

The following document (the “**Agreement**”) describes the terms and conditions under which you (“**You**” or “**Customer**”) will receive professional services from Magnet Forensics (“**Professional Services**”).

**1. Professional Services.**

Professional Services that may be requested by You hereunder in connection with Magnet Forensics’ software provided to You by Magnet Forensics (“Products”), include the following: (a) installation and commissioning of Products; (b) configuration and testing of Your workflows and specific use cases in Your network; (c) deployment of Products; (d) such other services as may be set out in a Statement of Work or in a quotation from Magnet Forensics.

**2. Statement of Work.**

2.1 Any written Statement of Work (“SOW”) detailing the Professional Services entered into by Customer and Magnet Forensics shall include and have incorporated into it all applicable requirements, acceptance criteria, specifications, deliverables, services, project term, milestones, fees and other mutually agreed terms, and must be mutually agreed upon by the parties and executed by their authorized representatives. Magnet Forensics shall not have any obligation to provide any Professional Services until such SOW is accepted in writing by all parties. This Agreement and the applicable SOW shall govern and supersede any terms and conditions stated on any purchase order or other document submitted by Customer. This Agreement shall take precedence in the event of any conflict or inconsistency between this Agreement and a SOW (except to the extent that terms of a fully executed SOW expressly amends terms of this Agreement for the purposes of such SOW only). Any SOW may be modified only by signed written agreement of the parties. Substantial changes to the scope of work and deliverables under a SOW shall be effective only when authorized in a written Project Change Request (“PCR”) detailing the specific changes and impact to fees and completion dates. Any completion times set out in the SOW are only estimates for Customer’s and Magnet Forensics’ resource scheduling purposes. For certainty, Magnet Forensics’ standard terms located at <https://www.magnetforensics.com/legal/> shall apply in connection with the licensing by Magnet Forensics of Products and support services and training related thereto.

**3. Staffing and Communication.**

3.1 Magnet Forensics in its sole discretion will provide suitably experienced personnel to perform Professional Services. Magnet Forensics reserves the right to have some or all of Professional Services performed by Magnet Forensics sub-contractors. Magnet Forensics reserves the right to adjust any completion dates where You fail to provide suitable access to Your site and personnel required to support Professional Services. Each party shall assign a project manager(s) for each project who shall serve as the primary source of communication with the other party. The project managers shall provide day-to-day management and have first tier responsibility for resolving disputes that may arise hereunder with respect to the scope or direction of the development.

**4. Term and Termination**

4.1 Magnet Forensics may terminate Professional Services and/or a SOW (or part thereof) immediately upon notice to You if: (a) You materially breach, fail to comply with, or otherwise contravene a term or condition of this Agreement and/or a SOW which You fail to cure fifteen (15) days after written

notice thereof by Magnet Forensics; (b) You materially breach any other agreement that You may have with Magnet Forensics which You fail to cure fifteen (15) days after written notice thereof by Magnet Forensics; (c) You breach, fail to comply with, or otherwise contravene any obligations of confidentiality, privacy, security or data protection which You fail to cure two (2) days after written notice thereof by Magnet Forensics; or (d) You become involved in any legal proceeding concerning Your solvency, commence liquidation proceedings, have a receiver or administrator appointed of any of Your assets, cease or threaten to cease operations, or otherwise have a serious and reasonable doubt arise respecting Your solvency. Additionally, Magnet Forensics may terminate Professional Services and/or a SOW (or part thereof) if required to do so by any law, regulation, requirement or ruling issued in any form whatsoever by any judicial or other governmental body. Magnet Forensics will not be liable for any damage caused by the termination of Professional Services and/or a SOW (or part thereof). Upon expiration or termination of Professional Services and/or a SOW, any payments that are then due to Magnet Forensics become immediately payable in full.

## **5. Warranty**

- 5.1 Magnet Forensics warrants that Professional Services will be performed in a professional and workmanlike manner consistent with generally accepted industry practices. EXCEPT AS EXPRESSLY PROVIDED HEREIN, MAGNET FORENSICS MAKES AND CUSTOMER RECEIVES NO OTHER WARRANTIES, EXPRESS OR IMPLIED AND DISCLAIMS ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, AND TITLE. In no event shall Magnet Forensics be liable for indirect, special, incidental or consequential damages of any nature, including, but not limited to, personal injury or property damage. Customer's recovery from Magnet Forensics for any claim related to the Professional Services shall not exceed the fees paid by Customer for the Professional Services under the SOW giving rise to such claim. For certainty, Magnet Forensics shall not be responsible in connection with the following: (i) failure of hardware, software, underlying transport network, access circuits, cabling, or any other components not provided by Magnet Forensics; or (ii) lack of interoperability between a Magnet Forensics solution and any third party products, except to the extent expressly set out in a SOW as a required deliverable.

## **6. Limitation of Liability**

- 6.1 Direct Damages. In no event will Magnet Forensics be liable under a SOW for any damages other than Your direct damages to the extent arising from Magnet Forensics' fraud or willful misconduct, and in no event, shall Magnet Forensics' aggregate liability exceed the amounts paid by You to Magnet Forensics for the Professional Services giving rise to such damages under such SOW in the twelve-month period preceding the claim.
- 6.2 EXCLUSIONS. EXCEPT FOR THE LIMITED DIRECT DAMAGES SPECIFIED IN THIS SECTION 6, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL MAGNET FORENSICS BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, DATA, USE OR OPPORTUNITY, THE CORRUPTION OF DATA, THE PERFORMANCE AND NON-PERFORMANCE OF ANY PRODUCT, AND ANY BUGS OR DAMAGES CAUSED BY THIRD

PARTY FILES, INCLUDING IF THE THIRD PARTY FILES CONTAIN MALICIOUS CODE AND/OR VIRUSES, WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN, AND WHETHER OR NOT MAGNET FORENSICS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ADDITIONALLY, TO THE MAXIMUM EXTENT PERMITTED BY LAW, MAGNET FORENSICS SHALL ONLY BE LIABLE TO YOU AS EXPRESSLY SET FORTH IN THIS AGREEMENT, AND SHALL HAVE NO OTHER OBLIGATION, DUTY OR LIABILITY TO YOU. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS AGREEMENT SHALL APPLY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION, DEMAND OR ACTION BY YOU, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL THEORY. IN NO EVENT SHALL ANY OFFICER, DIRECTOR, EMPLOYEE, AGENT, SUPPLIER, SUBCONTRACTOR, OR INDEPENDENT CONTRACTOR OF MAGNET FORENSICS OR ANY AFFILIATES OF MAGNET FORENSICS HAVE ANY LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT. NOTHING IN THIS AGREEMENT SHALL LIMIT OR EXCLUDE OUR LIABILITY FOR FRAUD, FRAUDULENT MISREPRESENTATION, WILLFUL MISCONDUCT, OR ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY LAW.

**7. Indemnification**

- 7.1 Magnet Forensics will defend any claim, suit or proceeding brought against Customer so far as it is based on a claim that any Professional Services or work product supplied hereunder infringes a patent or copyright in the United States or Canada, if notified promptly in writing of the claim and given full authority, information and assistance for the defense. Magnet Forensics has no liability for: (i) any claim based upon the combination, operation or use of any Professional Services, deliverable, or work product supplied hereunder with designs, specifications, instructions, equipment, devices or software not supplied by Magnet Forensics; or (ii) any claim based upon alteration or modification other than by Magnet Forensics of any Professional Services, deliverable or work product supplied hereunder, all of which Customer shall defend, indemnify, and hold Magnet Forensics and its affiliates, and their respective employees, directors, officers, agents, assigns and licensors harmless against. THE FOREGOING STATES THE ENTIRE OBLIGATION OF Magnet Forensics WITH RESPECT TO INFRINGEMENT OR PATENTS AND COPYRIGHTS THE FOREGOING IS GIVEN TO CUSTOMER SOLELY FOR ITS BENEFIT AND IN LIEU OF, AND MAGNET FORENSICS DISCLAIMS, ALL IMPLIED WARRANTIES AND CONDITIONS OF NON-INFRINGEMENT WITH RESPECT TO THE PROFESSIONAL SERVICES AND DELIVERABLES.

**8. Ownership and Intellectual Property.**

- 8.1 The Professional Services and any deliverables associated therewith do not constitute works for hire under any applicable copyright or similar laws. You do not acquire any intellectual property or other proprietary rights under this Agreement, including without limitation any right, title or interest in and to patents, copyrights, trade-marks, industrial designs, confidential information, or trade secrets, whether registered or unregistered, relating to any Products or Professional Services (or any part thereof). Any rights not expressly granted under this Agreement are reserved.

**9. Confidentiality**

- 9.1 Customer acknowledges that any work product under a SOW shall be confidential information of Magnet Forensics. You agree to keep confidential any confidential information disclosed to You by Magnet Forensics during the course of Professional Services, both during the term of the SOW and following expiration or termination thereof, which information may not be discussed or shown to the public by You in any manner until publicly released by Magnet Forensics. Customer acknowledges and agrees that disclosure of any confidential information of Magnet Forensics may irreparably harm Magnet Forensics, which will be inadequately compensable by damages. Magnet Forensics may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available.
- 9.2 Customer acknowledges that Magnet Forensics may develop information internally, or receive information from other parties, that is similar to Customer's confidential information. Magnet Forensics shall not be prohibited from developing products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in Customer's confidential information provided that Magnet Forensics does not violate any of its obligations of confidentiality to Customer. Customer agrees that because of exposure to Customer's confidential information, employees of Magnet Forensics may gain or enhance their general knowledge, skills and experience (including ideas, concepts, know-how and techniques) related to Customer's business ("**General Knowledge**"). The subsequent use by these employees of such General Knowledge as retained in their unaided memories, without reference to Customer confidential information in written, electronic or other fixed form, shall not constitute a breach of any obligations to Customer. Magnet Forensics shall have no obligation to limit or restrict the assignment of employees or to pay royalties for any work resulting from the use of such General Knowledge.

**10. Force Majeure**

- 10.1 Magnet Forensics shall not be liable for delays in delivery or for failure to perform due to causes beyond reasonable control of Magnet Forensics, which causes shall include, without limitation, acts of God, acts or omissions of Customer or civil or military authorities, fires, strikes, epidemics, quarantine restriction, flood, earthquakes, riot, war, delays in transportation or inability to obtain necessary labour, materials or supplies. You acknowledge and agree that in the event that travel to Your location would be contrary to any travel advisories issued by governmental authorities from time to time or contrary to any Magnet Forensics travel safety policies, Magnet Forensics may temporarily suspend further onsite performance of Professional Services.

**11. Miscellaneous**

- 11.1 Survival. Any provision of this Agreement or a SOW which expressly states that it is to continue in effect after termination or expiration of this Agreement or a SOW, or which by its nature would survive the termination or expiration of this Agreement or a SOW, shall do so.
- 11.2 Assignment. Magnet Forensics may assign this Agreement or any SOW without prior notice to You. You shall not assign or transfer (including by operation of law) this Agreement or any SOW without the prior written consent of Magnet Forensics, which consent will not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon the parties and their respective lawful successors and permitted assigns.

- 11.3 Waiver. No waiver by either party of a breach or omission by the other party under this Agreement shall be binding on the waiving party unless it is expressly made in writing and signed by the waiving party. Any waiver by a party of a particular breach or omission by the other party shall not affect or impair the rights of the waiving party in respect of any subsequent breach or omission of the same or different kind.
- 11.4 Third Party Interest. Magnet Forensics' affiliates, and Magnet Forensics and our affiliates' respective directors, officers, and employees are intended third party beneficiaries for the purpose of Warranty (Section 5), Limitation of Liability (Section 5), Indemnification (Section 7), Ownership and Intellectual Property (Section 8), Confidentiality (Section 9) and Compliance with Laws (Section 11.6) as if each was a party to this Agreement, in accordance with this Section and any applicable laws or regulations in Your jurisdiction. Except as otherwise specifically stated in this Agreement, any person who is not a party to this Agreement has no rights under this Agreement.
- 11.5 Invalidity. If any part of this Agreement or a SOW is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement or such SOW shall continue in full force and effect.
- 11.6 Compliance with Laws. You agree to perform all obligations under a SOW in compliance with all applicable laws, rules and regulations.
- 11.7 Segmentation. The purchase of Products and services from Magnet Forensics are all separate offers and separate from any other order. Customer understands that it may purchase Products and services independently of any other Order. Customer's obligation to pay for Products and Services is not contingent on performance of any other Product or service.
- 11.8 Insurance. Magnet Forensics shall at all times during the term of any Professional Services under a SOW maintain adequate insurance for its activities in relation to such Professional Services as common in the industry, including as a minimum, not less than: (i) five million Canadian dollars (\$5,000,000 CAD) for Commercial General Liability; and (ii) three million Canadian dollars (\$3,000,000 CAD) for Professional Liability.

## **12. Magnet Forensics Entity, Governing Law and Arbitration**

- 12.1 "Magnet Forensics" means: (a) Where your primary address is anywhere other than in the U.S., Magnet Forensics Inc., with an office at 2220 University Avenue East, Waterloo, Ontario, N2K 0A8 Canada; (b) Where your primary address is in the U.S. (including its territories, protectorates or overseas regions), Magnet Forensics USA, Inc., with an office at 2250 Corporate Park Drive, Suite 130, Herndon, Virginia, U.S. 20171.
- 12.2 This 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. If the courts in

Your jurisdiction will not permit You to consent to the jurisdiction and venue of Ontario, Canada, then Your local jurisdiction and venue will apply to any disputes or claims arising out of or related to this Agreement. You agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

- 12.3 Excluding claims for injunctive or other equitable relief, any disagreement or dispute arising out of or relating to this Agreement, Professional Services and/or any SOW, or the breach thereof, including any question regarding its existence, validity, or termination, such arbitration shall be settled by final and binding arbitration which will be held in accordance with the rules of arbitration of the Arbitration Act, 1991 (Ontario) and conducted in Toronto, Ontario. The arbitration shall be heard by one (1) arbitrator appointed in accordance with the applicable rules and to be mutually agreed to by the parties within thirty (30) days of the appointment of the arbitrator, failing which a neutral third party shall appoint the arbitrator. The language of the arbitration shall be English. Each party shall bear one half of the costs associated with the arbitration proceedings. The costs shall exclude experts' costs and each party's legal costs. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

13. **Jurisdiction Specific Terms.**

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

(a) The first sentence of Section 12.2 is deleted in its entirety and replaced with the following:

- (i) Governing Law. These terms and conditions, its subject matter, and its formation (and any non-contractual disputes or claims) are governed by and construed under the laws of England. ...

(b) The last sentence of Section 12.2 is deleted in its entirety and replaced with the following:

... Except as otherwise specifically stated in this 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.

- 13.2 in U.S., then the following amendments apply to this Agreement:

(a) The first sentence of Section 12.2 is deleted in its entirety and replaced with the following:

- (i) Governing Law. These terms and conditions, 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.. ...

- 13.3 in Asia Pacific (including Pakistan, Sri Lanka, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan), then the following amendments apply to this Agreement:

(a) The first sentence of Section 12.2 is deleted in its entirety and replaced with the following:

- (i) Governing Law. These terms and conditions, its subject matter, and its formation (and any non-contractual disputes or claims) are governed by and construed under the laws of Singapore...

13.4 not in any of the regions or countries specified in Section 13.1, 13.2, or 13.3, the terms and conditions will apply to you without further amendment.

[END OF DOCUMENT]