may be suspended for brief periods due to scheduled maintenance and other factors.
6. **Bug Fixing and Remote Diagnostics.** McAfee uses commercially reasonable efforts to provide work-around solutions or patches to reported problems with Products. With Ordering Activity's prior authorization, McAfee may perform remote diagnostics to work on reported problems. In the event Ordering Activity declines remote diagnostics, McAfee and Ordering Activity may agree to on-site Technical Support which is subject to an additional fee and reasonable travel and expenses, for which the Ordering Activity is responsible.
7. **Support Period and Expired Support.** The Support Period either begins (i) at the date the Product was purchased or (ii) at the renewal date of the expiration of a previous Support Period. **Reinstating Out-of Maintenance Support.** If an Ordering Activity elects to terminate or allow its support services to lapse or expire, the Ordering Activity will be required to pay for the time that has lapsed since the end of such prior support services and the fees for the entire next annual period in accordance with the GSA Schedule Pricelist. Unless otherwise agreed upon by the parties, Support must be purchased within one (1) year after expiration of the previous Support period.
8. **Support Coverage.** Support is sold based upon the quantity of all Products purchased by Ordering Activity. Upon purchasing Support for a Product, Ordering Activity must purchase the same Support Level for all Product units owned, used or licensed by Ordering Activity that are deployed or in use at the location(s) covered by Support. Some Support Level(s) are available for purchase by Ordering Activity per SupportRegion.
9. **Acquired Company Products.** From time to time McAfee may acquire other companies and continue to support the products licensed or cloud services offered by such companies ("**Acquired Products**"). The Support Level(s) defined herein may not be applicable to the Acquired Products at the time of the acquisition but McAfee may within a reasonable period of time after the acquisition provide a description of the Support Level(s) available for the Acquired Products, which will become applicable once published on the Support webpage.
10. **Exclusions.** McAfee has no obligations to, (a) provide Support where hardware, tools or software other than those supplied or approved by McAfee have been incorporated with the Product (b) provide Support for Hardware damaged by or Hardware failures caused by Ordering Activity (c) import or export Ordering Activity data, create or modify custom business rules or reports, or support custom modifications to databases, active server pages, or other code, components or programs (d) provide Support for problems that cannot be reproduced in running the Product in a configuration meeting published McAfee specifications or (e) provide Cloud Services Support for issues arising from any violation of the Cloud Services Agreement.
11. **Obligations of Ordering Activity.**
 - a. **Support Process:** Ordering Activity must report Product problems to McAfee Support organization, and be

prepared to provide McAfee with (i) the Grant Number, (ii) the location of the Product, (iii) a detailed description of the problem,

(iv) a description of the hardware on which the Software is loaded, including any serial number or service tag number where applicable, (v) the names and versions of any operating systems, networks, and software running with the Software, including patches and fixes, (vi) technical contact information and (vii) a detailed description of the problem. McAfee may request that Ordering Activity takes certain actions to determine whether the problem or error is related to the Product, or other item. Ordering Activity must reasonably cooperate with McAfee during this process.

- b. **Access:** Ordering Activity shall provide McAfee with sufficient, free and safe access to the Products, Ordering Activity's computer systems networks and facilities in the event that it is agreed that McAfee will provide on-site support at Ordering Activity's location or facilities or that McAfee will perform remote diagnostics. McAfee will conform to Ordering Activity's security requirements before gaining access to Ordering Activity's facilities, provided such requirements are issued in writing to McAfee reasonably prior to accessing such facilities.
- c. **Backup and Restore:** Ordering Activity must keep adequate backup copies of data, databases, and application programs and agrees that Ordering Activity is solely responsible for any and all restoration and reconstruction of lost or altered files, data and programs.

12. Termination. Any terms which by their nature extend beyond the termination of this agreement remain in effect until fulfilled.

13. Hardware specific terms.

- a. **Region and Geographic Limitations:** Unless otherwise agreed in writing by McAfee or included as part of the applicable Support Level, Hardware is eligible for service only if it remains in the country where Ordering Activity originally installed the Hardware. Geographic restrictions or limitations may apply to certain Hardware Support Levels and are described under <https://support.mcafee.com/hardwarelocationmatrix> (provided for informational purposes only).
- b. **Hardware Return:** Prior to returning any Hardware to McAfee for repair or replacement, Ordering Activity must ensure that (i) the Hardware is free of any legal obligations or restrictions and of any Ordering Activity proprietary or confidential information that prevent McAfee from exchanging, repairing or replacing the Hardware, (ii) Ordering Activity has obtained a return authorization from McAfee, including a return material authorization number (a "**RMA Number**"). Hardware returned to McAfee becomes the property of McAfee at the time it is received by McAfee and Ordering Activity shall assume ownership of all replacement Hardware provided by McAfee to Ordering Activity upon shipment by McAfee.
- c. **Restrictions:** Ordering Activity must not, nor permit anyone else, to remove, alter, or obscure any proprietary notices or instructional labels on the Hardware without written authorization from McAfee. Ordering Activity must not install, nor permit the installation of additional hardware or software on the Hardware without written authorization from McAfee or breach any tamper seal on the Hardware.
- d. **Inspection Period:** McAfee reserves the right to inspect Hardware for which Support has lapsed for more than ninety (90) days by itself or by its agents in consideration of a separate fee set forth in the Purchase Order and to request Ordering Activity to install the most current Upgrades and Updates before McAfee agrees to renew Support for the Hardware.

14. Resident Support Account Manager and Resident Product Specialist Terms.

- a. If Ordering Activity purchases a Resident Support Account Manager ("**RSAM**") or Resident Product Specialist ("**RPS**"), McAfee will provide an RSAM or RPS to provide on-site certain Support that Ordering Activity has purchased from McAfee. Additional information on the description and scope of the RSAM's and RPS's roles and responsibilities can be found at <http://support.mcafee.com/documentation>.
- b. The RSAM or RPS will work during normal business hours as agreed upon between McAfee and Ordering Activity. The RSAM or RPS may be required to be out-of-the-office due to PTO, illness, holidays, training, vacations or meetings. During this time out-of-the-office, or should the RSAM's or RPS's employment with McAfee end, McAfee will provide to Ordering Activity the name and phone number of a temporary Support Account Manager ("**SAM**") that will cover Ordering Activity's account until the RSAM or RPS returns. The temporary SAM will provide Support services remotely.
- c. Ordering Activity acknowledges and understands that the timeline to on-board at Ordering Activity's location is approximately ninety (90) days from the time of the notification of the requirement. During this period, McAfee will assign an interim SAM to facilitate the Support services until the parties can agree upon the individual to be placed as an RSAM or RPS. McAfee and Ordering Activity will work together in good faith

to select the RSAM or RPS. In the event Ordering Activity rejects the candidate or delays in the selection of a reasonable candidate McAfee has offered for consideration, McAfee will assign an interim SAM. For avoidance of doubt, the interim SAM will not be an on-site resource and may be a shared resource with other McAfee customers.

- d. Ordering Activity acknowledges that McAfee employees are quickly deployed, and any delay in the selection of a candidate may: (1) result in Ordering Activity not being able to have its desired individual perform the Support services;
- (2) result in the use of an interim SAM (as stated above); and (3) hinder the performance of the Support services as described herein. Ordering Activity also acknowledges that it might not be possible to retain a particular individual for the duration of the term of the Support Period. The use of an interim SAM is, on its own, not sufficient to warrant a refund of fees or entitle Ordering Activity to service credits.

15. Malware Awareness Program Terms.

- a. If, for the Support Period, Ordering Activity has purchased (1) Support for McAfee's ePolicy Orchestrator Product ("**ePO**"), and (2) either (a) an RSAM, (b) an RPS, or (c) a Malware Awareness Program ("**MAP**"), as part of Support (as defined hereunder) McAfee will produce for Ordering Activity, once during the Support Period at a time agreed by Ordering Activity and McAfee, a MAP report in McAfee's then-current standard form using data collected by McAfee through Ordering Activity's deployment of ePO.
- b. McAfee may change the standard form of the MAP report at McAfee's discretion to reflect developments in malware and other security threats, information captured by ePO, or for other reasons identified by McAfee.
- c. For the avoidance of doubt, (1) a license to ePO must be purchased separately by Ordering Activity in order for Ordering Activity to purchase Support for ePO, (2) a license to ePO is not included with Support, with the MAP report, or in connection with the MAP, but must be purchased separately by Ordering Activity, and (3) MAP is not included as part of Support unless Ordering Activity has separately purchased Support for ePO and has separately purchased an RSAM, an RPS, or MAP.
- d. The MAP report and its contents, excluding Ordering Activity's Confidential Information, are strictly confidential to McAfee, and, except to the extent expressed in the next sentence, McAfee owns and reserves all right, title, and interest therein and thereto. Upon delivery of the MAP report to Ordering Activity, McAfee grants to Ordering Activity a worldwide, royalty-free, perpetual, non-exclusive license under McAfee's McAfee intellectual property rights to use and make a reasonable number of copies of the MAP report, in the form originally furnished by McAfee to Ordering Activity, for Ordering Activity's own internal business purposes.
- e. THE MAP AND MAP REPORTS ARE PROVIDED TO ORDERING ACTIVITY FOR ORDERING ACTIVITY'S INFORMATIONAL PURPOSES ONLY AND ON AN "AS IS" BASIS. MCAFEE DOES NOT REPRESENT OR WARRANT THAT MAP OR ANY MAP REPORT WILL IDENTIFY ALL MALWARE OR VULNERABILITIES. ANY OBSERVATIONS OR RECOMMENDATIONS GIVEN AS A PART OF MAP OR A MAP REPORT ARE GENERAL AND ARE NOT INTENDED AS SPECIFIC RECOMMENDATIONS OR COURSES OF ACTION. ORDERING ACTIVITY'S RELIANCE ON, ACTION ON OF, OR LACK OF ACTION ON ANY SUCH OBSERVATIONS OR RECOMMENDATIONS IS AT ITS SOLE RISK.

- 16. Warranty.** MCAFEE WARRANTS THAT THE SUPPORT WILL BE PERFORMED IN A PROFESSIONAL AND WORKMANLIKE MANNER. FOR ANY BREACH OF THIS WARRANTY, ORDERING ACTIVITY'S SOLE AND EXCLUSIVE REMEDY, AND MCAFEE'S ENTIRE LIABILITY SHALL BE THE RE-PERFORMANCE OF THE NON-CONFORMING SUPPORT. MCAFEE SHALL ONLY HAVE LIABILITY FOR SUCH BREACHES OF WARRANTY IF ORDERING ACTIVITY PROVIDES WRITTEN NOTICE OF THE BREACH TO MCAFEE WITHIN THIRTY (30) DAYS OF THE PERFORMANCE OF THE APPLICABLE SUPPORT. THIS WARRANTY IS ORDERING ACTIVITY'S EXCLUSIVE WARRANTY AND REPLACES ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, CONFORMITY TO ANY REPRESENTATION, SKILL AND CARE. MCAFEE DOES NOT WARRANT OR GUARANTEE THAT SUPPORT WILL BE FREE FROM ERRORS OR DEFECTS OR THAT THE SUPPORT WILL PROTECT AGAINST ALL POSSIBLE THREATS.

Some states or jurisdictions do not allow the exclusion of express or implied warranties, so the above disclaimer may not apply to you. IN THAT EVENT SUCH EXPRESS OR IMPLIED WARRANTIES SHALL BE LIMITED IN DURATION TO THE MINIMUM PERIOD REQUIRED BY THE APPLICABLE LAW (IF ANY).

- 17. Limitation of Liability; Confidentiality; Audit; Export Control.** Ordering Activity agrees to these Technical Support and Maintenance Terms and Conditions as part of one or more product licenses or services agreements

between McAfee and the Ordering Activity (“**Underlying Agreement**”). THE LIMITATION OF LIABILITY, CONFIDENTIALITY, PRIVACY, AUDIT AND EXPORT CONTROL PROVISIONS OF THE RELEVANT UNDERLYING AGREEMENT ARE INCORPORATED INTO THESE TECHNICAL SUPPORT AND MAINTENANCE TERMS AND CONDITIONS.

18. General.

- a. **Recording:** In providing Support, McAfee may record all or part of telephone calls between Ordering Activity and McAfee for quality assurance and training purposes in compliance with applicable laws.
- b. **Assignment:** The provision of Support is not assignable by Ordering Activity without the prior written consent of McAfee. Any attempt of assignment by Ordering Activity without such consent will be void. McAfee may subcontract its obligations to provide Support hereunder to another party, but with notice to the Ordering Activity.
- c. **Governing law:** All disputes arising out of or relating to this Agreement or its subject matter will be governed by the Federal laws of the United States. This Agreement will not be governed by 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.

- 19. Entire Agreement.** The Support Terms and any additional terms referenced herein together with the underlying negotiated Purchase Order(s), constitute the entire agreement between Ordering Activity and McAfee with regard to Support, and supersedes all prior negotiations, agreements, and understandings with respect to the subject matter hereof. This Agreement may not be modified except by a written addendum issued by a duly authorized representative of McAfee and duly warranted Contracting Officer. However, this Agreement, including without limitation its termination, has no effect on any signed non-disclosure agreements between the parties, which remain in full force and effect as separate agreements according to their terms. The express provisions of this Agreement control over any course of performance, course of dealing, or usage of the trade inconsistent with any of the provisions of this Agreement. The provisions of this Agreement will prevail absent any agreed-upon, different, conflicting, or additional provisions that may appear on any purchase order, acknowledgment, invoice, or other writing issued by Customer in connection with this Agreement.