

This Reseller Agreement (“**Agreement**”) between MAGNET FORENSICS and an entity wishing to resell Software (as defined below) and related services of Magnet Forensics (“**Reseller**”) shall be effective as of the date of the Order submitted by the Reseller (“**Effective Date**”). EACH OF THE PARTIES AFFIRM THAT IT UNDERSTANDS THE TERMS AND CONDITIONS SET FORTH BELOW, INCLUDING THE STATED EXCLUSIONS OF WARRANTIES AND LIMITATIONS OF REMEDIES, AND ACKNOWLEDGES THAT THESE TERMS AND CONDITIONS CONSTITUTE AN AGREED ALLOCATION OF RISK THAT IS REFLECTED IN THE PRICES. RESELLER CONFIRMS THAT BY SUBMITTING AN ORDER FOR THE SOFTWARE AND RELATED SERVICES IDENTIFIED IN THE QUOTATION PROVIDED BY MAGNET FORENSICS (OR A SUBSET THEREOF) RESELLER ACCEPTS THIS AGREEMENT AS THE CONTRACTUAL TERMS GOVERNING THE TRANSACTION.

### 1 Definitions

- 1.1 **Customer** means the customer of Reseller identified in the Quotation that procures a license for the Software.
- 1.2 **Documentation** means the electronic, printed or other form of documents that accompany or are otherwise available to provide information about installation, operation, and use of the Software.
- 1.3 **EULA** means the Magnet Forensics applicable license agreement for the Software available at [www.magnetforensics.com/legal/](http://www.magnetforensics.com/legal/), as may be modified by Magnet Forensics from time to time.
- 1.4 **Magnet Forensics** has the meaning set out in Section 13.6.
- 1.5 **Magnet Software** means the proprietary software of Magnet Forensics.
- 1.6 **Product** means the Magnet supplied products identified in the Quotation, which may include, hardware, Software, Support Services, Professional Services and Training.
- 1.7 **Quotation** means the quotation provided to Reseller by Magnet Forensics or a Magnet Forensics indicating the quantity, price, License Term of the Software, related services purchased, and/or additional restrictions related to Customer’s license of the Software.
- 1.8 **Software** means the Magnet Software and Third-Party Software.
- 1.9 **Third-Party Software** means the copyrighted, patented or otherwise legally protected software of third parties (including open source code components) incorporated into the Software.
- 1.10 **Support Services** means the support services included in the Term License or separately purchased as part of the Perpetual License as indicated on the Quotation and, in each case, as described in the EULA.
- 1.11 **Training** means training courses available from Magnet Forensics that Reseller can resell to Customers.

### 2 Distribution License Grant

- 2.1 Subject to the terms and conditions of this Agreement, Magnet Forensics hereby grants Reseller a non-exclusive, revocable, non-transferable license, non-sublicensable appointment to resell the Product identified in the Quotation to Customer subject to the terms of the EULA.
- 2.2 Reseller shall not sell to any other customers other than those identified in a Quotation.

### 3 Business Conduct.

- 3.1 Reseller warrants:
  - (a) it has the full power to enter into this Agreement and to perform its obligations hereunder;
  - (b) it shall reproduce and include copyright notices and any other notices that appear on or accompany the Product or Documentation made by Reseller on any media;
  - (c) it shall comply with the material objectives of the Magnet Forensics Code of Conduct available for download on the website of Magnet Forensics;
  - (d) it shall not engage in deceptive, misleading or unethical practices; and
  - (e) it shall comply with all applicable laws, including international, national, regional and local laws, statutes,

directives (UN, EU or otherwise) and regulations, including without limitation, privacy, electronic marketing, import / export laws, and data protection laws, and the US Foreign Corrupt Practices Act, UK Bribery Act, OECD Convention of Combating Bribery of Foreign Public Officials in International Transactions and any other applicable legislation enacted to enforce or implement any international convention prohibiting bribery and corruption.

- 3.2 Prior to any use of the Software by Customers, Reseller must ensure that Customers agree to the terms of the EULA. Reseller shall only provide Customers with Software that has the EULA intact as shipped from Magnet Forensics and Reseller shall not in any way negate or override any terms and conditions of the protection afforded to Magnet Forensics by the EULA and/or any agreement that accompanies the Support and Training.

#### **4 Support, Training, and Feedback**

- 4.1 If a Customer encounters issues with the Software or requires instruction, support, training, or other aid respecting the Software, Reseller shall direct all such queries to Magnet Forensics for direct response, and shall not make any attempt to answer such queries on behalf of Magnet Forensics unless Magnet Forensics explicitly provides prior written approval for Reseller's representation of Magnet Forensics in such queries.
- 4.2 Reseller agrees that: (a) all feedback, comments, suggestions for improvement, ideas, concepts and changes provided to Magnet Forensics or identified by Reseller in the course of its resale of the Software, and all associated intellectual property rights (collectively the "**Feedback**") shall be owned by Magnet Forensics; and (b) Reseller hereby assign to Magnet Forensics all of its right, title and interest in Reseller Feedback. Reseller will not knowingly provide Magnet Forensics any Feedback that is subject to third party intellectual property rights.

#### **5 Pricing and Payment of Fees**

- 5.1 Use of the Product is conditional upon Reseller's payment to Magnet Forensics of all applicable fees identified in the Quotation. All fees are payable within thirty (30) days from date of the invoice. Magnet Forensics shall invoice Reseller upon the earlier of: (a) Reseller issuing a purchase order to Magnet Forensics that relates to the Quotation; (b) Reseller signing the Quotation; and (c) Reseller's written indication, by email or otherwise, of approval of the Quotation. If Reseller fails to pay any amount under this Agreement that is due and payable, and such failure remains unremedied for a period of thirty (30) days following written notice of default by Magnet Forensics, in addition to any other rights and remedies available to Magnet Forensics, Magnet Forensics shall be entitled to charge interest on all outstanding amounts at the lesser of 1.5% per month or the maximum rate permitted by law.
- 5.2 Reseller is responsible for, and shall pay all taxes relating to this Agreement, excluding any taxes based on the net income of Magnet Forensics. Unless otherwise indicated, all amounts payable by Reseller under this Agreement are exclusive of any shipping, freight, insurance, customs, import duties, local delivery, special handling, special packaging, tax, duty, levy, or similar government charge that may be assessed by any jurisdiction, whether based on gross revenue, the delivery, possession or use of the Product, the execution of this Agreement or otherwise. If Reseller is required to withhold any taxes from payments owed under this Agreement, the amount of payment due shall automatically be increased to offset such tax, so that the amount remitted to Magnet Forensics shall equal the amount invoiced or otherwise due.

#### **6 Indemnity**

- 6.1 Provided Reseller is not in material breach of this Agreement, Magnet Forensics will defend and indemnify Reseller from and against any Claim as a result of any third party claiming Customer's use of the Software infringes a valid patent in Canada or the United States, provided that Reseller: (i) gives prompt notice of the Claim to Magnet Forensics; (ii) grants sole control of the defense and settlement of the Claim to Magnet Forensics; and (iii) provides reasonable cooperation to Magnet Forensics and, at Magnet Forensics' request and expense, assistance in the defense or settlement of the Claim. In the event of a Claim, Magnet Forensics may, at its option and expense: (a) obtain for Customer the right to continue to use the Software; (b) substitute a substantially equivalent non-infringing product; (c) modify the Software to make it non-infringing; or if (a), (b), and (c) are not commercially feasible, then (d) terminate Customer's license and require that Customer no longer access and use the Software. If Customer's license is terminated, Reseller must arrange for the return or destruction of the Software and within 30 days of receipt of all of the Software or certification of destruction thereof, Magnet Forensics shall refund Reseller a prorated amount of any unused prepaid license fees if Reseller purchased a Term License. The indemnity obligations under this clause do not extend to Claims arising from or relating to:

(aa) any modification to the Software or use in combination with any equipment, software, data or any other materials not authorized by Magnet Forensics where the infringement would not have occurred but for such activity; (bb) use of the Software by Customer in a manner contrary to the terms of this Agreement where the infringement would not have occurred but for such use; or (cc) the continued use of the Software after Magnet Forensics has provided substantially equivalent non-infringing software. NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, THE PROVISIONS OF THIS CLAUSE STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF MAGNET FORENSICS AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY ACTUAL OR ALLEGED MISAPPROPRIATION, VIOLATION AND/OR INFRINGEMENT OF ANY PROPRIETARY AND/OR INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

- 6.2 Reseller agrees to defend and indemnify Magnet Forensics against any third party claims, judgments, damages, costs (including reasonable lawyers' fees and disbursements) and settlements agreed to by Reseller in relation to: (a) Reseller's breach of any term or condition of this Agreement, (b) Reseller's breach of any representation or warranty under this Agreement; (c) any of Reseller's products or services, and (d) any infringement claim arising from or in connection with: (i) modifications to the Software or any portion thereof authorized or performed by Reseller or on Reseller's behalf; or (ii) a Customer's combined use of the Software or portion thereof with other software and/or hardware products or applications not supplied by Magnet Forensics (including, without limitation, use in conjunction with any of Reseller's products) where Reseller authorized such combined use.

## **7 Limitation of Liability**

- 7.1 IN NO EVENT WILL MAGNET FORENSICS BE LIABLE UNDER THIS AGREEMENT FOR ANY DAMAGES OTHER THAN RESELLER'S DIRECT DAMAGES TO THE EXTENT ARISING FROM MAGNET FORENSICS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND IN NO EVENT SHALL MAGNET FORENSICS' AGGREGATE LIABILITY EXCEED THE FEES PAID BY RESELLER TO MAGNET FORENSICS IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PROCEEDING THE CLAIM FOR THE SOFTWARE, SUPPORT OR TRAINING GIVING RISE TO SUCH CLAIM. FOR CLARITY, ANY LIABILITY THAT RESELLER HAS TO A CUSTOMER FOR CONSEQUENTIAL DAMAGES OF THE TYPE DESCRIBED IN SECTION 9.2 SHALL NOT BE INCLUDED AS DIRECT DAMAGES SUFFERED BY RESELLER.

- 7.2 EXCEPT FOR THE LIMITED DIRECT DAMAGES SPECIFIED IN THIS SECTION 9, 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, WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN, AND WHETHER OR NOT MAGNET FORENSICS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS AGREEMENT SHALL APPLY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION, DEMAND OR ACTION BY RESELLER, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL THEORY.

## **8 Intellectual Property Rights**

- 8.1 Nothing herein shall be deemed to transfer ownership, right, title or interest in or to any intellectual property or any intellectual property rights from one party to the other. For greater certainty, Reseller acknowledges that nothing herein transfers any intellectual property right in the Software, Support, and Training to Reseller.

## **9 Confidential Information**

- 9.1 The parties agree that any information that would reasonably be considered by a person knowledgeable in the industry to be proprietary or confidential (including without limitation details of the Software, Documentation, etc.) shall be deemed "Confidential Information". A party that is a recipient of Confidential Information shall hold the same in confidence and use it only to the extent reasonably required to fulfill their obligations under this Agreement. A party that is a recipient of Confidential Information shall protect such Confidential Information using the same degree of care that it uses to protect its own confidential information of a similar nature. Such care shall not be less than a reasonable degree of care. A party that is a recipient of Confidential Information shall not, directly or indirectly, disclose the Confidential Information to any employees, contractors, affiliates or third parties except to employees

whom have a need to know the Confidential Information to perform the obligations under this Agreement, provided that such employee has been advised of the confidentiality obligations contained in this Agreement and has either agreed in writing to be bound by the obligations, or has entered into a binding written obligation of confidentiality with the party that is the recipient of Confidential Information that affords substantially similar protection as this Agreement. Both parties acknowledge that the Confidential Information has been developed at significant cost and has significant commercial value, and both parties agree that disclosure or inappropriate use of the Confidential Information could cause irreparable harm. Accordingly, both parties agree that owner of Confidential Information will have the right to seek, in addition to any of its other rights and remedies under law and equity, injunctive relief for any violation of confidentiality provision of this Agreement without posting bond or by posting bond at the lowest amount required by law. Both parties shall be required to handle Confidential Information in accordance with the terms of this Agreement for a period of three (3) years from disclosure.

## **10 Term and Termination**

- 10.1 This Agreement shall survive for one (1) year after the termination or expiry of the License Term as identified in the Quotation, unless earlier terminated as set out below.
- 10.2 This Agreement may be terminated as follows: (i) as specifically provided for in this Agreement, (ii) upon mutual agreement of the parties, (iii) in the event of a breach by either party of any of its obligations hereunder, if such breach is not cured within thirty (30) days from notification by the non-breaching party to the breaching party of such breach, (iv) automatically, in the event of a cessation of business, dissolution, insolvency, bankruptcy, general assignment for benefit of creditors, or other relief under any provision of the bankruptcy laws, by either party, or (v) by either party for any reason or no reason upon thirty (30) days prior written notice.

## **11 General**

- 11.1 **Force majeure:** Neither party shall be deemed to be in default of this Agreement for failure to fulfill its obligations due to causes beyond its reasonable control. This provision shall not be construed as excusing any payment obligations of either party hereunder.
- 11.2 **Notices:** Notices and other communications required or permitted to be given pursuant to this Agreement will be in writing or electronic mail form.
- 11.3 **No Waiver:** Failure of either party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder will not be construed as a waiver of such term, condition, right or privilege.
- 11.4 **Assignment:** Reseller shall not assign or transfer this Agreement 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 hereto and their respective lawful successors and permitted assigns. Any purported assignment in violation of this Section 11.4 shall be null and void.
- 11.5 **Survival:** Any provision of this Agreement which expressly states that it is to continue in effect after termination or expiration of this Agreement, or which by its nature would survive the termination or expiration of this Agreement, shall do so.
- 11.6 **Magnet Forensic Entity and Governing Law:**
- (a) "Magnet Forensics" means:
- (i) Where Your "Bill To" address identified on the Quotation is in Canada, Magnet Forensics Inc., with an office at 2220 University Avenue East, Suite 300, Waterloo, Ontario, Canada N2K 0A8.
  - (ii) Where Your "Bill To" address identified on the Quotation is in France, Magnet Forensics SA, with an office at c/o WeWork 33 Rue La Fayette Paris, France 75009.
  - (iii) Where Your "Bill To" address identified on the Quotation is in Germany, Magnet Forensics GmbH, with a registered office at c/o Eversheds Sutherland (Services) GmbH, Brienner Strabe 12, 80333 Munich, Germany.
  - (iv) Where Your "Bill To" address identified on the Quotation is anywhere other than in Canada, France, and Germany, Magnet Forensics LLC, with an office at c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

- (b) Governing Law. This Agreement is governed by and construed under, excluding any body of law governing conflicts of laws, the laws of: (a) England, where Your “Bill To” address identified on the Quotation is in Europe, Greenland or the UK; (b) Delaware, U.S., where Your “Bill To” address identified on the Quotation is in the U.S.; (c) Singapore, where Your “Bill To” address identified on the Quotation is in Asia Pacific; or (d) Ontario, Canada, where Your “Bill To” address identified on the Quotation is anywhere else. 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.
- 11.7 Entire Agreement/Modification: This Agreement, together with the EULA, constitutes the entire agreement between the parties and supersedes all previous agreements and understandings relating to the subject matter hereof. This Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representatives of both parties. Reseller’s additional or different terms and conditions, whether on its Order or otherwise, shall not apply. To the limited extent that the terms and conditions contained in this Agreement conflict with the terms and conditions contained in the EULA, the terms and conditions of this Agreement shall prevail.
- 11.8 Independent Contractor: Each party hereto shall be and remain an independent contractor and neither party shall have any authority to act, or attempt to act, or represent itself, directly or by implication, as an agent of the other or in any manner assume or create, or attempt to assume or create, any obligation on behalf of or in the name of the other, nor shall either be deemed the agent or employee of the other.

[END OF AGREEMENT]