



AUXTERA PROJECT PARTICIPATION AGREEMENT

This AUXTERA Project Participation Agreement ("**Participation Agreement**") contains the terms and conditions that govern Your participation in the AUXTERA Project (the "**Program**"). By clicking on the "JOIN" button on the www.theauxteraproject.com website or otherwise participating in or seeking to participate in the Program, You agree to these conditions.

1. **THE AUXTERA PROJECT.** The purpose of the Program is to assist with the investigations of police, other justice sector entities and charitable organizations that meet the qualifying criteria ("**Eligible Organization(s)**") by providing access to Magnet's software ("**Software**") and the digital forensics services of trained volunteers free of charge. The Program also affords the opportunity for qualified personnel to volunteer their skills and time to support justice initiatives by providing digital forensics services to Eligible Organizations ("**Volunteer(s)**"). The Program is administered in the United States of America by the Magnet Forensics USA Inc.; in Europe by Magnet Forensics Europe Limited and by Magnet Forensics Inc. elsewhere in the world (collectively "**Magnet**"). "**We**," "**Us**," or "**Our**" refers to Magnet, and "**You**" or "**Your**" refers to the organization or individual participating or seeking to participate in the Program.
2. **REGISTRATION.** To register, You must accept this Participation Agreement without modification, complete registration through www.theauxteraproject.com and properly provide all requested information. We reserve the right to reject or suspend Your registration if the requested information is inaccurate or incomplete or if You are otherwise not in compliance with this Participation Agreement. If Your registration is accepted, You will be an Eligible Organization or Volunteer for as long as all of Your registration information is current and complete, Your conduct is in compliance with this Participation Agreement, and this Participation Agreement remains in force. You will ensure that all information You provide to Us, including Your Program application information, email address, and other contact information, is at all times complete, accurate, and up-to-date, and agree that failure to keep such information up to date may result in You no longer being able to participate in the Program.
3. **CRITERIA**
 - a. "**Eligible Organizations**" are those organizations that We determine:
 - i. operate within the justice sector and are committed to justice, equity and the safety of children and other vulnerable populations;
 - ii. are adversely affected by the lack of timely and effective digital forensics examinations;
 - iii. have demonstrated financial need and cannot otherwise afford digital forensic software or trained personnel to operate the software;
 - iv. are in good standing in their jurisdiction where they are authorized to conduct business; and
 - v. are otherwise not in violation of the terms of this Participation Agreement.
 - b. "**Volunteers**" are individuals that Magnet determines:
 - i. have experience conducting digital forensics investigations with Magnet's Software; and
 - ii. are otherwise not in violation of the terms of this Participation Agreement.



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4. PROGRAM ACTIVITIES

a. For Eligible Organizations

- i. **Software License.** Upon acceptance into the Program, Eligible Organizations that have trained personnel to operate Magnet's Software shall be granted a license to use the Software solely as it pertains to their participation in the Program in accordance with the End User License Agreement available at www.magnetforensics.com/legal; and
- ii. **Use of Volunteers.** Upon acceptance into the Program, Eligible Organizations that do not have trained personnel to operate Magnet's Software shall be able to coordinate provision of digital forensics services from Volunteers in the Digital Forensics Cadre.

b. For Volunteers. Upon acceptance into the Program, Volunteers shall be entitled to use Magnet's Software solely to provide digital forensics services to Eligible Organizations in accordance with the End User License Agreement available at www.magnetforensics.com/legal.

c. Digital Forensics Cadre. The Program will maintain a list of Volunteers trained in digital forensics who are willing to donate their time and skills to support an Eligible Organization (the "**Digital Forensics Cadre**"). The Digital Forensics Cadre is a no fee, collaborative, self-service forum where Volunteers and Eligible Organizations co-ordinate task assignment and digital evidence processing. Eligible Organizations and Volunteers are responsible for determining procedures for conducting digital forensics investigations, tools used, method of reporting, actions taken based on results, etc (the "Volunteer Services"). The Eligible Organization agrees to indemnify, defend and hold Volunteers harmless from any and all claims that arise as a result of the Volunteer Services provided. You acknowledge that Magnet has no special relationship with or fiduciary duty to You as it pertains to administering the Digital Forensics Cadre, and You acknowledge that Magnet has no control over, and no duty to take any action regarding work done by Volunteers, including without limitation: (a) what information and material is accessed through the Software; (b) how to interpret or use the information and materials accessed through the Software; or (c) what actions You may take as a result of having been exposed to information and materials obtained by the Volunteer.

5. PROGRAM CONDUCT

a. Eligible Organizations. As an Eligible Organization You agree:

- i. to provide Volunteers with (a) timely access to information/data from Your officers and employees, (b) access to equipment and facilities (either on site or via VPN or other secure transmission format), (c) assistance, and (d) cooperation; and
- ii. provide Volunteers performing digital forensics services at Your site with a safe and healthful workspace.

b. Volunteers. As a Volunteer You agree:

- i. to perform Your volunteering role to the best of Your ability;
- ii. to perform your volunteering role in accordance with Magnet's Code of Conduct available at www.magnetforensics.com/legal ;
- iii. when conducting digital forensics investigations to adhere to the Eligible Organization's rules, procedures, and standards; and
- iv. to meet the time commitments and standards undertaken.

6. PROGRAM COMMUNICATIONS.

You consent to Us sending You notifications (if any), approvals (if any), and other communications relating to the Program and this Participation Agreement to the email address then-currently associated with Your Program account. You will be deemed to have received all notifications, approvals, and other communications sent to that email address, even if the email address associated with Your account is no longer current.



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- 7. CONFIDENTIALITY.** All non-public information provided by the parties in connection with the Program is considered confidential information, and the parties will maintain the same in strict confidence and not disclose the same to any third party or use the same for any purpose other than the Program. The parties agree to report any unauthorized access to confidential information as soon as they become aware that such an incident has occurred.
- 8. PUBLIC STATEMENTS.** You acknowledge and agree that Magnet may (or may cause others to) publicly disclose Your participation in the Program via announcements, press releases, publications, presentations, social media posts, and other public statements (“**Public Statements**”). You will not make any Public Statements with respect to Your participation in the Program, unless approved in writing in advance by Magnet.
- 9. TERM AND TERMINATION.** The term of this Participation Agreement will begin upon acceptance of this Participation Agreement and will end when terminated by either You or Us. Either You or We may terminate this Participation Agreement at any time, with or without cause, by giving the other party written notice of termination, which for Your termination notice will require a written request to be removed from the program, and for Our termination notice will require transmitting email to the email address then-currently associated with Your Program account. We also reserve the right, in Our sole discretion, to cancel or otherwise terminate the Program at any time. Upon any termination of this Participation Agreement and/or the Program, all rights and obligations of the parties will be extinguished. No termination of this Participation Agreement will otherwise relieve either party for any liability for any breach of, or liability accruing under, this Participation Agreement prior to termination.
- 10. MODIFICATION.** We reserve the right to modify any of the terms and conditions contained in this Participation Agreement at any time and in Our sole discretion by posting a revised agreement (any such change will be effective on the date the revised agreement is posted). YOUR CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING THE EFFECTIVE DATE OF SUCH MODIFICATION WILL CONSTITUTE YOUR ACCEPTANCE OF THE MODIFICATIONS. IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOUR ONLY RECOURSE IS TO TERMINATE THIS PARTICIPATION AGREEMENT IN ACCORDANCE WITH **SECTION 9**. YOUR CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING THE EFFECTIVE DATE OF ANY MODIFICATION WILL CONSTITUTE YOUR BINDING ACCEPTANCE OF THE CHANGE.
- 11. RELATIONSHIP OF PARTIES.** Magnet, Eligible Organizations and Volunteers are independent contractors, and nothing in this Participation Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties or Our respective affiliates. The parties will have no authority to make or accept any offers or representations on the other’s behalf. The parties understand that: (a) volunteer services are donated free of charge, (b) Volunteers are not entitled to nor expect any present or future salary, wages or other benefits from their participation in the Program, (c) no expenses or costs incurred as a result of participation in the Program shall be paid or reimbursed by Magnet and (d) and Volunteers are not considered employees of Magnet, the Program and Eligible Organizations while participating in the Program.
- 12. NO CONFLICT OF INTEREST.** Magnet, Eligible Organizations and Volunteers confirm the philanthropic nature of the Program and consequently affirm and warrant that they have complied and will comply with all applicable laws and industry codes dealing with government procurement, conflicts of interest, corruption or bribery, including, if applicable, the Foreign Corrupt Practices Act (USA); Bribery Act (UK), and Corruption of Foreign Public Officials Act (Canada).



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13. REPUTATION. If at any time an Eligible Organization or Volunteer fails to conduct itself without due regard to public morals and decency, or an Eligible Organization or Volunteer commits any act or becomes involved in any situation, or occurrence tending to degrade its reputation in the community, or which brings an Eligible Organization or Volunteer into public contempt or scandal, or which materially and adversely affects the reputation or business of Magnet or the Program, whether or not information in regard thereto becomes public, Magnet shall have the right to remove the Eligible Organization or Volunteer from the Program.

14. FURTHER ASSURANCES. The parties will execute and deliver to each other any additional instruments and take any additional steps that may be required to give full effect to the intent expressed in this Agreement.

15. LIMITATION OF LIABILITY

- a. EXCLUSIONS AND LIMITS. NEITHER MAGNET, THE ELIGIBLE ORGANIZATIONS OR THE VOLUNTEER(S), WILL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (INCLUDING ANY LOSS OF REVENUE, PROFITS, GOODWILL, USE, OR DATA) ARISING IN CONNECTION WITH THIS PARTICIPATION AGREEMENT AND RELATED SERVICE OFFERINGS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. FURTHER, THE AGGREGATE DIRECT DAMAGES LIABILITY FOR MAGNET, THE ELIGIBLE ORGANIZATIONS OR THE VOLUNTEER(S), ARISING IN CONNECTION WITH THIS PARTICIPATION AGREEMENT, THE PROGRAM, AND RELATED SERVICE OFFERINGS WILL NOT EXCEED \$100.
- b. NO EXCLUSIONS OR LIMITS. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE LIABILITY FOR FRAUD, FRAUDULENT MISREPRESENTATION, WILLFUL MISCONDUCT, MISAPPROPRIATION OF THE OTHER PARTIES' INTELLECTUAL PROPERTY, BREACH OF THE CONFIDENTIALITY OBLIGATIONS IN SECTION 7 OR ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY LAW.

16. DISCLAIMERS. THE PROGRAM, SERVICES OFFERED IN THE PROGRAM, THE WWW.THEAUXTERAPROJECT.COM DOMAIN NAME, TRADEMARKS AND LOGOS OF OURS, AND ALL TECHNOLOGY, SOFTWARE, FUNCTIONS, MATERIALS, DATA, IMAGES, TEXT, AND OTHER INFORMATION AND CONTENT PROVIDED OR USED BY OR ON BEHALF OF US IN CONNECTION WITH THE PROGRAM (COLLECTIVELY THE "**SERVICE OFFERINGS**") ARE PROVIDED "AS IS" AND "AS AVAILABLE." WE DO NOT MAKE ANY REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE WITH RESPECT TO THE SERVICE OFFERINGS. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES WITH RESPECT TO THE SERVICE OFFERINGS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING, PERFORMANCE, OR TRADE USAGE. WE MAY DISCONTINUE ANY SERVICE OFFERING, OR MAY CHANGE THE NATURE, FEATURES, FUNCTIONS, SCOPE, OR OPERATION OF ANY SERVICE OFFERING, AT ANY TIME AND FROM TIME TO TIME. WE DO NOT WARRANT THAT THE SERVICE OFFERINGS WILL CONTINUE TO BE PROVIDED, WILL FUNCTION AS DESCRIBED, CONSISTENTLY OR IN ANY PARTICULAR MANNER, OR WILL BE UNINTERRUPTED, ACCURATE, ERROR FREE, OR FREE OF HARMFUL COMPONENTS. WE WILL NOT BE RESPONSIBLE FOR (A) ANY ERRORS, INACCURACIES, OR SERVICE INTERRUPTIONS, INCLUDING POWER OUTAGES OR SYSTEM FAILURES; OR (B) ANY UNAUTHORIZED ACCESS TO OR ALTERATION OF, OR DELETION, DESTRUCTION, DAMAGE, OR LOSS OF, YOUR SITE OR ANY DATA, IMAGES, TEXT, OR OTHER INFORMATION OR CONTENT. NO ADVICE OR INFORMATION OBTAINED BY YOU FROM US, VOLUNTEERS OR FROM ANY OTHER PERSON OR ENTITY OR THROUGH THE SERVICE OFFERINGS WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS PARTICIPATION AGREEMENT.

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FURTHER, WE WILL NOT BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH (X) ANY LOSS OF PROSPECTIVE PROFITS OR REVENUE, ANTICIPATED SALES, GOODWILL, OR OTHER BENEFITS, (Y) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY YOU IN CONNECTION WITH THIS PARTICIPATION AGREEMENT OR YOUR PARTICIPATION IN THE PROGRAM, OR (Z) ANY TERMINATION OR SUSPENSION OF THIS PARTICIPATION AGREEMENT OR YOUR PARTICIPATION IN THE PROGRAM.

- 17. GOVERNING LAW.** This Participation Agreement, its subject matter, and its formation (and any non-contractual disputes or claims) are governed by and construed under the laws of Ontario, Canada, excluding any body of law governing conflicts of laws. You irrevocably waive any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law. You also waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- 18. FORCE MAJEURE.** No party will be liable for any non-performance or delay in performance by that party that is due wholly or in part to fire, flood, any act of God, riot, act of war (whether or not declared), terrorism, change in law or any other cause beyond the reasonable control of the party. If a party cannot perform an obligation under this Agreement due to an event of force majeure, the party will promptly notify the other party in writing and will immediately use commercially reasonable efforts to overcome the event of force majeure as soon as possible.

19. JURISDICTION SPECIFIC TERMS

- a. Where Your primary address is in the U.S.A., then the following amendments apply to this Agreement:
- i. Section 17 is deleted in its entirety and replaced with the following:

17. Governing Law.

This Participation Agreement, its subject matter, and its formation (and any non-contractual disputes or claims) are governed by and construed under the laws of New York, U.S., excluding any body of law governing conflicts of laws. You irrevocably waive any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law. You also waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

If You are a public sector agency or government institution located in the United States, the laws of the primary jurisdiction in which You are located will govern this Participation Agreement and any disputes arising out of or related thereto. For U.S. Federal Government customers, this Participation Agreement shall be controlled and construed under the laws of the United States of America.

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- b. Where Your primary address is in Europe (including Greenland), the Middle East, or Africa, then the following amendments apply to this Agreement:

- i. Section 17 is deleted in its entirety and replaced with the following:

17 Governing Law.

This Participation Agreement, its subject matter, and its formation (and any non-contractual disputes or claims) are governed by and construed under the laws of England excluding any body of law governing conflicts of laws. You irrevocably waive any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law. You also waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Except as otherwise specifically stated in this Participation Agreement, any person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. The rights of the parties to terminate, rescind, or agree to any variation, waiver, or settlement under this Agreement are not subject to the consent of any other person.

- c. If Your primary address is not in any of the regions or countries specified in Section 19.a or 19.b, the Agreement will apply to You without further amendment.

20. MISCELLANEOUS. You may not assign this Participation Agreement, by operation of law or otherwise, without Our express prior written approval. Subject to that restriction, this Participation Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and assigns. Our failure to enforce Your strict performance of any provision of this Participation Agreement will not constitute a waiver of Our right to subsequently enforce such provision or any other provision of this Participation Agreement. No other person or entity other than You and Us will have any right or interest arising out of this Participation Agreement. Any determinations or updates that may be made by Us, any actions that may be taken by Us, and any approvals that may be given by Us under this Participation Agreement, may be made, taken, or given in Our sole discretion. This Participation Agreement and the Software End User License Agreement are the entire agreement between You and Us regarding the Program and supersedes all prior agreements and discussions.

- END OF AGREEMENT -