

# MCAFEE ENTERPRISE TECHNICAL SUPPORT AND MAINTENANCE and CUSTOMER SUCCESS TERMS AND CONDITIONS

McAfee Enterprise will provide Technical Support and/or Customer Success Plans (CSP) delivery 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 Enterprise’s authorized distributors, resellers or other business partners.
- b. “**Cloud Client Software**” means Software that facilitates Customer’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 Enterprise provides to Customer 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. “**Customer**” means the entity which has purchased Products and to which McAfee Enterprise provides Support.
- e. “**Education Options**” means certain McAfee Enterprise web based or onsite training courses related to McAfee Enterprise Products and/or services included in certain Customer Success Plans (CSP).
- f. “**Grant Letter**” means any written (electronic or otherwise) confirmation notice that McAfee Enterprise issues to Customer confirming Products and Support purchased by Customer, including without limitation Customer’s Support Level entitlement, the Grant Number, the Support Period and download details.
- g. “**Grant Number**” means a unique number communicated by McAfee Enterprise in a Grant Letter confirming a customer’s Support entitlement and is required when accessing Support.
- h. “**Hardware**” means McAfee Enterprise branded hardware equipment purchased from McAfee Enterprise or its Authorized Partners but excludes any Software or other intangible products.
- i. “**Product(s)**” means McAfee Enterprise’s Software and Hardware product specified in a Grant Letter or Cloud Services and Cloud Client Software purchased from McAfee Enterprise or an Authorized Partner.
- j. “**Support**”, “**Technical Support**” or “**Technical Support and Maintenance**” means the support services for McAfee Enterprise Products purchased by Customer either from McAfee Enterprise or from McAfee Enterprise’s Authorized Partner which are dependent on the Support Level purchased.
- k. “**Customer Success Plans**” or “**CSP**” means the customer success plans for McAfee Enterprise Products purchased by Customer either from McAfee Enterprise or from a McAfee Enterprise Authorized Partner. McAfee Enterprise Customer Success Plans are “Essential Success Plan”, “Enhanced Success Plan” and “Premier Success Plan”.
- l. “**Software**” means each McAfee Enterprise software program in object code format and components licensed by McAfee Enterprise or its Authorized Partners to Customer.
- m. “**Consulting Options**” means certain McAfee Enterprise consulting services included in certain Customer Success Plans.
- n. “**Authorized**” or “**Designated**” or “**Named**” customer contacts mean the Success Plan Customers’ personnel authorized to engage with McAfee Enterprise Customer Success Group resources for technical support assistance and/or customer success delivery. The quantity of “Authorized” contacts varies by McAfee Enterprise Customer Success offering purchased by Customer and is defined at: <https://support.mcafee.com/supportoptions>.
- o. “**Support Period**” or “**Entitlement Period**” means the effective time period for which the Customer 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 customer has purchased the Cloud Services and has an active entitlement and valid account.
- p. “**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”).
- q. “**Support Level(s)**” means the McAfee Enterprise Customer Success offering purchased by Customer and is defined at: <https://support.mcafee.com/supportoptions>.
- r. “**Service Request (SR)**” means a single issue opened with McAfee Enterprise Technical Support. The SR numbers is a unique identifier of the Service request.

- s. “**Business Day**” means normal working day in the time zone where the Customer is located.
- t. “**Service Level Goals**” means the McAfee Enterprise definitions on the classification of an issue for a specific Severity Level and escalation process and timeline if the case cannot be resolved at the present tier of support.
- u. “**Upgrade**” means any and all improvements in the Cloud Services or Software which are made generally available to McAfee Enterprise’s customer base as a part of purchased Support and which are not separately priced or marketed by McAfee Enterprise.
- v. “**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 Enterprise’s customer base as a part of purchased Support and which are not separately priced or marketed by McAfee Enterprise.
- w. “**U.S. National Technical Support**” means the technical support services delivered by U.S. citizen or U.S. based Technical Support Engineer (TSE) level resources for Products purchased by Customer either from McAfee Enterprise or from McAfee Enterprise’s Authorized Partner. U.S. National Technical Support is an add-on option to McAfee Enterprise Customer Success Plans. An active Customer Success Plan entitlement is required in order for Customer to be eligible for this option.
- x. “**Technical Support Engineer Add-on**” means the technical support services delivered by one designated technical support engineer (TSE) for ONE McAfee Enterprise product. Customer must have active Success Plan entitlement. Support is "intra-region" only. An active Customer Success Plan entitlement is required in order for Customer to be eligible for this option. Availability varies by geographical region.

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

3. **Updates and Upgrades.** McAfee Enterprise grants to Customer a non-exclusive, non-transferable license to use Upgrades and Updates provided by McAfee Enterprise 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 Enterprise to the Customer for the Software. With the exception of Cloud Services, (a) Customer shall promptly download, distribute and install all Updates as released by McAfee Enterprise during the Support Period and (b) McAfee Enterprise strongly suggests that Customer also downloads, distributes and installs all Upgrades as released by McAfee Enterprise during the Support Period. Customer acknowledges that any failure to do so could result in Customer’s inability to receive Updates, future Upgrades 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 Enterprise’s End-of-Life Policy. It is Customer’s responsibility to review the End of Life Policy located on McAfee Enterprise’s Product & Technology Support Lifecycle webpage at: <https://www.mcafee.com/enterprise/en-us/assets/misc/support-policy-product-support-eol.pdf> to determine whether a Product qualifies for Support. Furthermore, Customer proactive Support notification can be accessed by subscribing to McAfee Enterprise Support Notification Service (SNS) available at <http://support.mcafee.com/sns>.

5. **Response Times.** McAfee Enterprise uses commercially reasonable efforts to meet the response times set forth in the McAfee Enterprise Service Level Goals available on the McAfee Enterprise ServicePortal (<https://support.mcafee.com>), under Programs & Policies, Support Documentation, Service Level Goals.

Access to McAfee Enterprise’s websites for the provision of Support may be suspended for brief periods due to maintenance and other factors.

6. **Bug Fixing and Remote Diagnostics.** McAfee Enterprise uses commercially reasonable efforts to provide work-around solutions or patches to reported problems with Products. With Customer’s prior authorization, McAfee Enterprise may perform remote diagnostics to work on reported problems. In the event Customer declines remote diagnostics, McAfee Enterprise and Customer may agree to on-site Technical Support which is subject to an additional fee and reasonable travel and expenses, for which the customer 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. In the event that the term of the Support contract or purchase is a multi-year agreement, the Support Period will begin at either: (i) at the date the entitlement was purchased or (ii) the date established in the grant letter and ends upon the expiration date of the last entitlement in the multi-year purchase. In the event the Support expires, any reinstatement of Support must be purchased to cover the lapsed Support since expiration and be renewed until the Support is current. Support must be purchased within one (1) year after expiration of the previous Support Period. An additional out of compliance fee may be required for lapsed Support.
8. **Support Coverage.** Support is sold based upon the quantity of all Products purchased by Customer. Upon purchasing Support for a Product, Customer must purchase the same Support Level for all Product units owned, used or licensed by Customer that are deployed or in use at the location(s) covered by Support.
9. **Acquired Company Products.** From time to time McAfee Enterprise 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 Enterprise 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 Enterprise has no obligations to: (a) provide Support where hardware, tools or software other than those supplied or approved by McAfee Enterprise have been incorporated with the Product; (b) provide Support for Hardware damaged by or Hardware failures caused by Customer; (c) import or export customer 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 Enterprise specifications; (e) provide Cloud Services Support for issues arising from any violation of the Cloud Services Agreement; (f) provide Support where Customer is not using the Product in accordance with its license and restrictions on use; (g) step-by-step installation of Software, Hot Fixes, or Service Packs; or (h) Onsite services (unless Customer’s level of Support, as purchased, includes this feature), Professional Services, or Education Services.
11. **Obligations of Customer.**
- a. **Staffing:** All Customer personnel contacting McAfee Enterprise for Technical Support assistance must be fully trained on the major release of the McAfee Enterprise Software and/or Hardware, and the current issue for which the Customer requires assistance.
  - b. **Support Process:** Customer must report Product problems to McAfee Enterprise Support organization, and be prepared to provide McAfee Enterprise 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 Enterprise may request that Customer takes certain actions to determine whether the problem or error is related to the Product, or other item. Customer must reasonably cooperate with McAfee Enterprise during this process.
  - c. **Access:** Customer shall provide McAfee Enterprise with sufficient, free and safe access to the Products, Customer’s computer systems networks and facilities in the event that it is agreed that McAfee Enterprise will provide on-site support at Customer’s location or facilities or that McAfee Enterprise will perform remote diagnostics.
  - d. **Backup and Restore:** Customer must keep adequate backup copies of data, databases, and application programs and agrees that Customer is solely responsible for any and all restoration and reconstruction of lost or altered files, data and programs.
12. **Technical Support**
- a. **Contacting McAfee Enterprise Technical Support:** McAfee Enterprise provides two methods to engage Technical Support: ServicePortal and by phone.
  - b. **Standard Business Support customers** have access to submit a service request via ServicePortal twenty-four hours a day, 365 days a year. Phone support is offered Monday through Friday, 0800 to 1700 (8am to 5pm) local Support Center time for severity three and four service requests. Phone support is offered twenty-four hours a day for severity one and two service requests.

- c. Premier, Enhanced and Essential Success Plan customers have access to submit a service request via ServicePortal or phone twenty-four hours a day, 365 days a year.
- d. McAfee Enterprise Service Portal or phone system may experience planned and unplanned outages. During these times, the ability to contact McAfee Enterprise and/or submit service requests may be impacted.
- e. Regional Support telephone numbers may be found at: <https://www.mcafee.com/enterprise/en-us/home/contact-us.html>
- f. Access to restricted websites and resources are for the sole use of the Support Customer. McAfee Enterprise ServicePortal can be found at: <https://support.mcafee.com>
- g. Service Level Goal information may be found on the McAfee Enterprise ServicePortal (<https://support.mcafee.com>), under Programs & Policies, Support Documentation, Service Level Goals

**13. Termination.** McAfee Enterprise reserves the right to immediately terminate Support, without any further obligation to Customer, if Customer tampers with or modifies the Product without prior written authorization of McAfee Enterprise, or otherwise uses the Products in violation of the applicable agreement or of these Support Terms. McAfee Enterprise may immediately terminate Cloud Services Support for any breach of the Acceptable Use Policy, as incorporated into the Cloud Services Agreement, or for any other incident giving rise to the termination of the Cloud Services Agreement. Any terms which by their nature extend beyond the termination remain in effect until fulfilled.

**14. Hardware specific terms.**

- a. Region and Geographic Limitations: Unless otherwise agreed in writing by McAfee Enterprise or included as part of the applicable Support Level, Hardware is eligible for service only if it remains in the country where Customer originally installed the Hardware. Geographic restrictions or limitations may apply to certain Hardware Support Levels and are described in the Hardware Support Location Matrix on the McAfee Enterprise Service Portal (<https://support.mcafee.com/SPR/WebContent/ProgramsAndPolicies/rm-hw-supported-locations.pdf>).
- b. Hardware Return: Prior to returning any Hardware to McAfee Enterprise for repair or replacement, Customer must ensure that (i) the Hardware is free of any legal obligations or restrictions and of any Customer proprietary or confidential information that prevent McAfee Enterprise from exchanging, repairing or replacing the Hardware, (ii) Customer has obtained a return authorization from McAfee Enterprise, including a return material authorization number (a "**RMA Number**"). Hardware returned to McAfee Enterprise becomes the property of McAfee Enterprise at the time it is received by McAfee Enterprise and Customer shall assume ownership of all replacement Hardware provided by McAfee Enterprise to Customer upon shipment by McAfee Enterprise.
- c. Restrictions: Customer 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 Enterprise. Customer must not install, nor permit the installation of additional hardware or software on the Hardware without written authorization from McAfee Enterprise or breach any tamper seal on the Hardware.
- d. Inspection Period: McAfee Enterprise 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 and to request Customer to install the most current Upgrades and Updates before McAfee Enterprise agrees to renew Support for the Hardware.

**15. Resident Customer Success Manager, Resident Support Account Manager and Resident Product Specialist Terms.**

- a. If Customer purchases or renews the services of a Resident Customer Success Manager ("**RCSM**"), Resident Support Account Manager ("**RSAM**") or Resident Product Specialist ("**RPS**"), McAfee Enterprise will provide a RCSM, RSAM or RPS to provide on-site certain Support that Customer has purchased from McAfee Enterprise.
- b. The RCSM, RSAM or RPS will work during normal business hours as agreed upon between McAfee Enterprise and Customer. The RCSM, 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 RCSM, RSAM's or RPS's employment with McAfee Enterprise end, McAfee Enterprise will provide to Customer the name and phone number of a temporary Customer Success Manager (or "**CSM**") who will cover Customer's account until the RCSM, RSAM or RPS returns. The temporary resource will provide Support services remotely.
- c. Customer acknowledges and understands that the timeline to on-board at Customer's location is approximately ninety (90) days from the time of the notification of the requirement. During this period, McAfee Enterprise will assign an interim resource to facilitate the services until the parties can agree upon the individual to be placed as an RCSM, RSAM or RPS. McAfee Enterprise and Customer will work together in good faith to select the RCSM, RSAM or RPS. In the event Customer rejects the candidate or delays in the selection of a reasonable candidate McAfee Enterprise has offered for consideration, McAfee Enterprise will assign an interim CSM or SAM. For avoidance of doubt, the interim resource will not be an on-site resource and may be a shared resource with other McAfee Enterprise customers.

- d. Customer acknowledges that McAfee Enterprise employees are quickly deployed, and any delay in the selection of a candidate may: (1) result in Customer not being able to have its desired individual perform the Support services; (2) result in the use of an interim resource (as stated above); and (3) hinder the performance of the Support Services as described herein. Customer also acknowledges that it might not be possible to retain a particular individual for the duration of the term of the Support Period. No fees will be refunded, or credit given for the time period that an interim resource is used.

**16. Consulting and Education Options.**

- a. If Customer purchases a level of Support that includes Consulting and Education Options, Customer may choose from the applicable options located at: [www.mcafee.com/psp-options](http://www.mcafee.com/psp-options). Customer may choose to use the consulting hours on other McAfee Enterprise Consulting Services, including Advanced Cyber Threat Services or Cloud (CASB) Professional Services.
- b. Consulting Services hours and Education Services vouchers must be consumed in full prior to the expiration of the Support Period for the applicable Support Level purchased or such services and/or vouchers will be forfeited. For multi-year entitlements, Consulting Services hours and Education Services vouchers must be consumed in full prior to the expiration of the last year of the multi-year entitlement or such services and/or vouchers will be forfeited.
- c. Consulting Services hours and Education Services vouchers do not roll over into subsequent terms.

**17. U.S. National Technical Support Add-on Option.**

- a. If Customer purchases the U.S. National Technical Support Add-on (option): (1) Customer will be provided access to U.S. based Technical Support Engineer (TSE) level for technical assistance with all McAfee Enterprise Products supported with continental U.S.; (2) escalations may be handled by non-U.S. Nationals; and (3) Customer is solely responsible for the sanitization of any sensitive information.
- b. U.S. National Technical Support is not an end-to-end technical support program. McAfee Enterprise is a global company with support, development/engineering and product management resources located around the globe.
- c. U.S. National Technical Support is not a classified technical support program. McAfee Enterprise Technical Support individuals may not possess any security clearances that would allow them to receive classified information.

**18. Technical Support Engineer Add-on Option.**

- a. If Customer purchases the Technical Support Engineer Add-on (option): The assigned Technical Support Engineer (TSE) will be the primary point of contact for technical support assistance for the specified Product.
- b. The assigned TSE will work during normal business hours in the McAfee Enterprise Support Center region unless otherwise agreed to by McAfee Enterprise. The assigned TSE 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 assigned TSE's employment with McAfee Enterprise end, McAfee Enterprise will provide to Customer the name and phone number of a temporarily assigned TSE who will provide technical assistance for the designated Product until the TSE returns or a replacement is hired. All assigned TSE services are remotely delivered.

**19. Warranty.** MCAFEE ENTERPRISE WARRANTS THAT THE SUPPORT WILL BE PERFORMED IN A PROFESSIONAL AND WORKMANLIKE MANNER. FOR ANY BREACH OF THIS WARRANTY, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, AND MCAFEE ENTERPRISE'S ENTIRE LIABILITY SHALL BE THE REPERFORMANCE OF THE NON-CONFORMING SUPPORT. MCAFEE ENTERPRISE SHALL ONLY HAVE LIABILITY FOR SUCH BREACHES OF WARRANTY IF CUSTOMER PROVIDES WRITTEN NOTICE OF THE BREACH TO MCAFEE ENTERPRISE WITHIN THIRTY (30) DAYS OF THE PERFORMANCE OF THE APPLICABLE SUPPORT. THIS WARRANTY IS CUSTOMER'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 ENTERPRISE 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 Customer. IN THAT EVENT SUCH EXPRESS OR IMPLIED WARRANTIES SHALL BE LIMITED IN DURATION TO THE MINIMUM PERIOD REQUIRED BY THE APPLICABLE LAW (IF ANY).

**20. Limitation of Liability; Confidentiality; Audit; Export Control.** Customer agrees to these Technical Support and Maintenance Terms and Conditions as part of one or more product licenses or services agreements between McAfee Enterprise and the Customer (“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.

**21. General.**

- a. Recording: In providing Support, McAfee Enterprise may record all or part of telephone calls between Customer and McAfee Enterprise for quality assurance and training purposes in compliance with applicable laws.
- b. Assignment: The provision of Support is not assignable by Customer without the prior written consent of McAfee Enterprise. Any attempt of assignment by Customer without such consent will be void. McAfee Enterprise may subcontract its obligations to provide Support hereunder to another party.
- c. Governing law: All disputes arising out of or relating to these Support Terms and/or the Underlying Agreement or their subject matter will be governed by the substantive laws: (a) of the State of New York, if Customer purchased the license to the Software in the United States, Mexico, Central America, Canada, South America or the Caribbean, (b) of England and Wales, if Customer purchased the license to the Software in Europe, Middle East, Africa, Asia (other than Japan) or the region commonly referred to as Oceania (other than Australia), (c) of Japan, if Customer purchased the license to the Software in Japan and (d) of the State of New South Wales, if Customer purchased the license to the Software in Australia, without giving effect to its rules relating to conflict of laws. If Customer purchased the license to the Software in any other country, then the substantive laws of the Republic of Ireland shall apply, unless another local law is required to be applied. These Support Terms and/or the Underlying 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. The United States District Court for the Southern District of New York, when New York law applies, the courts in England, when the law of England and Wales applies, the courts in the Republic of Ireland, when the law of Ireland applies, the courts in Japan, when the law of Japan applies, and the courts of New South Wales, when the law of New South Wales applies, shall each have exclusive jurisdiction over all disputes arising out of or relating to these Support Terms and/or the Underlying Agreement or their subject matter.

**22. Entire Agreement.** The Support Terms, together with the Underlying Agreement, and any additional terms referenced herein constitute the entire agreement between Customer and McAfee Enterprise with regard to Support, and supersedes all prior negotiations, agreements, and understandings with respect to the subject matter hereof.