

Agreement Number: 46004433

This Master License and Maintenance Agreement ("Agreement") is made and entered into as of June 28, 2007 (the "Effective Date") by and between **McAfee, Inc.**, including its current and future subsidiaries, with a principal place of business located at 3965 Freedom Circle, Santa Clara California 95054 ("McAfee") and **The School Board of Palm Beach County, Florida** with a principal place of business located at 3300 Forest Hill Blvd., Suite A-323, West Palm Beach, FL 33406-5813 ("the Board").

WITNESSETH:

WHEREAS, the Board intends to purchase McAfee branded software licenses ("Software") from McAfee subject to the terms and conditions of the End User License Agreement attached hereto as Exhibit A (the "EULA"); and

WHEREAS, the Board intends to purchase McAfee Technical Support (the "Maintenance") subject to the terms and conditions of the McAfee® Technical Support and Maintenance for Hardware and Software Terms and Conditions attached hereto as Exhibit B (the "Technical Support Terms"); and receive Platinum Level Technical Support as described in Exhibit C.

WHEREAS, the Board and McAfee agree that all Software and Maintenance purchased through a McAfee authorized reseller ("Reseller"), shall be subject to the EULA and Technical Support Terms respectively, until termination of this Agreement; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT:

1. Master License Agreement. This Agreement incorporates the EULA, and the Technical Support Terms. The EULA, and the Technical Support Terms shall constitute separate agreements entered into during the term of this Agreement. This Agreement shall commence on the Effective Date and shall continue in effect for a period of three (3) years. Termination of this Agreement shall not affect the term of the EULA or Technical Support Terms, under which Software and Maintenance are provided.
2. EULA. the Board's purchase of Software licenses from a Reseller during the term of the Agreement shall be licensed to The Board under the terms and conditions of the EULA.
3. Technical Support Terms. The Board's purchase of Maintenance from a Reseller during the term of the Agreement shall be provided to the Board under the terms and conditions of the Technical Support Terms. McAfee's Platinum Level Support service level agreement ("SLA") as attached hereto as Exhibit C.
4. Schedules. Schedules may be entered into by the Board and McAfee that reflect Software and Maintenance purchased by the Board under the Agreement. Each Schedule shall have similar format to that within the attached Schedule A, and Schedule A shall also serve as the initial Schedule under this Agreement.
5. Confirmation. This Agreement constitutes the entire agreement between the parties for the licensing of software by McAfee to the Board, and will become binding upon execution by both parties. This Agreement supersedes any and all prior agreements on the same subject matter. Specifically, the EULA shall supersede any alternative license agreement included with the software and the Technical Support Terms shall supersede any alternative terms of Maintenance provided with a purchase of such.

IN WITNESS WHEREOF, the parties have executed these presents as of the Effective Date.

MCAFFEE, INC.

By: *Roger J. King*
 Name: Roger J. King
 Title: EVP, WW Sales
 Date: 20 June 2007

THE SCHOOL DISTRICT OF PALM BEACH COUNTY, FLORIDA

By: _____
 Name: William G. Graham
 Title: School Board Chairman
 Date: _____



Confidential

**Reviewed and Approved
as to Legal Sufficiency**

Palumbo 6/25/07

Schedule A

PRODUCT ORDER FORM

This Schedule A is governed by and incorporates by reference the terms of the Master License Agreement No. 46004433 (the "Agreement") between **McAfee, Inc.** ("McAfee") and **The School Board of Palm Beach County** ("the Board"). The terms and conditions of this Schedule A supersede all pre-printed and boilerplate terms and conditions on the Board purchase order ("PO") and any inconsistent terms in the Agreement.

Initial Order

Product SKU	Product SKU Description	Term	Quantity	Unit Price (US\$)	Extended Price (US\$)
TEACGE-BA	McAfee Total Protection Enterprise with 3 yr Gold Level Support. McAfee Total Protection Enterprise consists of the following software: VirusScan Enterprise, VirusScan Command Line for DOS & Unix, Anti-Spyware Enterprise, Host Intrusion Prevention for Desktops, NetShield for NetWare, SiteAdvisor Enterprise, GroupShield for Microsoft Exchange & Lotus Domino, Spamkiller for Mail servers, WebShield SMTP, ePolicy Orchestrator, and McAfee Policy Enforcer.	License: Perpetual Support: 36 months	80,000 Nodes	17.94	1,435,200.00
Maintenance SKU	Maintenance Description	Term	Quantity	Unit Price (US\$)	Extended Price (US\$)
MRNYDM-AD	McAfee Platinum Support Upgrade	12 months (term 1)	1	26,250.00	26,250.00
Grand Total:					1,461,450.00

Licensing Units for this Schedule A are defined as follows:

- "Node" means each workstation, desktop, lap-top and server computer connected to the Board network as licensed per the Documentation.

Additional Orders:

1. On an annual basis, the Board has the ability to select, the level of support required for the upcoming year. On the anniversary date of this Agreement, the Board will assess if the additional uplift for Platinum level support is required. If the Board determines that Gold level support is sufficient, there will be no additional fee. If the Board decides to purchase Platinum level support, McAfee agrees, as to the Board, that cost for the second and third terms of McAfee Platinum Support Upgrade (SKU MRNYDM-AD) directly following the expiration of the first term of McAfee Platinum Support Upgrade on the Initial order under this Schedule A, will be \$26,250.00 per annual term. The total expense for the two subsequent terms of Platinum level support under this Agreement may not exceed \$52,500.00
2. The Board may purchase up to 35 Days of McAfee Anti-Virus Custom Product Professional Services (SKU MD-AV-COMBO) at a cost of \$2,000.00 per Day, which includes all travel expenses, to be defined in a subsequent Scope of Work for such Services. "Day" means one day of labor by McAfee in the provision of professional services. A Day is 8:00 a.m. to 5:00 p.m. on a weekday. The total expense for the 35 Days under this Agreement may not exceed \$70,000.00.

3. In accumulation of the Initial Order, the second and third terms of Platinum level support, and up to 35 Days of McAfee Anti-Virus Custom Product Professional Services, the total cost under this Agreement to the Board may not exceed \$1,583,950.00
4. In addition to the total cost under this Agreement described above, the Board may purchase additional quantities of McAfee Total Protection Enterprise Gold Level Support during the first 24 months of the 36 month term of the Initial Order. Such additional quantities will have a perpetual license and support a term extending until the end of the 36 month term of the Initial Order. The cost to the Board for such additional quantities will be the same per Node price as the on the Initial Order with a straight line monthly pro-rata discount for that portion of the 36 month term which has elapsed. E.g., an additional license purchased nine (9) months into the 36 month term will be discounted by 25% off of the per Node Initial Order price.

Additional Terms

1. McAfee and the Board agree that any pricing provided in this Schedule A is a representation from McAfee to the Board of the Board specific price ("the Board Price") in the United States of America for the SKU's hereunder. McAfee shall represent the Board Price to its Resellers. The Board shall place the order for the SKUs on this Schedule A with the Reseller of its choice. Final terms of invoicing, shipment and payment shall be subject to the terms and conditions between the Board and Reseller.

Exhibit A

End User License Agreement

1. Definitions.

- a) "Software" means (a) all of the contents of the files, disk(s), CD-ROM(s) or other media (including electronic media) with which this Agreement is provided or such contents as are hosted by McAfee or its distributors, resellers, OEM/MSP partners, or other business partners (collectively "Authorized Partner(s)"), including but not limited to (i) McAfee or third party computer information or software; (ii) related explanatory materials in printed, electronic, or online form ("Documentation"); and (b) upgrades, modified or subsequent versions and updates (including DAT file (virus signature) updates (collectively "Updates"), and Software, if any, licensed to The Board by McAfee or an Authorized Partner as part of a maintenance contract or service subscription.
- b) "Grant Letter" means a license confirmation notice letter issued by McAfee to the Board confirming the Board's purchase of a Software license.
- c) "Use" or "Using" means to access, install, download, copy or otherwise benefit from using the Software.
- d) "Permitted Number" means one (1) unless otherwise indicated under a valid license (e.g., volume license) granted by McAfee.
- e) "Computer" means a device that accepts information in digital or similar form and manipulates it for a specific result based upon a sequence of instructions.
- f) "McAfee" means (a) McAfee, Inc., a Delaware corporation, with offices located at 3965 Freedom Circle, Santa Clara, California 95054 if the Software is purchased in the United States, Mexico, Central America, South America, or the Caribbean; (b) McAfee Ireland Limited, with offices located at 11 Eastgate Business Park, Little Island, Cork, Ireland if the Software is purchased in Canada, Europe, the Middle East, Africa, Asia, or the Pacific Rim; (c) McAfee do Brasil Comércio de Software Ltda., with offices located at Rua General Flausino Gomes 78, conj. 51, Sao Paulo, SP, Brazil if the Software is purchased in Brazil; (d) McAfee Co., Ltd. with offices located at Shibuya Mark City West Building 12-1, Dogenzaka 1-Chrome, Shibuya-ku, Tokyo 150-0043, Japan if the Software is purchased in Japan; and (e) McAfee (Shanghai) Software Co. Ltd., with offices located at Room 601 AE-13, Bldg. 2, No. 351, Goushoujing Toad, Zhangliang High-tech Park, Pudong, Shanghai China if the Software is purchased in China.

2. **License Grant.** Subject to the payment of the applicable license fees, and subject to the terms and conditions of this Agreement, McAfee hereby grants to the Board a non-exclusive, non-transferable license to Use the Software subject to any restrictions or usage terms specified on the applicable price list or product packaging included as part of the Documentation. Some third party materials included in the Software may be subject to other terms and conditions, which are typically found in a "Read Me" file or "About" file in the Software.

3. **Term.** The term of this license for the Software shall be effective for the term set forth in the purchase order issued by the Board to the Reseller and the Grant Letter or, alternatively, as set forth in a product order form issued by McAfee and incorporated herein. If the terms and conditions as set forth in the Grant Letter or included in the Documentation conflicts with the terms and conditions included in the Board's PO, then the terms and conditions specified in the Grant Letter or Documentation shall control. In no event shall the Grant Letter or Documentation supersede the terms and conditions of this End User License Agreement. Upon any termination or expiration of this license for the Software, **the Board must cease use of the Software and destroy all copies of the Software and the Documentation**

- a) **Termination of License Agreement.** Subject to the provisions of Chapter 119, Florida Statutes, the Board may terminate this license at any time by complying with the following termination procedure: the Board must erase or destroy the original and all copies of the Software and the Board must certify in writing that the original and all copies have been erased or destroyed. If the Board fails to comply with any material provisions of this Agreement after thirty (30) days notice and opportunity to cure, McAfee may, in addition to all other remedies available, terminate the license by notice to the Board. Upon termination by McAfee, the Board will comply with the termination procedure described above. Board's obligation to hold the Software in confidence and all related obligations shall survive termination of the license.

4. **Updates.** This license is limited to the version of the Software delivered by McAfee and does not include Updates, unless Technical Support is purchased for the Software that entitles, the Board to Updates as described in Section 1 (a). After the specified maintenance period has expired, the Board shall have no further rights to receive any Updates without purchase of a new license to the Software.
5. **Ownership Rights.** The Software is protected by United States' and other copyright laws, international treaty provisions and other applicable laws in the country in which it is being used. McAfee and its suppliers own and retain all right, title and interest in and to the Software, including all copyrights, patents, trade secret rights, trademarks and other intellectual property rights therein. The Board's possession, installation, or use of the Software does not transfer to the Board any title to the intellectual property in the Software, and the Board will not acquire any rights to the Software except as expressly set forth in this Agreement. Any copy of the Software and Documentation authorized to be made hereunder must contain the same proprietary notices that appear on and in the Software and Documentation.
6. **Multiple Environment Software/Multiple Language Software/Dual Media Software/Multiple Copies/Bundles/Updates** If the Software supports multiple platforms or languages, if the Board receives the Software on multiple media, if the Board otherwise receives multiple copies of the Software, or if the Board receives the Software bundled with other software, the total number of the Board's Computers on which all versions of the Software are installed may not exceed the Permitted Number. If the Software is an Update to a previous version of the Software, the Board must possess a valid license to such previous version in order to Use the Update. The Board may continue to Use the previous version of the Software on the Board's Computer after the Board receives the Update to assist the Board in the transition to the Update, provided that the Update is installed on a computer that has the previous version installed, the previous version or copies thereof are not transferred to another Computer unless all copies of the Update are also transferred to such Computer, and the Board acknowledges that any obligation McAfee may have to support the previous version of the Software ends upon the availability of the Update.
7. **Evaluation Product Additional Terms.** If the product the Board has received with this license has been identified as "Evaluation" Software or "Beta" Software, then the provisions of this section apply. To the extent that any provision in this section is in conflict with any other term or condition in this Agreement, this section shall supersede such other term(s) and condition(s) with respect to the Evaluation or Beta Software, but only to the extent necessary to resolve the conflict. The Board acknowledges that the Evaluation or Beta Software may contain bugs, errors and other problems that could cause system or other failures and data loss. Consequently, Evaluation or Beta Software is provided to the Board "AS-IS", and McAfee disclaims any warranty or liability obligations to The Board of any kind. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED, BUT MAY BE LIMITED, MCAFEE'S LIABILITY AND THAT OF ITS SUPPLIERS AND AUTHORIZED PARTNERS SHALL BE LIMITED TO THE SUM OF FIFTY DOLLARS (U.S. \$50) IN TOTAL. The Board acknowledges that McAfee has not promised or guaranteed to the Board that Beta Software will be announced or made available to anyone in the future, that McAfee has no express or implied obligation to the Board to announce or introduce the Beta Software and that McAfee may not introduce a product similar to or compatible with the Beta Software. Accordingly, the Board acknowledges that any research or development that the Board performs regarding the Beta Software or any product associated with the Beta Software is done entirely at the Board's own risk. During the term of this Agreement, if requested by McAfee, the Board will provide feedback to McAfee regarding testing and use of the Beta Software, including error or bug reports. If the Board has been provided the Beta Software pursuant to a separate written agreement, the Board's use of the Beta Software is also governed by such agreement. Upon receipt of a later unreleased version of the Beta Software or release by McAfee of a publicly released commercial version of the Beta Software, whether as a stand-alone product or as part of a larger product, the Board agrees to return or destroy all earlier Beta Software received from McAfee and to abide by the terms of the End User License Agreement for any such later versions of the Beta Software. The Board's Use of the Evaluation or Beta Software is limited to 30 days unless otherwise agreed to in writing by McAfee.
8. **Restrictions.** The Board may not sell, lease, license, rent, loan, resell or otherwise transfer, with or without consideration, the Software. If the Board enters into a contract with a third party in which the third party manages the Board's information technology resources ("Managing Party"), the Board may transfer all the Board's rights to Use the Software to such Managing Party, provided that (a) the Managing Party only Uses the Software for the Board's internal operations and not for the benefit of another third party; (b) the Managing Party agrees to comply with the terms and conditions of this

Agreement, and (c) the Board provides McAfee with written notice that a Managing Party will be Using the Software on the Board's behalf. The Board may not permit third parties to directly benefit from the use or functionality of the Software via a timesharing, service bureau or other arrangement. The Board may not reverse engineer, decompile, or disassemble the Software, except to the extent the foregoing restriction is expressly prohibited by applicable law. The Board may not modify, or create derivative works based upon, the Software in whole or in part. The Board may not copy the Software or Documentation except as expressly permitted in Section 1 above. The Board may not remove any proprietary notices or labels on the Software. All rights not expressly set forth hereunder are reserved by McAfee.

9. Warranty and Disclaimer.

- a) **Limited Warranty.** McAfee warrants that for sixty (60) days from the date of shipment of the media (e.g., CD ROM), if any, on which the Software is contained and provided to the Board will be free from defects in materials and workmanship.
- b) **The Board Remedies.** McAfee's and its suppliers' entire liability and the Board's exclusive remedy for any breach of the foregoing warranty shall be, at McAfee's option, either (i) return of the purchase price paid for the license, if any, or (ii) replacement of the defective media in which the Software is contained. The Board must return the defective media to McAfee at McAfee's expense with a copy of the Board's receipt. This limited warranty is void if the defect has resulted from the Board's accident, abuse, or misapplication of the media. Any replacement media will receive the same Limited Warranty as the original media the Board purchased. Outside the United States, this remedy is not available to the extent McAfee is subject to restrictions under United States export control laws and regulations.
- c) **Warranty Disclaimer.** Except for the limited warranty set forth herein, THE SOFTWARE IS PROVIDED "AS IS" AND MCAFEE MAKES NO WARRANTY AS TO ITS USE OR PERFORMANCE. EXCEPT FOR ANY WARRANTY, CONDITION, REPRESENTATION OR TERM THE EXTENT TO WHICH CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW. MCAFEE, ITS SUPPLIERS AND AUTHORIZED PATNERS MAKE NO WARRANTY, CONDITION, REPRESENTATION, OR TERM (EXPRESS OR IMPLIED, WHETHER BY STATUTE, COMMOM LAW, CUSTOM, USAGE OR OTHERWISE) AS TO ANY MATTER INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY, SATISFACTORY QUALITY, INTEGRATION, OR FITNESS FOR A PARTICULAR PURPOSE. THE BOARD ASSUMES RESPONSIBILITY FOR SELECTING THE SOFTWARE TO ACHIEVE THE BOARD'S INTENDED RESULTS, AND FOR THE INSTALLATION OF, USE OF, AND RESULTS OBTAINED FROM THE SOFTWARE. WITHOUT LIMITING THE FOREGOING PROVISIONS, MCAFEE MAKES NO WARRANTY THAT THE SOFTWARE WILL BE ERROR-FREE OR FREE FROM INTERRUPTIONS OR OTHER FAILURES OR THAT THE SOFTWARE WILL MEET THE BOARD'S REQUIREMENTS.

10. Limitation of Liability. EXCEPT FOR EACH PARTY'S OBLIGATIONS IN SECTIONS 11 AND 12, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR LOSS OF PROFITS, LOSS OF GOODWILL OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR FOR ANY OTHER DAMAGE OR LOSS. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY DAMAGE IN EXCESS OF THE GREATER OF THE FEES PAID FOR THE SOFTWARE OR \$250,000.00, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Intellectual Property Indemnification. McAfee agrees, at its own expense, to defend or, at its option, to settle, any claim or action brought against the Board on the issue of infringement of any patent, copyright, trade secret, trademark, or other intellectual property right by the Software as Used within the scope of this Agreement, and to indemnify the Board and the Board's officers, directors, agents and employees against all damages and costs, including reasonable legal fees, which may be assessed against or incurred by the Board as a result of any such claim or action. Subject to the terms of the last sentence, the Board agrees that McAfee shall be released from the foregoing obligation unless the Board provides McAfee with (i) prompt written notice of such claim or action, within thirty (30) days of Board's discovery of such claim, (ii) sole control and authority over the defense or settlement of such claim or action, and (iii) reasonable assistance (at McAfee's expense) to settle and/or defend any such claim or action. McAfee's authority to defend or settle a claim or

action is not subject to McAfee obtaining the Board's consent to enter into any settlement that would not impose any unindemnified or non-monetary liability on the Board. Nevertheless, McAfee must promptly notify the Board of the settlement of such claim or action. Without limiting the foregoing, if a final injunction is, or McAfee believes in its sole discretion is likely to be, issued such that the Use of the Software by the Board is prohibited, McAfee will, at its sole option and expense, either: (i) procure for the Board the right to Use the infringing Software as provided herein, (ii) replace the infringing Software with non-infringing, functionally equivalent Software, (iii) replace the infringing Software so that it is not infringing, or if (i), (ii) or (iii) above are not obtainable or commercially reasonable, (iv) accept return of the infringing Software and issue the Board a pro-rata refund of the fees paid by the Board for the infringing Software and fees associated with the unused portion of pre-paid Maintenance. Pro-rata refunds applicable to perpetual term licenses and hardware components under this Section 11 shall be based on a useful life of five (5) years.

- 12. General Indemnity.** Each party shall be solely responsible for, and shall hold the other party free and harmless from any and all claims, damages or lawsuits (including attorney's fees), relating to bodily injury or tangible property damage, or arising from the criminal, fraudulent willful, intentional or negligent act or omission of such party or its employees, agents or contractors. McAfee will be responsible for and shall indemnify and hold the Board harmless for any and all damages resulting from any "worm", "virus", "lock out", "metering", "self destruct" or other device (as such terms are understood in the computer industry) (collectively, "Virus") contained in the Software as delivered by McAfee, or an agent or Authorized Partner, unless such damages are a direct result of the Board's intentional or negligent act or omission. The Board's liability is limited to the extent and limits provided in Section 768.28, Florida Statutes, the State of Florida's partial waiver of Sovereign Immunity: provided, however, that this provision shall not be construed as a waiver of any right or defense that the Board has under said statute.
- 13. Notice to United States Government End Users.** The Software and accompanying Documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software and accompanying Documentation by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.
- 14. Export Controls.** The Board is advised that the Software is of United States origin and subject to United States Export Administration Regulations; diversion contrary to United States law and regulation is prohibited. The Board agree not to directly or indirectly export, import or transmit the Software to any country, end user or for any Use that is prohibited by applicable United States regulation or statute (including but not limited to those countries embargoed from time to time by the United States government). The Board represent that neither the United States Bureau of Industry and Security nor any other governmental agency has issued sanctions against the Board or otherwise suspended, revoked or denied The Board's export privileges. The Board agree not to Use or transfer the Software for any Use relating to nuclear, chemical or biological weapons, or missile technology, unless authorized by the United States Government by regulation or specific written license. Additionally, The Board agree not to directly or indirectly export, import or transmit the Software contrary to the laws or regulations of any other governmental entity that has jurisdiction over such export, import, transmission or Use.
- 15. High Risk Activities.** The Software is not fault-tolerant and is not designed or intended for use in hazardous environments requiring fail-safe performance, including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, direct life-support machines, or any other application in which the failure of the Software could lead directly to death, personal injury, or severe physical or property damage (collectively, "High Risk Activities"). McAfee expressly disclaims any express or implied warranty of fitness for High Risk Activities.
- 16. Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Florida. This Agreement will not be governed by the conflict of laws rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.
- 17. Free Software.** This Software includes or may include some software programs that are licensed (or sublicensed) to the user under the GNU General Public License ("GPL") or other similar free Software

licenses ("Free Software") which, among other rights, permit the user to copy, modify and redistribute certain programs, or portions thereof, and have access to the source code. The GPL requires that for any software covered under the GPL, which is distributed to someone in an executable binary format, that the source code also be made available to those users. For any such software covered under the GPL, the source code is made available on this CD. If any Free Software licenses require that McAfee provide rights to use, copy or modify a software program that are broader than the rights granted in this agreement, then such rights shall take precedence over the rights and restrictions herein.

- 18. Audit for Volume Licenses.** McAfee reserves the right to periodically audit the Board to ensure that the Board is not using any Software in violation of this Agreement. During standard business hours and upon thirty (30) days prior written notice, McAfee may visit the Board and the Board will make available to McAfee any records pertaining directly to the Software. The cost of any requested audit will be solely borne by McAfee, unless such audit discloses an underpayment or amount due to McAfee in excess of five percent (5%) of the license fees for the Software or the Board is using the Software in an unauthorized manner, in which case the Board shall pay the cost of the audit.
- 19. Screening.** In order to conduct business with the Board, McAfee hereby acknowledges that it will comply with, and cause its employees, contractors (if permitted by this Agreement) and agents to comply with, all of the Board's policies and procedures designed to protect the security and integrity of the Board's computer systems and maintain a virus-free environment. McAfee hereby acknowledges and agrees that such policies and procedures may require McAfee, as set forth in this Section, to provide the Board with prior access to all equipment that McAfee will use to access or connect to the Board's computer systems, for the purpose of: (a) testing the security profile of such equipment; (b) installing or updating any security or anti-virus software as the Board deem to be necessary; and (c) performing any other tests or actions as the Board deem necessary to protect the security and integrity of its computer systems and keep them free of viruses. Should McAfee fail to strictly adhere to the terms of this subsection, McAfee shall refrain from accessing or connecting to the Board's computer systems, and the Board shall have the right to immediately terminate this Agreement and receive a refund of all fees paid to McAfee for Services not delivered.
- 20. Miscellaneous.** This Agreement sets forth all rights for the user of the Software and is the entire Agreement between the parties. This Agreement supersedes any other communications, representations or advertising relating to the Software and Documentation. This Agreement may not be modified except by a written amendment agreed to by both parties. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by McAfee. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect.
- 21. McAfee and Board Contact.** If the Board has any questions concerning these terms and conditions, or if the Board would like to contact McAfee for any other reason, please call (408) 988-3832, fax (408) 970-9727, or write: McAfee, Inc., 3965 Freedom Circle, Santa Clara, California 95054. Alternatively, the Board may contact any other local McAfee entity that is listed at <http://www.McAfee.com>

Exhibit B

McAfee® Technical Support and Maintenance for Hardware and Software Terms and Conditions

McAfee (as defined below) will provide McAfee Technical Support and Maintenance in accordance with the following terms and conditions ("Terms").

1. Definitions:

- 1.1. "Brand Group" means the three brand divisions of products offered by McAfee. The Brand Groups are "Foundstone", "IntruShield", and "Entercept/Anti-Virus".
- 1.2. "the Board" means the entity that has purchased Support from a Reseller or from McAfee.
- 1.3. "Defect" means an error in functionality or performance of a McAfee Hardware or Software product.
- 1.4. "Confidential Information" means any information disclosed by McAfee or the Board ("Disclosing Party") to the other ("Receiving Party") relating to the provision Support, including but not limited to information learned from Disclosing Party's employees or agents that relates to products, designs, product support, business plans, business opportunities, research, development, know-how, personnel, marketing, performance, sales, cost, computing programming techniques, or third-party confidential information; provided, however, that "Confidential Information" will not include information that: (i) is now or subsequently becomes generally available to the public through no fault or breach on the part of the Receiving Party; (ii) the Board or McAfee can demonstrate to have had rightfully in its possession prior to disclosure by the Disclosing Party; (iii) is independently developed by the Receiving Party without the use of any Confidential Information of the Disclosing Party; or (iv) the Receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.
- 1.5. "CRU" means the Board Replaceable Unit, which is any Hardware part or component that McAfee reasonably determines may be installed or replaced by The Board.
- 1.6. "Grant Letter" means a confirmation notice letter issued electronically by McAfee to the Board confirming the Board's Service Level of Support, which includes the Support Grant Number and Support Period.
- 1.7. "Hardware" means McAfee branded hardware equipment together with all parts, elements or accessories, and any combination of them, but excludes any Software programs, code, routines or other intangible products.
- 1.8. "McAfee" means (a) McAfee, Inc., a Delaware corporation, with offices located at 3965 Freedom Circle, Santa Clara, California 95054 if the Support is purchased in the United States, Mexico, Central America, South America, or the Caribbean; (b) McAfee Ireland Limited, with offices located at 11 Eastgate Business Park, Little Island, Cork, Ireland if the Support is purchased in Canada, Europe, the Middle East, Africa, Asia, or the Pacific Rim; (c) McAfee do Brasil Comércio de Software Ltda., with offices located at Rua General Flausino Gomes 78, conj. 51, Sao Paulo, SP, Brazil if the Support is purchased in Brazil; (d) McAfee Co., Ltd. with offices located at Shibuya Mark City West Building 12-1, Dogenzaka 1-Chrome, Shibuya-ku, Tokyo 150-0043, Japan if the Support is purchased in Japan; and (e) McAfee (Shanghai) Software Co. Ltd., with offices located at Room 601 AE-13, Bldg. 2, No. 351, Goushoujing Toad, Zhangliang High-tech Park, Pudong, Shanghai China if the Support is purchased in China.
- 1.9. "McAfee Technical Support and Maintenance" or "Support" means the support services offered by McAfee or its authorized providers, and purchased by the Board for the support and maintenance of McAfee brand software licensed by the Board and McAfee brand hardware purchased by the Board.
- 1.10. "Reseller" means an independent company authorized by McAfee to sell McAfee Technical Support and Maintenance.
- 1.11. "Service Level" means either (i) a technical support and maintenance program for Software ("Software Service Level"), or (ii) a service program for Hardware ("Hardware Service Level") that are offered by McAfee. Service Levels are defined further on datasheets available at http://www.mcafee.com/us/support/technical_support/overview.asp.

- 1.12. "Software" means the McAfee software programs, code, and components that have been licensed by McAfee to the Board.
 - 1.13. "Support Grant Number" means a unique alpha-numeric code issued to the the Board as both an identifier of the Technical Support purchased and a means of access to Technical Support that is provided to the Board in a Grant Letter.
 - 1.14. "Support Period" means the effective time period for which the the Board has purchased Support and is confirmed in a Grant Letter.
 - 1.15. "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")
 - 1.16. "Upgrade" means any and all improvements in the Software which are made generally available to McAfee's the Board base as a part of purchased Support and which are not separately priced or marketed by McAfee, including all virus and vulnerability signature updates for the Software.
2. Technical Support Service Levels. McAfee shall provide Support for Hardware and Software to the Board at the Service Level that has been purchased from Reseller or McAfee and is confirmed to the Board in a Grant Letter. For purchases of Support not made at the time such Support's corresponding Hardware or Software is purchased, Support must be purchased with a Support Period that begins at the date the Hardware or Software was purchased.
 3. License. McAfee grants to the Board a non-exclusive, non-transferable license to use Upgrades provided by McAfee as a part of Support. Such Upgrades shall be deemed a part of the Software and are subject to the terms of the license granted by McAfee to the the Board for the Software.
 4. Limitations.
 - 4.1. Response Times. Response times set forth in the Service Levels are approximate and may vary in any given call, based on telecommunications availability and other factors. McAfee's only agreement herein with respect to such response times is to maintain functioning systems in place to permit achievement of such response times and to make a commercially reasonable effort to achieve such response times. Access to McAfee's websites for the provision of Support may be suspended for a brief period due to scheduled maintenance and due to disruptions in the Internet generally.
 - 4.2. Change in Services. McAfee may change or discontinue a Service Level at any time without notice. However, in the event that a change or discontinuation of a Service Level is deemed material by the Board, The Board shall be entitled to cancel the Service Level purchased and be paid a prorated refund of the unexpired portion of the Support's term.
 - 4.3. Geographic Limitations. Geographic restrictions or limitations may apply to Service Levels and are described on the Service Level's corresponding datasheet.
 - 4.4. Software Service Level Limitations:
 - 4.4.1. Region. Unless otherwise agreed in writing by McAfee or included as part of the applicable Service Level, Software is eligible for service only if it remains in the Support Region where the Board licensed the Software.
 - 4.4.2. SDK: Support for Software Development Kits ("SDKs") is limited. Upon the Board's request, McAfee will provide the email address of the SDK engineering team, and the Board may send SDK issues and questions by email to the SDK engineering team.
 - 4.4.3. Exclusions. McAfee shall have no obligation to provide Support for Software errors or problems caused by misuse, abuse, accident, unauthorized modification, improper use or maintenance, or any other damage or failure caused by the Board, a third party, or a third party product.
 - 4.5. Hardware Service Level Limitations:
 - 4.5.1. The Board Replaceable Units (CRU): Some parts of the Hardware are designated CRU. McAfee may ship, at McAfee's option and expense, CRU's to the Board for replacement by the Board. The Board must return, at McAfee's expense and in the package provided, all defective CRU's to McAfee within 15 days following the receipt of the replacement CRU or the Board will be invoiced for the CRU at the then-current replacement list price.

- 4.5.2. Region. Unless otherwise agreed in writing by McAfee or included as part of the applicable Service Level, Hardware is eligible for service only if it remains in the country where the Board originally installed the Hardware.
- 4.5.3. Exclusions. McAfee shall have no obligation to provide Support for Hardware damaged by or failures caused by, the Board, a third party or a third party product.
5. Modification. McAfee reserves the right to immediately terminate Support, without any further obligation to the Board, if the Board tampers with or modifies the Hardware or Software without prior written authorization of McAfee, or otherwise uses the Hardware or Software in violation of the applicable license agreement. McAfee shall have no obligation hereunder where hardware, tools or software other than those supplied or approved by McAfee have been used. In addition, McAfee is not responsible for importing or exporting the Board data, creating or modifying custom business rules or reports, or supporting custom modifications to databases, active server pages, or other code, components or programs.
6. Prerequisites. The provision of Support is subject to the Board's compliance with the following:
- 6.1. Current Release and Configuration. The Board shall promptly download, distribute and install Upgrades as released by McAfee during the Maintenance Period. An Upgrade may require a hardware upgrade or new platform conversion to function properly. The provision of Support is limited to (i) the current version and the one most recent version of the Software and Hardware and (ii) problems that can be reproduced in running the Hardware or Software in a configuration meeting published McAfee specifications.
- 6.2. Process. The Board must report the Defect to McAfee Support, and be prepared to provide McAfee with (i) their Technical Support Grant Number, (ii) the location of the Software and/or Hardware, (iii) a detailed description of the Defect, (iv) a description of the hardware on which the Software is loaded, including any serial number or service tag number where applicable, and (v) the names and versions of any operating systems, networks, and software running with the Software, including patches and fixes. McAfee may request that the Board take certain actions to determine whether the problem or error is related to the Software, Hardware, or other item. The Board shall reasonably cooperate with McAfee during this process.
- 6.3. On Site. If McAfee provides any services at the Board's location or facilities, the Board warrants that (i) it shall make the Software and/or Hardware with the reported Defect available to McAfee for repair or replacement during normal business hours in the region of such the Board's location or facilities, and (ii) the premises where the Hardware or Software is located are in a safe condition and that McAfee's personnel will not be subject to undue risk or danger while on the premises.
- 6.4. Hardware Return. Prior to returning any Hardware to McAfee for repair or replacement, the Board shall ensure that (i) the Hardware is free of any legal obligations or restrictions that prevent McAfee from exchanging, repairing or replacing the Hardware, and all necessary consents have been obtained to allow McAfee to access, repair, or replace the Hardware, and (ii) the Board has obtained a return authorization from McAfee, including a return authorization number (a "RMA Number"). The Board acknowledges and agrees that Hardware returned to McAfee shall become the property of McAfee at the time it is determined by McAfee to contain a Defect and that the Board shall own all replacement Hardware provided by McAfee to the Board upon shipment by McAfee.
- 6.5. Coverage: The Board acknowledges that Support is sold based upon the quantity of Software and Hardware purchased. Upon purchasing Support for a particular Brand Group, the Board must purchase the same Service Level for all Hardware and Software units owned or licensed by the Board of that particular Brand Group that are deployed or in use at the location(s) covered by the Support.
- 6.6. Labels: The Board shall not, nor permit anyone else, to remove any identification labels from the Hardware without written authorization from McAfee.
- 6.7. Additional Software. The Board shall not install, nor permit the installation of additional hardware or software on the Hardware without written authorization from McAfee or if any tampering is detected with the Hardware. The Hardware may not be altered, except as authorized by a McAfee Technical Support representative.

- 6.8. Backup and Restore: The Board shall keep adequate backup copies of data, databases, and application programs. The Board shall verify their backups to ensure effective data restoration. The Board acknowledges and agrees that the Board is solely responsible for any and all restoration and reconstruction of lost or altered files, data, or programs.
7. Remote Diagnostics: With the Board authorization McAfee may perform remote diagnostics to determine and resolve a Defect. In the event the the Board declines Remote Diagnostics and requests on-site Support, the Board may be charged for the on-site Support by McAfee at the then-current price including reasonable travel and expenses.
8. Confidentiality. McAfee and the Board agree to hold each other's Confidential Information in confidence and not to disclose it to any third party without the prior written consent of the Disclosing Party. The parties agree to use such Confidential Information of the Disclosing Party only as it relates to the performance of the party's obligations under this Agreement. Further, the Receiving Party shall use the same degree of care it uses with respect to its own Confidential Information to prevent the unauthorized disclosure to a third party, but in no event less than reasonable care. The forgoing agreements regarding Confidential Information will not apply to Confidential Information that is (i) already known to the receiving Party, (ii) becomes publicly available through no wrongful act of the receiving Party, (iii) independently developed by the receiving Party without benefit of the disclosing Party's Confidential Information, (iv) has been rightfully received from a third party not under obligation of confidentiality or (v) is required to be disclosed by law, provided the Party compelled to disclose the Confidential Information provides the Party owning the Confidential Information with prior written notice of disclosure adequate for the owning Party to take reasonable action to prevent such disclosure, whenever reasonably possible.
9. Term and Renewal. Unless terminated as permitted herein, McAfee shall provide Support during the Support Period.
- 9.1. Expired Support. In the event that Support for Software or Hardware expires, the Board may purchase additional Support for that Hardware or Software only if (i) such purchase is made within one year of the expiring Support's termination, and (ii) the the Board purchases Support with a Support Period beginning at the date of the previous Support's termination. Hardware for which Support has lapsed for more than 90 days is subject to inspection by McAfee or its agents at the Board's expense.
- 9.2. Survival of Terms. The provisions of Sections 3, 8, 10, 11, and 12 shall survive termination or expiration the Terms.
10. Warranty. MCAFEE WARRANTS THAT THE PROVISION OF SUPPORT SHALL BE PROVIDED IN A PROFESSIONAL AND WORKMAN LIKE MANNER. EXCEPT AS EXPRESSLY PROVIDED HEREIN, MCAFEE MAKES AND THE BOARD RECEIVES ABSOLUTELY NO WARRANTIES, EXPRESS OR IMPLIED. THE BOARD DISCLAIMS ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, OR MERCHANTABILITY.
11. Limitation of Liability. MCAFEE SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, IN CONNECTION WITH OR ARISING FROM THE FURNISHING, PERFORMANCE, OR USE OF SUPPORT PROVIDED HEREIN, REGARDLESS OF WHETHER SUCH DAMAGES ARISE UNDER TORT, CONTRACT OR OTHERWISE. IN NO EVENT SHALL MCAFEE'S LIABILITY FOR DIRECT DAMAGES HEREUNDER EXCEED THE MCAFEE LIST PRICE FOR THE SERVICE LEVEL GIVING RISE TO THE CLAIM FOR DAMAGES. NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.
12. General.
- 12.1. Force Majeure. McAfee shall not be responsible for any failure to perform its obligations under this Agreement if such failure is caused by acts of God, (earthquake, lightning, flood, fire, etc.) war, strikes, revolutions, lack or failure of transportation or telecommunication facilities, laws or governmental regulations or other causes that are beyond the reasonable control of McAfee. Obligations hereunder shall be suspended only until the cessation of any cause of such failure. McAfee shall use reasonably commercial efforts to remedy such situations as well as to minimize its effects

- 12.2. Waiver; Severability. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by McAfee. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect.
- 12.3. Recording. In providing Support, McAfee may record all or part of telephone calls between the Board and McAfee for quality assurance and training purposes.
- 12.4. Assignment. The provision of Support is not assignable by the Board without the prior written consent of McAfee. Any attempt of assignment by the Board without such consent shall be void. McAfee may subcontract its obligations to provide Support hereunder to another party.
- 12.5. Use Restrictions. Support is neither provided nor intended for use in hazardous environments requiring fail-safe performance, including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, direct life-support machines, or any other application in which the failure of the Software or Hardware could lead directly to death, personal injury, or severe physical or property damage (collectively, "High Risk Activities"). McAfee expressly disclaims any express or implied warranty of fitness for High Risk Activities.
- 12.6 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Florida. This Agreement will not be governed by the conflict of laws rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.
- 12.7 Entire Agreement. The Terms and any additional terms referenced herein constitute the entire agreement between the Board and McAfee with regard to Support, and supersedes all prior negotiations, agreements, and understandings with respect to the subject matter hereof. The terms may not be modified except by an agreement in writing executed by McAfee and the Board.

Exhibit C

Platinum Support Severity Codes and Service Level Agreements

For each Severity Level (defined below), McAfee's response time under its Platinum Technical Support is described on the following table: A severity code is associated with all cases, failures and enhancement requests. The severity code indicates the impact to the Board's business and, along with priority level, the urgency required.

Severity Level	Platinum Support Activity		Tier 3 Activity	Update Frequency
	Acknowledgement and Response	Escalation to Tier 3 support	Escalation to Development	
Severity 1	Immediate	30 Min	4 Hours	Continuous via Phone Bridge
Severity 2	Immediate	1 Hr	6 Hours	Hourly
Severity 3	Immediate	5 Days	5 Days	Daily
Severity 4	Immediate	25 Days	25 Days	Weekly
Severity 5	Immediate	30 Days	30 Days	Every 2 Weeks

McAfee does not guarantee defects will be fixed in any specific time. McAfee will make a commercially reasonable effort to meet the acknowledgement and escalation schedule on the preceding table.

"Severity Level" is defined as the impact on the Board's business cause by the Software or Hardware. Each Severity Level (one through five) is defined further as follows:

"Severity 1" – The Board's organization has stopped as a result of the Software or Hardware is not functioning and there is no viable workaround for the Board either through the Software or Hardware system or by manual processes; or the Board is unable to provide virus protection to his network by use of the Software or Hardware.

"Severity 2" - The Board's organization is severely impacted as a result of the Software or Hardware; and symptoms of the problem, which may include installation failures, conflicts with major brand software, anti-virus resources cannot update, or a specific mail flow issues, are present across the Board environment; but the Board is generally able to provide available virus protection to the Board.

"Severity 3" - The Board's organization is impeded as a result of the Software or Hardware. The symptoms of the problem affect either a single machine or isolated parts of The Board environment, or restrict the use of one or more features of the Software or Hardware to perform necessary functions; the symptoms of the problem do not completely restrict use of the Software or Hardware.

"Severity 4" - The Board's organization is not affected, but symptoms of a problem exist. The symptoms affect only few systems or are easily circumvented. The symptoms cause some functional restrictions, but it does not have a critical or severe impact on The Board operations.

"Severity 5" - The Board makes a request for product information or a feature modification. Severity 5 does not involve any deficiency in virus protection.