



## SOFTWARE AS A SERVICE (SAAS) AGREEMENT

PLEASE READ THIS SOFTWARE AS A SERVICE (SAAS) AGREEMENT (“**SaaS Agreement**”) BEFORE USING SAILPOINT’S SAAS SERVICES (AS DEFINED BELOW) OR ANY OTHER OF SAILPOINT’S SERVICES (AS DEFINED BELOW). BY ACCESSING OR USING ANY SERVICES, YOU (the “**Customer**”) SIGNIFY ACCEPTANCE OF, AND AGREE TO, THE TERMS AND CONDITIONS OF THIS SAAS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS SAAS AGREEMENT, DO NOT ACCESS OR USE ANY SERVICES. IF THE PARTIES HAVE A FULLY EXECUTED AGREEMENT THAT EXPRESSLY GOVERNS YOUR ORDERS (AS DEFINED BELOW) FOR SAAS SERVICES AND OTHER RELATED SERVICES, THAT AGREEMENT SHALL SUPERSEDE THIS SAAS AGREEMENT.

WHEREAS, SailPoint is the provider of SaaS Services and Customer wishes to obtain access to the SaaS Services under the Terms and Conditions of this SaaS Agreement; and

WHEREAS, the parties desire that this SaaS Agreement serve as the governing agreement between them for the purposes of any Order that Customer may place with SailPoint or a Partner, from time to time.

### Terms and Conditions

#### 1. Definitions.

As used in this SaaS Agreement:

“**Affiliate**” is an entity that controls, is controlled by or shares common control with SailPoint or Customer, where the control arises from either (a) a direct or indirect ownership interest of more than 50% or (b) the power to direct or cause the direction of the management and policies, whether through the ownership of voting stock by contract, or otherwise, equal to that provided by a direct or indirect ownership of more than 50%.

“**Customer Data**” means all electronic data and information submitted by or on behalf of Customer to the SaaS Services, excluding Usage Data (as defined herein).

“**Customer Personal Data**” means all Customer Data relating to an identified or identifiable natural person, household or device.

“**Documentation**” means the user guides, and release notes, provided or made available by SailPoint to Customer regarding the use or operation of the SaaS Services.

“**DPA**” means a Data Processing Addendum entered into between SailPoint and Customer as part of, and/or for shared purposes with, this SaaS Agreement; in the event that SailPoint and Customer have not mutually executed a DPA, then “DPA” shall mean the SailPoint Customer Data Processing Addendum in effect as of the parties’ execution of each Order under this SaaS Agreement and posted under Associated Documentation at [www.sailpoint.com/legal](http://www.sailpoint.com/legal).

“**Identity Cube**” means, if applicable to the SaaS Services to which Customer has subscribed, a unique collection of identity data for an individual human or a non-human bot, that will be granted access to, and/or represents an identity managed by, the SaaS Services.

“**Order**” means a schedule, quote or quotation, statement of work, or other document(s) by which Customer (or a Partner on Customer’s behalf) orders Services governed by this SaaS Agreement.

“**Other Services**” means all technical and non-technical consulting and advisory services identified in an Order as Professional Services or Training Services and performed or delivered by SailPoint under this SaaS Agreement. Other Services are not available or provided on a work-for-hire basis. For purposes of clarity, “Other Services” does not include the SaaS Services or SaaS Support.

“**Partner**” means a reseller or distributor that has an agreement with SailPoint that authorizes the Partner to resell the SaaS Services or Other Services.

“**Professional Services**” means consulting services provided by SailPoint to Customer that support Customer’s deployment, extension and use of SaaS Services and include, but are not limited to, implementation services, implementation support, best practices consultations, and integration efforts as further described in, and subject to, Section 7.2 (Professional Services) below.

“**Required Software**” means, if applicable to the SaaS Services to which Customer has subscribed, a virtual machine that connects Customer’s Sources using public APIs, connectors, and integrations to the SaaS Services. Any Required Software will be identified in the applicable Documentation.

“**SaaS Services**” means any SailPoint internet-accessible software-as-a-service offering hosted by SailPoint, its Affiliates or SailPoint’s or its Affiliates’ service providers, that has been purchased for Customer’s use under an Order and made available to Customer over a network.

“**SaaS Support**” means SailPoint’s Support and Maintenance Services for SaaS Services as described in, and in accordance with, the SailPoint Support and Maintenance Policy found under Associated Documentation on SailPoint’s website at <https://www.sailpoint.com/legal/>.

“**Sensitive Data**” means any data that constitutes sensitive personal data or special category data or like terms under applicable data privacy laws, intellectual property, proprietary business models, and any data which may be subject to the Health Insurance Portability and Accountability Act (HIPAA), Gramm-Leach-Bliley Act (GLBA), the Payment Card Industry Data Security Standards (PCI Data Security Standards), or similar laws, government-issued identification numbers, medical or health information, account security information, individual financial account information, credit/debit/gift or other payment card information, account passwords, individual credit and income information.

“**Services**” means the SaaS Services, SaaS Support (defined herein), and Other Services.

“**Source**” means, if applicable to the SaaS Services to which Customer has subscribed, a Customer-managed target system for reading data from and, if supported by the specific system, writing changes to, User accounts. The connection to a target system can be managed via a direct connector or a flat file.

“**Term**” or “**SaaS Term**” means the period(s) specified in any Order during which Customer will have access to and use of the SaaS Services, as the same may be renewed or extended in accordance with the Order.

“**Training Services**” means SailPoint’s courses and other product-related training available through SailPoint’s Identity University on-site at SailPoint’s, Customer’s or a third party’s location, or online via a SailPoint-provided website, as agreed by the parties. Where available, Customer may purchase access to Training Services on a subscription basis for up to a specified number of named employees during the Training Term identified on the applicable Order or by purchasing Training Services units or credits which Customer can apply towards specific Training Services arranged with SailPoint within a period of time stated on the applicable Order.

“**User**” means an employee or independent contractor of Customer or Customer’s Affiliates that Customer authorizes to use the SaaS Services on Customer’s behalf to manage Identity Cubes.

## 2. SaaS Services.

- 2.1. **Provision of SaaS Services.** During the Term, SailPoint grants Customer a limited, non-exclusive, non-transferrable (except in accordance with Section 14.1 (Assignment)), non-sublicensable right to access and use the SaaS Services in accordance with the Documentation, solely for Customer’s internal business operations, in each case subject to the terms of this SaaS Agreement, including, if applicable, the number of Identity Cubes and Sources documented in an Order.
- 2.2. **Required Software.** Customer acknowledges that use of certain SaaS Services requires the installation of the Required Software as a pre-requisite for using the SaaS Services. Customer agrees to install any Required Software, including any required updates if and when available. To the extent applicable to the SaaS Services to which Customer has subscribed, SailPoint hereby grants to Customer a limited, non-exclusive, non-transferable (except in accordance with Section 14.1 (Assignment)), non-sublicensable license to install, execute, copy, display, or otherwise use the Required Software in accordance with the Documentation, solely in connection with the Services, during the Term, in each case subject to the terms of this SaaS Agreement.
- 2.3. **Users.** Customer will cause Users to abide by the terms of this SaaS Agreement. Any action or omission of a User, which, if attributable to Customer would constitute a breach of this SaaS Agreement by Customer, will be deemed to be a breach of this SaaS Agreement by Customer. SailPoint may terminate or suspend any User’s individual access to the SaaS Services for any breach without notice.
- 2.4. **SaaS Support.** SailPoint’s Premium Support and Maintenance Services is SaaS Support included with Customer’s subscription to the SaaS Services at no additional charge during the SaaS Term stated on the applicable Order. An upgrade to enhanced Support and Maintenance Services (e.g., Platinum) may be available for an additional charge. SailPoint provides SaaS Support and associated Documentation in the English language.
- 2.5. **Service Level Agreement.** The Service Level Agreement (“**SLA**”) for the production instance of the SaaS Services is set forth in SailPoint’s current SLA included in Associated Documentation at <https://www.sailpoint.com/legal/>.

## 3. Customer Responsibilities and Restrictions.

- 3.1. **Customer Responsibilities.** Customer is responsible for all activities conducted by it or through the accounts of its Users in the SaaS Services. Except for SailPoint’s obligations described in Section 9 (Confidentiality) and Section 10 (Data Security and Processing), Customer shall:

- (i) have sole responsibility for the accuracy, security quality, and legality of the Customer Data and the means by which Customer acquired the Customer Data and the right to provide the Customer Data for the purposes of this SaaS Agreement (including abiding by all applicable laws in the transmission of Customer Data and ensuring the receipt of all permissions from individuals and other third parties as may be necessary in order to provide the Customer Data for the purposes contemplated in this SaaS Agreement);
- (ii) be responsible for the security and confidentiality of Customer's and its Users' account information;
- (iii) be responsible for maintaining a back-up of all Customer Data; and
- (iv) prevent unauthorized access to, or use of, the Services, and notify SailPoint promptly of any unauthorized access or use.

**3.2. Compliance with Laws.** Customer shall comply with all applicable local, state, national, and foreign laws, rules, and regulations ("**laws**") in connection with its use of the Services, collection and other processing of all Customer Data, and performance under this SaaS Agreement, including those laws related to employment, data privacy and protection, and international activities. Customer acknowledges that SailPoint exercises no control over the Customer Data transmitted by Customer or Users to or through the SaaS Services or Required Software. SailPoint may impose limits on the use of, or access to, Services as required by applicable law.

**3.3. Restrictions.** Customer and its Users shall not, and shall not permit any third party to:

- (i) copy or republish SaaS Services;
- (ii) make any Services available to any person other than Users;
- (iii) rent, lend, sell, sublicense, or use SaaS Services to provide service bureau, time-sharing or other services to third parties;
- (iv) send or store any Sensitive Data in the SaaS Services;
- (v) send or store any Customer Personal Data in the SaaS Services that is not necessary for SailPoint to provide Services to Customer or is in violation of laws;
- (vi) install the Required Software in, or connect a Source to, the SaaS Services from any country that has data residency or data transmission restrictions, including, but not limited to, Russia and the People's Republic of China;
- (vii) send or store viruses, spyware, ransomware, timebombs, Trojan horses, or other harmful or malicious code, or files to or in connection with any Services;
- (viii) send or store infringing, offensive, harassing or otherwise unlawful material in connection with any Services;
- (ix) modify or create derivative works based upon SaaS Services or Documentation;
- (x) remove, modify, or obscure any copyright, trademark, or other proprietary notices contained in the SaaS Services or Documentation;
- (xi) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code used or embodied in the SaaS Services or Required Software, which for the avoidance of doubt includes the related algorithms, methods, and techniques;
- (xii) access or use SaaS Services or Documentation in order to build a similar or competitive product, or
- (xiii) exploit the SaaS Services or Documentation in any unauthorized way whatsoever, including by trespassing or burdening network capacity.

If for some reason these restrictions are prohibited by applicable law or by an agreement SailPoint has with one of its licensors, then the activities are permitted only to the extent required to comply with the law or agreement.

#### **4. Intellectual Property.**

**4.1. Ownership and Reservation of Rights of SailPoint Intellectual Property.** SailPoint, its Affiliates and its licensors own and, except for the limited rights expressly granted to Customer under this SaaS Agreement, retain all right, title, and interest in and to the Services, Documentation and any other materials provided by SailPoint or its licensors under this SaaS Agreement, including all modifications and derivative works related thereto and intellectual property rights therein. No rights are granted to Customer under this SaaS Agreement other than expressly set forth in this SaaS Agreement.

**4.2. Rights in Customer Data.** As between SailPoint and Customer, Customer owns the Customer Data. Customer hereby grants and agrees to grant to SailPoint, its Affiliates and contractors, a worldwide, non-exclusive, royalty-free license to host, copy, transmit, display, and process the Customer Data as reasonably necessary to (a) provide the Services to Customer and (b) monitor, modify, and improve (including develop) the SaaS Services; *provided, however*, that with

respect to any Customer Data that constitutes Customer Personal Data, the use described in (b) shall not include building or modifying household or consumer profiles, or cleaning or augmenting data acquired from another source.

**4.3. Feedback.** To the extent Customer or any of its Users provides any suggestions for modification or improvement or other comments, code, information, know-how, or other feedback (whether in oral or written form) relating to the Services (“**Feedback**”), Customer hereby grants to SailPoint and its Affiliates a perpetual, irrevocable, worldwide, non-exclusive, royalty-free license to use and commercially exploit the Feedback in any manner SailPoint sees fit without accounting or other obligation.

**4.4. Statistical Usage Data.** SailPoint may collect, retain, disclose and use, during and after the Term for purposes of SailPoint’s business, usage data that is derived from the operation of the SaaS Services, including patterns identified through the use of the SaaS Services and algorithms, log data, and data regarding the performance and availability of the Services (“**Usage Data**”). If SailPoint provides Usage Data to any third party (for example, a report on the aggregate number of identities governed with SailPoint’s SaaS Services), the Usage Data shall be aggregated and anonymized so as not to disclose customer’s or any user(s) identity.

## **5. Orders and Payment.**

**5.1. Orders.** Customer may purchase Services by either (a) entering into an Order with SailPoint directly or (b) entering into a Partner Order with a Partner that is subsequently acknowledged by SailPoint to Customer in writing (including by SailPoint sending a delivery notice to Customer via email). Each Order with SailPoint shall be signed by both Customer and SailPoint or issued by SailPoint and acknowledged by Customer via the issuance of a purchase order that incorporates the Order by reference only when finally accepted by SailPoint. All Partner Orders will be subject to pricing mutually agreed by Customer and Partner. All Services purchased by Customer through either SailPoint or a Partner shall be governed exclusively by this SaaS Agreement and, subject to Section 13.5 (Entire Agreement), the applicable Order or Partner Order.

## **5.2. Fees, Invoicing and Payment.**

**5.2.1. Direct Purchases from SailPoint.** For direct purchases from SailPoint, all fees for the Services shall be set forth in the applicable Order. All fees are exclusive of sales and use taxes, value added taxes (VAT), or similar charges. Unless otherwise provided in an Order, SailPoint shall invoice Customer for all fees described therein on or promptly following the Order effective date. Customer shall pay all invoices within thirty (30) days from date of invoice. Except as expressly provided otherwise herein, fees are non-refundable, non-cancellable and not subject to set-off. All fees shall be paid by Customer in the currency stated in each Order. If any fees remain unpaid by the due date, in addition to any other rights or remedies it may have under this SaaS Agreement or by matter of law, (i) SailPoint reserves the right to suspend the Services upon thirty (30) days written notice to Customer, until the amounts are paid in full, and (ii) at SailPoint’s discretion, any unpaid fees may accrue interest at the rate of the lesser of one and one-half percent (1.5%) of the outstanding balance per month or the maximum rate permitted by law from the date the fees were due until the date paid. Further, Customer shall be responsible for all costs and expenses associated with SailPoint’s collection of the fees, including reasonable attorneys’ fees SailPoint may incur in connection with its collection efforts. Suspension of the Services under this Section 5.2.1 shall not release Customer of its payment obligations under this SaaS Agreement or extend the term of the applicable Order(s).

**5.2.2. Purchases Through a Partner.** For any Services purchased by Customer through a Partner, the pricing and payment terms are established through the order or agreement entered into by and between Customer and the Partner (“**Partner Order**”) and all payments will be made directly to Partner. If a Partner is entitled to terminate or suspend any Services purchased by Customer pursuant to the Partner Order and notifies SailPoint, SailPoint may suspend or terminate the Services identified by the Partner. Subsequently, if Partner notifies SailPoint that Customer is entitled to reinstatement of any Services purchased by Customer pursuant to the Partner Order, and Customer is otherwise in compliance with the terms of this SaaS Agreement, SailPoint shall reinstate the Services as soon as reasonably practicable. SailPoint shall not be liable to Customer or to any third party for any liabilities, claims, or expenses arising from or relating to any suspension or termination of Services in accordance with this Section 5.2.2.

**5.2.3. Expenses.** Unless otherwise specified in an Order, Customer will reimburse SailPoint for all pre-approved, out-of-pocket travel and related expenses incurred in performing the Other Services. SailPoint will include reasonably detailed documentation of the expenses with each related invoice as applicable.

**5.2.4. Taxes.** Customer is responsible for payment of all sales and use taxes, value added taxes (VAT), or similar charges relating to Customer’s purchase and use of the Services, excluding taxes based on SailPoint’s net income. If SailPoint has a legal obligation to pay or collect taxes for which Customer is responsible under this SaaS Agreement, the appropriate amount shall be computed based on Customer’s address listed under Customer Information above and invoiced to and paid by Customer, which amounts are in addition to the fees for the Services, unless Customer provides SailPoint with a valid tax exemption certificate authorized by the appropriate taxing authority.

## 6. Other Services.

**6.1. Training Services.** SailPoint will provide Training Services on a per-quote basis as purchased or otherwise requested by Customer. Customer will execute an Order for any agreed Training Services subscription ("**Training Subscription**"). For Training Services acquired outside a Training Subscription, (i) Customer will approve SailPoint's quote prior to SailPoint's commencement of the Training Services and (ii) SailPoint will invoice Customer monthly in arrears as SailPoint provides the Training Services. Unless otherwise stated in the applicable Order, Training Services fees shall exclude travel and living expenses.

**6.2. Professional Services.** Customer may purchase Professional Services from SailPoint on a time-and-materials basis. The following terms and conditions shall apply to Professional Services performed for Customer by or on behalf of SailPoint:

- a. **Scope of Professional Services.** Professional Services will be documented in a mutually executed statement of work ("**SOW**"). SailPoint offers SaaS Services under this SaaS Agreement as a service of general utility provided by SailPoint to all customers the same way at the same time, leveraging the same code base. As provided by SailPoint over the internet, the SaaS Services are not themselves customizable by one customer to differentiate how it is provided to any other customer. Therefore, the scope of any Professional Services shall be limited to (i) program and deployment planning, (ii) configuration and integration assistance, and/or (iii) interface adapter efforts. Professional Services shall not constitute works-for-hire.
- b. **Term of Professional Services.** Professional Services will begin and terminate on the dates or times described in a SOW, unless earlier terminated in accordance with this SaaS Agreement.
- c. **Fees and Expenses.** Fees for Professional Services are described in a SOW or an Order. SailPoint may issue invoices on a monthly basis for Professional Services actually performed or in accordance with a payment schedule documented in a SOW or Order. SailPoint shall invoice Customer, and Customer shall pay, all actual and reasonable expenses for travel, food and lodging which are directly related to the performance of Professional Services.
- d. **Termination or delay of Professional Services.** Customer may terminate Professional Services by giving ten (10) days prior written notice to SailPoint; termination shall be effective ten (10) days after SailPoint's receipt of the notice. If Customer delays the scheduled start of contracted Professional Services, Customer shall reimburse SailPoint for any actual non-refundable costs incurred (including for expenses and contractors) due to the delay. If Customer terminates Professional Services before the agreed end of a Professional Services engagement as set forth in a SOW, Customer shall pay SailPoint for any Professional Services completed but not yet paid for prior to the termination date, as well as reasonable and actual costs (including for expenses and contractors) incurred by SailPoint through the effective date of the termination.
- e. **SailPoint Proprietary Information.** All SailPoint Proprietary Information and all right, title and interest, including, without limitation, all patents, copyrights, and trade secret rights anywhere in the world, and all other intellectual property and rights in connection therewith shall be the sole property of and remain with SailPoint or its licensors, as applicable. SailPoint Proprietary Information includes, but is not limited to, the SaaS Services, Required Software and related documentation and any modifications thereto developed in whole or in part by Professional Services. Except for the license use rights otherwise expressly provided in this SaaS Agreement, no right, title or interest in the SaaS Services or Required Software is granted hereunder.
- f. **Independent Contractors.** SailPoint is an independent contractor and is solely responsible for all taxes, withholdings, and other similar statutory obligations, including but not limited to, Worker's Compensation Insurance. Nothing herein shall form or be construed to form a joint venture or partnership.
- g. **Performance Standards.** SailPoint's performance of Professional Services under this SaaS Agreement will be conducted with standards of practice common in the industry for similar services. While performing Professional Services at Customer's site, SailPoint will comply with all applicable Customer network and safety rules, guidelines and policies that do not conflict with the terms of this SaaS Agreement and any attachments hereto
- h. **Consent to Subcontract.** Customer hereby consents for SailPoint to subcontract Professional Services to persons or companies qualified and certified by SailPoint to provide Other Services on SailPoint's behalf.

## 7. Term, Suspension, and Termination.

**7.1. Term.** This Agreement shall be in effect during the Term of any Order governed by this Agreement and shall continue in effect for so long as there is an Order arising under this Agreement with a current Term unless the Agreement or all Orders are terminated as set forth herein. This SaaS Agreement may be terminated at any time by mutual agreement of SailPoint and Customer.

**7.2. Termination for Material Breach.** Either party may terminate this SaaS Agreement if the other party fails to cure any material breach within thirty (30) days after receipt of written notice of the breach. Upon termination of this SaaS



Agreement by Customer for a material breach by SailPoint pursuant to this Section 7.2, SailPoint will refund Customer any fees prepaid by Customer to SailPoint that cover the remainder of the Term after the effective date of termination and any fees prepaid by Customer to SailPoint for Other Services that have not been delivered as of the effective date of termination. In the event SailPoint terminates this SaaS Agreement as a result of Customer's material breach, all unpaid fees under all Orders shall be accelerated and become immediately due and payable.

- 7.3. Suspension for Ongoing Harm.** SailPoint reserves the right to suspend delivery of the SaaS Services if SailPoint reasonably concludes that Customer or a User's use of the SaaS Services is causing immediate and ongoing harm to SailPoint or the security, integrity, or availability of the SaaS Services. SailPoint will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy the violation or threat prior to suspension. In the extraordinary case that SailPoint must suspend delivery of the SaaS Services, SailPoint shall promptly notify Customer of the suspension and the parties shall diligently attempt to resolve the issue. SailPoint shall not be liable to Customer or to any third party for any liabilities, claims or expenses arising from or relating to any suspension of the SaaS Services in accordance with this Section 7.3, and the suspension shall not extend the term of any applicable Order (s). Nothing in this Section 7.3 will limit SailPoint's other rights under this Section 7.
- 7.4. Retrieval of Customer Data.** Upon request by Customer made at least thirty (30) days prior to the effective date of the termination of this SaaS Agreement, at no cost to Customer, SailPoint will maintain a file of the Customer Data then-currently stored in the SaaS Services available for download by Customer for a maximum of thirty (30) days following the termination. After the thirty (30)-day period, SailPoint shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, be entitled to delete all Customer Data; provided, however, that SailPoint will not be required to remove copies of any Customer Data from its backups until such time as the backup copies are scheduled to be deleted in the normal course of business; provided further that in all cases SailPoint will continue to protect the Customer Data in accordance with Section 9 (Confidentiality). Additionally, during the Term, Customer may extract Customer Data from the SaaS Services using SailPoint's standard web services.
- 7.5. Effect of Termination.** Upon expiration or termination of this SaaS Agreement, all licenses to the Required Software and access to the SaaS Services granted to Customer under this SaaS Agreement and all Orders placed hereunder shall immediately terminate and Customer will cease using the SaaS Services (except as permitted under Section 7.4 (Retrieval of Customer Data)) and any SailPoint Confidential Information. Expiration or termination of this SaaS Agreement for any reason other than termination by Customer for a material breach by SailPoint pursuant to Section 7.2 (Termination for Material Breach) shall not relieve Customer of the obligation to pay all future amounts due under all Orders. Sections 3.3 (Restrictions), 4 (Intellectual Property), 5.2 (Fees, Invoicing and Payment), 7.5 (Effect of Termination), 8.2 (Disclaimer), 9 (Confidentiality), 11 (Indemnification), 12 (Limitations of Liability) and 13 (General Provisions) shall survive the expiration or termination of this SaaS Agreement for any reason.

## **8. Warranties and Remedies; Disclaimer.**

### **8.1. Warranties and Remedies.**

- 8.1.1. General.** Each party represents and warrants that it has the legal power and authority to enter into this SaaS Agreement. Both Parties shall comply with all laws applicable to its performance of its obligations hereunder.
- 8.1.2. SaaS Services.** SailPoint warrants that during the Term the SaaS Services will perform materially in accordance with the Documentation. As Customer's exclusive remedy and SailPoint's sole liability for breach of the warranty set forth in this Section 8.1.2, (i) SailPoint shall correct the non-conforming SaaS Services at no additional charge to Customer, or (ii) in the event SailPoint is unable to correct the deficiencies after good-faith efforts and within a commercially reasonable timeframe, Customer shall be entitled to terminate the applicable SaaS Services and SailPoint will refund Customer of any fees prepaid by Customer attributable to the defective SaaS Services for the period commencing from the date SailPoint received the notice contemplated in the next sentence. To receive warranty remedies, Customer must promptly report deficiencies in writing to SailPoint, but no later than thirty (30) days of the first date the deficiency is identified by Customer. The warranty set forth in this Section 8.1.2 shall apply only if the applicable SaaS Services have been utilized in accordance with the Documentation, this SaaS Agreement, and applicable law.
- 8.1.3. Other Services.** SailPoint warrants that the Other Services will be performed in a professional manner consistent with applicable industry standards. As Customer's exclusive remedy and SailPoint's sole liability for breach of the warranty set forth in this Section 8.1.3, SailPoint will, at its sole option and expense, promptly re-perform any Other Services that fail to meet this limited warranty or refund to Customer the fees paid for the non-conforming portion of the Other Services.
- 8.2. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 8 AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SAILPOINT MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, ACCURACY OF INFORMATIONAL CONTENT, SYSTEMS INTEGRATION, NON-INFRINGEMENT, NON-INTERFERENCE WITH ENJOYMENT OR OTHERWISE. SAILPOINT DOES NOT WARRANT THAT THE SAAS SERVICES WILL BE ERROR FREE OR UNINTERRUPTED. SAILPOINT

MAKES NO WARRANTY REGARDING ANY NON-SAILPOINT APPLICATION WITH WHICH THE SAAS SERVICES MAY INTEROPERATE. THE LIMITED WARRANTIES PROVIDED IN THIS SECTION 8 ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE SUBJECT MATTER OF THIS SAAS AGREEMENT.

## 9. Confidentiality.

9.1. As used in this SaaS Agreement, “**Confidential Information**” means all proprietary, non-public information disclosed by a party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”), directly or indirectly, which, (a) if in written, graphic, machine-readable or other tangible form, is marked as “confidential” or “proprietary,” (b) if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and is confirmed in writing to the Receiving Party to be “confidential” or “proprietary” within thirty (30) days of the disclosure, or (c) reasonably appears to be confidential or proprietary because of the circumstances of disclosure and the nature of the information itself, including the Customer Data, terms of this SaaS Agreement, each Order, the Services and Documentation, business and marketing plans, technology and technical information, product designs, and business processes of either party. Confidential Information of SailPoint includes, without limitation, the SaaS Services and Documentation. The terms and conditions of this SaaS Agreement are Confidential Information; however, the existence of this SaaS Agreement is not Confidential Information.

9.2. “**Confidential Information**” does not include information that:

- (i) is known publicly at the time of the disclosure by the Disclosing Party or becomes known publicly after disclosure through no fault of the Receiving Party;
- (ii) is known to the Receiving Party at the time of disclosure by the Disclosing Party due to previous receipt from a source that was not bound by confidentiality obligations to the Disclosing Party at that time; or
- (iii) is independently developed by the Receiving Party without use of or reference to the Confidential Information as demonstrated by the written records of the Receiving Party.

9.3. The Receiving Party shall not (a) use the Confidential Information of the Disclosing Party except to exercise its rights and perform its obligations under this SaaS Agreement or (b) disclose the Confidential Information to any third party, except those of its employees, service providers, agents, and representatives who are subject to confidentiality obligations at least as stringent as the obligations set forth herein and have a “need to know” in order to carry out the purpose of this SaaS Agreement. The Receiving Party shall use at least the same degree of care it uses to protect its own confidential information of like nature, but not less than a reasonable degree of care, to protect the Confidential Information of the Disclosing Party.

9.4. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent the disclosure is required by law or order of a court or other governmental authority; provided that the Receiving Party shall use commercially reasonable efforts to promptly notify the Disclosing Party prior to the disclosure to enable the Disclosing Party to seek a protective order or otherwise prevent or restrict the disclosure.

9.5. The parties agree that monetary damages may be insufficient to fully compensate either party for its losses in the event the other party violates the confidentiality provisions of this SaaS Agreement. Upon any actual or threatened violation by the Receiving Party, the Disclosing Party may be entitled to preliminary and other injunctive relief against such violation, in addition to any other rights or remedies that the Disclosing Party may have at law or in equity.

## 10. Data Security and Processing.

10.1. **Security Program.** SailPoint will maintain administrative, physical, and technical safeguards designed to protect the security and confidentiality of Customer Data, including measures designed to prevent unauthorized access, use, modification, or disclosure of Customer Personal Data. SailPoint’s current Security Measures are described for information purposes only in Annex A of the DPA and posted by SailPoint as the SailPoint Data Security Program under Associated Documentation at [www.sailpoint.com/legal](http://www.sailpoint.com/legal). The SailPoint Data Security Program (and Annex A) are subject to change at any time without notice provided that any change shall not materially diminish SailPoint’s information security obligations described therein. With respect to the SaaS Services listed at <https://www.sailpoint.com/legal/saas-services/>, SailPoint will operate in conformance with the physical, technical, operational, and administrative measures and protocols regarding data security that are set forth in its then current Service Organization Control 2 (SOC 2) Type 2 Report(s) (or equivalent report(s)), received from its third-party auditors.

10.2. **Data Processing Agreement.** The DPA sets forth the terms and conditions under which SailPoint may receive and process Customer Personal Data from Customer. The DPA shall apply with respect to SailPoint’s processing of Customer Personal Data in the course of providing Services pursuant to this SaaS Agreement.

## 11. Indemnification.

**11.1. Indemnification by SailPoint.** Subject to Section 11.3 (Indemnity Process), SailPoint will defend Customer from any and all claims, demands, suits, or proceedings brought against Customer by a third party alleging that the SaaS Services, as provided by SailPoint to Customer under this SaaS Agreement, infringe any patent, copyright, or trademark or misappropriate any trade secret of that third party (each, an **"Infringement Claim"**). SailPoint will indemnify Customer for all damages and costs (including reasonable attorneys' fees) finally awarded by a court of competent jurisdiction, authorized arbitral panel, or paid to a third party in accordance with a written settlement agreement signed by SailPoint, in connection with an Infringement Claim. In the event an Infringement Claim is brought, or in SailPoint's reasonable opinion is likely to be brought, SailPoint may, at its option:

- (i) procure the right to permit Customer to continue use of the SaaS Services;
- (ii) replace or modify the SaaS Services with a non-infringing alternative having substantially equivalent performance, within a reasonable period of time, or
- (iii) if SailPoint determines that neither of the foregoing options are reasonably practicable, terminate the applicable Order and repay to Customer any prepaid fees paid by Customer under the Order to SailPoint with respect to any period of time following the termination date.

Notwithstanding the foregoing, SailPoint shall have no liability for any Infringement Claim of any kind to the extent that it relates to (a) modification of the SaaS Services by a party other than SailPoint, (b) use of the SaaS Services in combination with any other product, service, or device, if the infringement would have been avoided by the use of the SaaS Services without the other product, service, or device, or (c) use of the SaaS Services other than in accordance with the Documentation and this SaaS Agreement. The indemnification obligations set forth in this Section 11.1 are Customer's exclusive remedy and SailPoint's sole liability with respect to SailPoint's infringement or misappropriation of third-party intellectual property rights of any kind.

**11.2. Indemnification by Customer.** Subject to Section 11.3 (Indemnity Process), Customer will defend SailPoint and its Affiliates from any and all claims, demands, suits, or proceedings brought against SailPoint by a third party alleging a violation of a User's or third party's rights arising from or related to the Customer Data, including Customer's provision of the Customer Data to SailPoint or its Affiliates or their respective use of the Customer Data in connection with providing Services in accordance with this SaaS Agreement. Customer will indemnify SailPoint for all damages and costs (including reasonable attorneys' fees) finally awarded by a court of competent jurisdiction, authorized arbitral panel, or paid to a third party in accordance with a written settlement agreement signed by Customer, in connection with any such claims, demands, suits, or proceedings. The indemnification obligations set forth in this Section 11.2 are SailPoint's exclusive remedy and Customer's sole liability with respect to Customer's infringement or misappropriation of third-party's rights arising from or related to its Customer Data.

**11.3. Indemnity Process.** The party seeking indemnification under this Section 11 (**"Indemnitee"**) must (a) promptly notify the other party (**"Indemnitor"**) of the claim (provided that any failure to provide prompt written notice will only relieve the Indemnitor of its obligations to the extent its ability to defend the claim is materially prejudiced by the failure), (b) give the Indemnitor sole control of the defense and settlement of the claim (provided that Indemnitor shall not consent to entry of any judgment or admission of any liability of the Indemnitee without the prior written approval of the Indemnitee), and (c) provide reasonable assistance, cooperation, and required information with respect to the defense and settlement of the claim, at the Indemnitor's expense. At its own expense, the Indemnitee may retain separate counsel to advise the indemnitee regarding the defense or settlement of the claim.

## 12. Limitations of Liability.

**12.1.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EACH PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS SAAS AGREEMENT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE BY CUSTOMER UNDER THE ORDER GIVING RISE TO THE CLAIM FOR THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATION SHALL APPLY WHETHER AN ACTION IS IN CONTRACT, TORT, OR OTHERWISE AND REGARDLESS OF THE THEORY OF LIABILITY.

**12.2.** NOTWITHSTANDING THE LIMITATIONS SET FORTH IN SECTION 12.1, NEITHER PARTY EXCLUDES OR LIMITS ITS LIABILITY FOR:

- 12.2.1.** EITHER PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 11 (INDEMNIFICATION);
- 12.2.2.** DAMAGES RESULTING FROM EITHER PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD;
- 12.2.3.** DAMAGES RESULTING FROM EITHER PARTY'S BREACH OF SECTION 9 (CONFIDENTIALITY); OR
- 12.2.4.** CUSTOMER'S PAYMENT OBLIGATIONS.



**12.3.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING (BY WAY OF EXAMPLE AND NOT AN EXHAUSTIVE LIST), LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, LOSS OF USE, OR OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS SAAS AGREEMENT, HOWEVER CAUSED AND WHETHER IN CONTRACT, TORT, OR OTHERWISE AND REGARDLESS OF THE THEORY OF LIABILITY AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. NOTWITHSTANDING THE IMMEDIATELY PRECEDING SENTENCE, THE FOLLOWING SHALL BE EXCLUDED FROM THE LIMITATIONS SET FORTH IN THIS SECTION 12.3:

**12.3.1.** DAMAGES RESULTING FROM EITHER PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD; AND

**12.3.2.** DAMAGES RESULTING FROM EITHER PARTY'S BREACH OF SECTION 9 (CONFIDENTIALITY).

**12.4.** THE LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES STATED HEREIN WILL APPLY REGARDLESS OF THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. BOTH PARTIES HEREUNDER SPECIFICALLY ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES STATED HEREIN ARE REFLECTED IN THE PRICING AND BUT FOR SUCH LIMITATIONS AND EXCLUSIONS, SAILPOINT WOULD NOT HAVE MADE THE SERVICES AVAILABLE TO CUSTOMER.

### **13. General Provisions.**

**13.1. Assignment.** Neither party may assign this SaaS Agreement or otherwise transfer any right or obligation under this SaaS Agreement, without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either party may assign this SaaS Agreement in its entirety to an acquirer of all, or substantially all, of the assets or equity of the party whether by merger, asset sale, or otherwise, provided that in the event of an assignment by Customer, all fees then due and payable to SailPoint have been paid. Any attempt by a party to assign or transfer its rights or obligations under this SaaS Agreement other than as permitted by this section shall be void and of no effect. Subject to the foregoing, this SaaS Agreement shall be binding upon and inure to the benefit of the parties' successors and permitted assigns. Either party may employ sub-contractors in performing its duties under this SaaS Agreement, provided, however, that the party shall not be relieved of any obligation under this SaaS Agreement and subject (as applicable) to the applicable sub-processing terms of the DPA.

**13.2. Notices.** Except as otherwise expressly permitted in this SaaS Agreement, notices under this SaaS Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified mail, (b) when personally delivered, or (c) one (1) business day after deposit for overnight delivery with a recognized courier for U.S. deliveries (or three (3) business days for international deliveries). All notices shall be sent to the other party at the address set forth on the first page of this SaaS Agreement.

**13.3. Force Majeure.** Neither party shall be liable to the other for any delay or failure to perform hereunder due to circumstances beyond the party's reasonable control, including acts of God, acts of government, computer related attacks, hacking, or acts of terror, service disruptions involving hardware, software, or power systems not within the party's possession or reasonable control (a "**Force Majeure Event**"). Notwithstanding the foregoing, Customer shall remain liable for the payment of all amounts required to be paid pursuant to an applicable Order, regardless of the occurrence or persistence of a Force Majeure Event.

**13.4. Equitable Relief.** The parties agree that a material breach of Sections 3.3 (Restrictions) or 10 (Confidentiality) above may cause irreparable injury to the non-breaching party for which monetary damages alone would not be an adequate remedy, and therefore the non-breaching party shall be entitled to seek equitable relief in addition to any other remedies it may have hereunder or at law, without the requirement of posting bond or proving actual damages. If any legal action is brought to enforce any rights or obligations under this SaaS Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees, court cost and other collection expenses, in addition to any other relief it may be awarded.

**13.5. U.S. Government End User.** If Customer is a U.S. government entity (a "**U.S. Government End User**") or if this SaaS Agreement otherwise becomes subject to the Federal Acquisition Regulations (FAR), Customer acknowledges that elements of the Services constitute software and documentation and are provided as "Commercial Items" and are being licensed to U.S. Government End Users as "Commercial Computer Software," in each case as defined in 48 C.F.R. 2.101, subject to the restrictions set forth in 48 C.F.R. 12.201, 12.211 and 12.212 and the terms of this SaaS Agreement. If licensed to any agency within the Department of Defense ("**DOD**"), the U.S. Government acquires a license to this Commercial Computer Software and/or Commercial Computer Software Documentation subject to the terms of this SaaS Agreement as specified in 48 C.F.R. 227.7202-3, and the restrictions set forth therein, of the DOD FAR Supplement ("**DFARS**") and its successors. The use of the Services by any U.S. Government End User constitutes the U.S. Government End User's acknowledgement of SailPoint's proprietary rights in the Services and the U.S. Government End User shall only use the Services as set forth in this SaaS Agreement. This Section 12.7 (Government End User) is in lieu

of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software or technical data.

- 13.6. Entire Agreement.** This SaaS Agreement together with the documents incorporated herein by reference contains the entire agreement of the parties with respect to the subject matter hereof and supersedes all previous oral and written communications, representation, understandings, and agreements by the parties concerning the subject matter of this SaaS Agreement. Customer agrees that its purchase of the Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by SailPoint with respect to future functionality or features. No terms, provisions or conditions contained in any purchase order, sales confirmation, or other business form that either party may use in connection with the transactions contemplated by this SaaS Agreement will have any effect on the rights or obligations of the parties under, or otherwise modify, this SaaS Agreement. If there is any conflict between the terms of this SaaS Agreement and any Order or similar ordering document with a Partner, the terms of this SaaS Agreement shall control unless SailPoint and Customer expressly agree otherwise in the applicable Order or other document signed by both parties by specific reference to this section and the section(s) of this SaaS Agreement that are modified. Where SailPoint is required to “click through” or otherwise accept any online terms to register as Customer’s vendor, to provide the Services to Customer, or to enable Customer’s receipt of the Services (as a condition to its provision, vendor registration or receipt of Services), the terms are not binding and shall not be deemed to modify this SaaS Agreement. No modification, amendment, or waiver of any provision of this SaaS Agreement will be effective unless in writing and signed by authorized representatives of both parties hereto. Any failure to enforce any provision of this SaaS Agreement shall not constitute a waiver thereof or of any other provision and a waiver of any breach of this SaaS Agreement shall not constitute a waiver of any other or subsequent breach.
- 13.7. Publicity.** During the term of this SaaS Agreement, SailPoint may include Customer’s name and logo in its customer lists, including on its website. To the extent Customer provides standard trademark usage guidelines, SailPoint shall use Customer’s name and logo in accordance with the guidelines.
- 13.8. Export Laws.** Export controls and sanctions laws of the United States and any other relevant local export controls and sanctions laws apply to the Services (collectively “**Export Laws**”). Customer agrees that the Export Laws govern its use of the Services (including technical data) and any materials provided under this SaaS Agreement, and Customer agrees to comply with all Export Laws. Customer agrees that no data, information, software programs, or other materials resulting from Services (or that are a direct product thereof) will be exported, re-exported, transferred, or released, directly or indirectly, in violation of the Export Laws. Each party represents that it is not (i) named on any U.S. government list of persons or entities with which U.S. persons are prohibited from transacting, (ii) owned or controlled by or acting on behalf of any such persons or entities, or (iii) residing, located, operating or organized in a country or region subject to a United States trade embargo. Customer agrees that it will not access or use the SaaS Services in any manner that would cause any party to violate any Export Laws.
- 13.9. Independent Contractors, No Third-Party Beneficiaries.** The parties have the status of independent contractors, and nothing in this SaaS Agreement nor the conduct of the parties will be deemed to place the parties in any other relationship. Except as provided in this SaaS Agreement, neither party shall be responsible for the acts or omissions of the other party or the other party’s personnel. Save as contained expressly above, this SaaS Agreement confers no rights upon either party’s employees, agents, contractors, partners or customers or upon any other person or entity.
- 13.10. Governing Law, Attorneys’ Fees, and Severability.** This SaaS Agreement is governed by the laws of the State of Texas, excluding any of its conflict of law principles that would apply laws of another jurisdiction, and the exclusive venue for any dispute relating to this SaaS Agreement shall be the courts located in Austin, Texas. In any court action at law or equity, which is brought by one of the parties to enforce or interpret the provisions of this SaaS Agreement, the prevailing party will be entitled to reasonable attorneys’ fees, in addition to any other relief to which that party may be entitled. The United Nations Convention on Contracts for the International Sale of Goods does not apply. If any term of this SaaS Agreement is held to be invalid or unenforceable, that term shall be reformed..
- 13.11. Anti-Bribery/Corruption.** Neither party (a) has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this SaaS Agreement or (b) has made, paid, given, or agreed to make, pay, or give any bribe, kickback, payment, gift, or thing of value to any foreign government official or other person in violation of applicable laws related to the prevention of corruption, including the U.S. Foreign Corrupt Practices Act of 1977, as amended (“**Anti-Corruption Laws**”) in connection with this SaaS Agreement. Both parties agree to comply with Anti-Corruption Laws in relation to this SaaS Agreement. If either party learns of any violation of the foregoing restriction, the party will use reasonable efforts to promptly notify the other party.
- 13.12. Interpretation.** For purposes of interpreting this SaaS Agreement:
- (i) unless the context otherwise requires, the singular includes the plural, and the plural includes the singular;
  - (ii) unless otherwise specifically stated, the words “herein,” “hereof,” and “hereunder” and other words of similar import refer to this SaaS Agreement as a whole and not to any particular section or paragraph;

- (iii) the words “include” and “including” will not be construed as terms of limitation, and will therefore mean “including but not limited to” and “including without limitation”;
- (iv) unless otherwise specifically stated, the words “writing” or “written” mean preserved or presented in retrievable or reproducible form, whether electronic (including email but excluding voice mail) or hard copy; and
- (v) the captions and section and paragraph headings used in this SaaS Agreement are inserted for convenience only and will not affect the meaning or interpretation of this SaaS Agreement.

\*\*\* End of Terms and Conditions \*\*\*

**Exhibit A**

*[Attach SailPoint Customer Data Processing Addendum here when executed]*