

END USER SOFTWARE LICENSE AND SUPPORT AGREEMENT (v1017)

FOR SPLUNK APPLICATIONS

PLEASE READ THIS AGREEMENT BEFORE DOWNLOADING OR USING ANY SAILPOINT SOFTWARE. BY DOWNLOADING, INSTALLING OR USING ANY SAILPOINT SOFTWARE YOU (the “Customer”) SIGNIFY ACCEPTANCE OF AND AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT DOWNLOAD, INSTALL OR USE THE SOFTWARE.

This End User Software License and Support Agreement (“**Agreement**”) is entered into between SailPoint Technologies, Inc. a Delaware corporation (“**SailPoint**”), with its principal place of business at 11305 Four Points Dr. Suite 100, Austin, Texas 78726, and the party downloading or using the Software (“**Customer**”). SailPoint and Customer agree that the following terms and conditions will apply to all Software downloaded or used by Customer.

1. Definitions

- a. “**Documentation**” means the written documentation relating to the Software delivered by SailPoint to Customer with the Software.
- b. “**Identity Cube**” means a unique collection of identities for an individual that will be managed by SailPoint IdentityIQ for the purposes of certifying user access, enforcing access policy, monitoring user activity, or modeling user risk. These identities may be physically or logically maintained in a single repository or in separate physical or logical repositories. Although Identity Cubes for user accounts that have been deactivated may remain in the identity management system, those inactive Identity Cubes will not be included in the number of Identity Cube licenses in use by Customer.
- c. “**Order**” means the document Customer places with SailPoint or a SailPoint Partner. With respect to Software, this Agreement takes precedence over any Customer purchase orders or any Orders placed through a Partner.
- d. “**Partner**” means a reseller or distributor that has an agreement with SailPoint that authorizes them to resell SailPoint software and/or services.
- e. “**Software**” means the SailPoint computer software programs to be provided in object code format, and their related materials, which include updates, modifications, new releases, and Documentation.

2. Grants.

2.1 License Grant. Subject to the terms and conditions of this Agreement, SailPoint grants to Customer a non-exclusive, non-transferable license (except as otherwise set forth herein) to (a) install, execute, copy, display or otherwise use the Software in machine readable format solely for internal use and solely for the number of Identity Cubes specified on an Order, (b) use the Documentation solely for use with the Software, or (c) use SailPoint applications that integrate with Splunk Inc. Customer may make a reasonable number of copies of the Software in machine-readable form solely for archive or backup purposes in accordance with Customer’s standard archive or backup policies and procedures. Use of such Software greater than the number of Identity Cubes paid for is prohibited and any such use will be subject to additional license and Support and Maintenance fees.

2.2 Third Party Use. The Software may only be used by employees of Customer or contractor/agents of Customer who are acting on behalf of Customer by providing implementing, consulting or outsourcing services and are under a written agreement with Customer that will protect SailPoint’s Software similar to the protections and restrictions stated under this Agreement.

3. Title and Restrictions

3.1 Title and Copyright. This Agreement confers no ownership rights to Customer and is not a sale of any rights in the Software, the Documentation, or the media on which either is recorded or printed. Customer does not acquire any rights, express or implied, in the Software or the Documentation, other than those rights as a licensee specified in this Agreement. All Software and Documentation furnished by SailPoint, and all copies thereof made by Customer and all compilations, derivative products, programmatic extensions, patches, revisions, and updates made by either party, and any, patent rights, copyrights, trade secrets, trade marks, trade names, service marks, designs or design marks or proprietary inventions, designs and information included within any of the items described above are and shall remain the property of SailPoint or SailPoint’s licensors, as applicable. Customer agrees not to claim or assert title to or ownership of the Software or the Documentation. Customer will not remove or alter any copyright or proprietary notice from copies of the Software or the Documentation and copies made by or for Customer shall bear all such copyright, trade secret, trademark and any other intellectual property right notices on the original copies.

3.2 Restrictions. Customer will not, nor allow any third party to reverse engineer, decompile or attempt to discover any source code or underlying ideas or algorithms of any Software. Except as mutually agreed to in writing as an exception under this Agreement, Customer will not, nor allow any third party to modify, lease, lend, use for timesharing or service bureau purposes or otherwise use or allow others to use Software for the benefit of any third party. Customer agrees to promptly report to SailPoint any violations of these provisions by Customer’s employees, consultants or agents of which Customer is aware.

SailPoint is solely responsible for this application, including, without limitation, any warranties, maintenance and support, notices and consents to be given to Customer. Customer agrees that Splunk does not in any way warrant the accuracy, reliability, completeness, usefulness, non-infringement, or quality of this application and that Splunk will not be liable or responsible in any way for any losses or damage of any kind, including lost profits or other indirect or consequential damages, relating to your use of or reliance upon this application. Customer agrees to the foregoing even if the application has been examined against best practices for Splunk development and deemed cloud compatible or “certified” by Splunk.

4. Confidentiality

4.1 Treatment of Confidential Information. Each party acknowledges that in the course of this Agreement it may be entrusted with information from the other and agrees that it shall use best efforts to protect the confidentiality thereof. “Confidential Information” means all information disclosed by one party (“disclosing party”) to the other party (“receiving party”), before or after the date of this Agreement, and generally not publicly known, whether tangible or intangible and in whatever form or medium provided, as well as any information generated by the receiving party to the extent that it contains, reflects, or is derived from Confidential Information. Confidential Information of SailPoint includes, without limitation, the Software and Documentation. The terms and conditions of this Agreement are Confidential Information; however, the existence of this Agreement is not Confidential Information. The receiving party shall retain the Confidential Information of the disclosing party in confidence and shall use and disclose it solely for the purpose of, and in accordance with, this Agreement. The receiving party shall only disclose Confidential Information of the disclosing party to those of its employees with a need to know such Confidential Information and who have been informed of the obligations of confidence and have agreed in writing to preserve the confidentiality of such information under terms and conditions no less restrictive than those set forth herein. The receiving party shall use the same degree of care as it uses to protect its own confidential information of a similar nature, but no less than reasonable care, including, without limitation, securing all servers, drives or media on which the Confidential Information, Software and Documentation are installed or maintained to prevent the unauthorized use or disclosure of Confidential Information.

4.2 Exclusions. The receiving party shall not be bound by any obligations restricting disclosure and use set forth in this Agreement with respect to Confidential Information, or any part thereof, which; (i) was lawfully known to the receiving party prior to disclosure; (ii) was lawfully in the public domain prior to its disclosure, or becomes publicly available other than through a breach of this Agreement; (iii) was disclosed to the receiving party by a third-party, provided that such third-party is not in breach of any confidentiality obligation in respect of such information; or (iv) is independently developed by the receiving party.

4.3 Required Disclosure. If the receiving party is compelled pursuant to legal, judicial, or administrative proceedings, or otherwise required by law, to disclose Confidential Information, the receiving party shall use reasonable efforts to (i) seek confidential treatment for such Confidential Information, and (ii) provide prior notice to the disclosing party to allow the disclosing party to seek protective or other court orders.

5. Software Warranty and Conditions.

5.1 Product Warranty. The Software to be provided under this Agreement is provided “as is”. Any warranties for the Software will be provided as part of Customer’s agreement with Partner for its Managed Service.

5.2 Warranty Disclaimer. **THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES AND IS THE ONLY WARRANTY GRANTED BY SAILPOINT WITH RESPECT TO THE SOFTWARE, DOCUMENTATION OR THE SERVICES. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, ORAL OR WRITTEN, INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, REGARDING THIS AGREEMENT OR ANY SOFTWARE LICENSED HEREUNDER. SAILPOINT DOES NOT WARRANTY UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCTS.**

6. Intellectual Property Indemnification.

6.1 SailPoint shall hold Customer harmless from liability to third parties resulting from infringement by the Software of any United States patents issued before delivery of such Software or any copyright or misappropriation of any trade secret, provided SailPoint is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement. SailPoint will not be responsible for any settlement it does not approve in writing.

6.2 The foregoing obligations do not apply with respect to Software or portions or components thereof (i) not supplied by SailPoint, (ii) made in whole or in part in accordance to Customer specifications, (iii) that are modified by Customer after delivery (iv) combined with other products, processes or materials where the alleged infringement relates to such combination which were unauthorized by SailPoint, (v) where Customer continues use of the infringing Software following SailPoint’s supplying a modified, amended or replacement version of the Software, or (vi) where Customer’s use of such Software is not strictly in accordance with this Agreement. Customer will reimburse SailPoint for any reasonable out of pocket expenses incurred by SailPoint if the cause of the infringement is attributable to Customer’s actions as stated in this paragraph.

6.3 In the event of such a claim, action or allegation being brought or threatened or in the event an injunction is issued or threatened, SailPoint may, at its option and expense, either procure for Customer the right to continue to use the Software, modify or replace the Software so as to avoid infringement, or accept the return of the infringing Software and return the license fee paid for such infringing Software.

THE PROVISIONS OF THIS SECTION SET FORTH SAILPOINT'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND/OR PROPRIETARY RIGHTS OF ANY KIND.

7. Limitation of Liability

7.1 Liability Limit. IN NO EVENT SHALL EITHER PARTY (INCLUDING SUCH PARTY'S SUBCONTRACTORS, AGENTS, SUPPLIERS, DIRECTORS OR EMPLOYEES) BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT, RELIANCE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOST SAVINGS OR OTHER SIMILAR PECUNIARY LOSS) WHETHER ARISING FROM CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY EVEN IF SUCH PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY'S TOTAL CUMULATIVE LIABILITY PURSUANT TO THIS AGREEMENT EXCEED THE LICENSE FEES PAID AND/OR PAYABLE BY CUSTOMER TO SAILPOINT UNDER THIS AGREEMENT. FOR MAINTENANCE SERVICES OR A PRODUCT SUBJECT TO RECURRING FEES, THE LIABILITY SHALL NOT EXCEED THE AMOUNT PAID AND/OR OWED (AS APPLICABLE) FOR SUCH MAINTENANCE SERVICE OR PRODUCT DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM.

7.2 Exceptions. NOTWITHSTANDING THE FOREGOING, NO LIMITATION OF EITHER PARTY'S LIABILITY SET FORTH IN THIS AGREEMENT SHALL APPLY TO (I) DAMAGES ARISING FROM A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS, (II) DAMAGES ARISING FROM INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS OR (III) CLAIMS FOR DEATH, BODILY INJURY OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY THE NEGLIGENCE OF SUCH PARTY OR ITS EMPLOYEES, SUBCONTRACTORS OR AGENTS.

8. Term and Termination

8.1 Termination. This Agreement, or a license granted hereunder, may be terminated (i) by mutual agreement of SailPoint and Customer, (ii) by either party if the other party commits a material breach of this Agreement and fails to cure such breach within thirty (30) days following receipt of breach notice, or (iii) by either party if the other party becomes insolvent or is adjudged as bankrupt; makes an assignment for the benefit of creditors; has a receiver appointed; or files a petition of bankruptcy.

8.2 Effect of Termination. Upon termination of this Agreement or expiration or termination of a license, all rights granted to Customer for the applicable license(s) shall cease and Customer shall immediately: (i) cease using the applicable Software and Documentation, (ii) return the applicable Software to SailPoint together with all Documentation and other materials associated with the Software and all copies of any of the foregoing, or destroy such items, and (iii) give SailPoint a written certification that Customer has complied with all of the foregoing obligations.

8.3 Survival. Upon termination of this Agreement, all of the parties' respective rights and obligations hereunder shall cease, except that Sections entitled: "Title and Restrictions", "Warranty Disclaimer", Intellectual Property Indemnification", "Limitation of Liability", "Confidentiality", "Effect of Termination", and "General" Sections of this Agreement, shall survive such termination.

9. General

9.1 Severability. Should any provision of this Agreement be invalid, ineffective, or unenforceable, under present or future laws, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

9.2 Assignment. Neither party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, and any such prohibited assignment shall be null and void. Notwithstanding the foregoing, (a) either party may assign this Agreement to any party that acquires all or substantially all of its related business by merger, sale of stock or assets, or a similar transaction, and (b) SailPoint may subcontract its obligations hereunder to a third party, provided that SailPoint shall remain liable for any breach thereof.

9.3 Entire Agreement. This Agreement constitute the entire agreement between the parties on the subject matter hereof and supersede all prior agreements, communications and understandings of any nature whatsoever, oral or written including any shrink wrap license included with the Software. This Agreement may not be modified or waived orally and may be modified only in writing signed by duly authorized representatives of each party.

9.4 Governing Law. This Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law principles.

9.5 Injunctive Relief; Attorneys' Fees. Each party acknowledges and agrees that in the event of a material breach of this Agreement, including but not limited to a breach of the "Title and Restrictions" or "Confidentiality" Sections of this Agreement, the non-breaching party shall be entitled to seek immediate injunctive relief, without limiting its other rights and remedies. If any legal action is brought to enforce any rights

or obligations under this 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.

9.6 Deployment Verification. Upon reasonable advance notice to Customer and on a non-interference basis with Customer's normal business operations, SailPoint has the right to verify the quantity of Software Customer has placed into use under this Agreement. Such verification shall not be conducted more frequently than once per year unless agreed otherwise in an Order.

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