

# Sprinklr Contracts FAQ:

## Who is Sprinklr and What do we Do?

These Sprinklr Contracts FAQs intend to provide background information on Sprinklr's products and services to understand our offerings better and facilitate the review of our Master Services Agreement. While the folks in the front office know what we do, often, attorneys and contract professionals are sent contracts from Sprinklr to review, without having an understanding of who we are, what is being purchased and how we provide that product or service so we've outlined below many of the common questions around those products and services to help with that. This FAQ document does not form part of the agreement between you and Sprinklr.

### ➤ **What does Sprinklr Sell and What is being Purchased?**

Sprinklr offers the only unified Customer Experience Management Platform which includes several products and services (the "Platform") and is purpose-built to help large enterprises make their customers happier. The Platform integrates with over 30 digital channels and uses Sprinklr's unique AI to create insights to provide their customers with deeper, real-time customer experiences. Sprinklr is a cloud-based Software as a Service ("SaaS") application provided over the Internet, in a multi-tenant hosted environment. Being SaaS, all customers use the same version of the Platform. For more information, please visit [www.sprinklr.com](http://www.sprinklr.com).

### ➤ **What kind of data is processed by the Sprinklr Platform?**

The data collected and processed by Sprinklr for the provision of Sprinklr's services for our customers includes (i) customer and customer employee data that is needed to manage our customer relationships and enable access to Sprinklr's services ("Account Information"); (ii) any data that customer end users upload or stored in the Platform or that is published through Sprinklr to channels and integrations supported by the Platform and authorized by customers ("Customer Content"); (iii) any data that is submitted to the Platform through channels and integrations by individuals who are seeking customer care and support from Sprinklr's customers ("Customer Care Data"); and (iv) any other data received from a third party through any of the integrated services, such as social media channels ("Inbound Content"). Collectively, all these data types are referred to as "Content" throughout the Master Services Agreement. Sprinklr's customers authorize Sprinklr to connect to several digital channels including CRM systems, public media sources, and social media accounts, and can unilaterally determine the scope of the data being consumed and the type of data processing.

### ➤ **What is Sprinklr's approach to Data Protection?**

Sprinklr takes its data protection obligations very seriously and has a robust privacy program. Sprinklr has a dedicated privacy team and an external and independent third-party Data Protection Officer. Sprinklr respects all laws applicable to Sprinklr and our internal legal team monitors and assesses new privacy laws to promote ongoing compliance. Where there are adjustments to the regulatory landscape that require adjustments to our contracts, policies, products, or service offerings we instigate internal processes to ensure compliance. You can learn more about Sprinklr's privacy program and get access to documentation and resources at [www.sprinklr.com/trust](http://www.sprinklr.com/trust).

Sprinklr processes personal data at our customer's instruction and in accordance with the limitations and instructions included in our Master Services Agreement and Data Protection Agreement (DPA). The DPA, which is available at [www.sprinklr.com/legal](http://www.sprinklr.com/legal), documents customer instructions on data processing and the obligations imposed on Sprinklr in accordance with certain data protection legislation. Sprinklr enables cross-border data transfers out of the EEA/UK through its adherence to the EU-US Data Privacy Framework and our inclusion of Standard Contractual Clauses (SCCs) in the DPA. Sprinklr's DPA also lists the technical and organizational measures Sprinklr deploys as additional safeguards for those transfers of data.

Sprinklr uses sub-processors to provide our services. Sprinklr has several types of sub-processors, including affiliates and third-party sub-processors. Sprinklr obligates its sub-processors to contractual obligations that are substantially similar to those imposed on Sprinklr under the DPA with our customers. For a full list of sub-processors and to subscribe for updates, visit [www.sprinklr.com/legal](http://www.sprinklr.com/legal).

The Sprinklr platform establishes tooling to enable our customers to respond to data subject requests for access, rectification, objection, restriction, portability, and deletion (right to be forgotten) in an efficient way, directly via the user interface and/or via an API.



Sprinklr informs every employee of their data protection and confidentiality obligations. Every employee participates in mandatory data protection and information security training and is contractually or statutorily obliged to confidentiality.

➤ **How does Sprinklr protect customer data?**

Sprinklr is a multi-tenant SaaS product which is hosted in a virtual private cloud (VPC). This means that your data shares the physical environment with other Sprinklr customers but is logically isolated for additional security. This hosting environment creates a high availability redundant enterprise grade installation with strong security. Sprinklr holds SOC 2 Type 2 and ISO 27001 certifications. Sprinklr encrypts data in transit and data at rest. In addition, Sprinklr has contracts or terms in place with all supported channel integrations, and these contracts impose obligations which Sprinklr must enforce to ensure that prohibited content is not allowed to be posted via the Sprinklr system.

Since Sprinklr is a multi-tenant system, we must protect the confidentiality of other customers sharing the environment. This places restrictions on the access we provide to our customers and the ability to audit and inspect our security environment.

Customers may, upon request, audit, inspect, and approve SOW subcontractors who are working under a specific SOW which mentions that subcontractor by name. Multi-tenant subcontractors such as hosting or data providers, are not available for audit, inspection or approval to any customer in the multi-tenant environment. This policy is designed to ensure that all Sprinklr customers' data is protected. More information about Sprinklr's security program and the measures to protect our customers' data is provided in the Enterprise Security Addendum, in the Data Processing Addendum, as well as Sprinklr's Trust Portal, available at [www.sprinklr.com/trust](http://www.sprinklr.com/trust).

➤ **Does Sprinklr Access Protected Health Information?**

Sprinklr does not require access to Protected Health Information (PHI) to provide its services, but for those customers who are subject to the Health Insurance Portability and Accountability Act (HIPAA) and who will be providing Sprinklr with access to PHI, as defined by HIPAA, Sprinklr requires customer to: (1) inform Sprinklr that there will be such access; (2) execute an applicable Order Form, SOW, and a Business Associate Agreement. Customers wishing to process PHI with Sprinklr can only do so using HIPAA Eligible Sprinklr Services.

➤ **What happens to my Data on Termination or Expiration of the Agreement?**

During the term of the MSA, data is retained in accordance with the Active Data Retention package, as stated in the Service Level Agreement (SLA). The selected retention package is specified on the Order Form. For those customers who do not provide PHI to Sprinklr, within thirty (30) days after the effective date of termination or expiration of the Agreement, Sprinklr will delete customer's available content from the Platform. Sprinklr can extract such data and provide a copy to customer if customer requests a copy prior to the data deletion date, at Customer's expense. For those customers who provide PHI to Sprinklr, such retention and destruction requirements will be governed by the applicable Business Associate Agreement executed by the parties.

➤ **What is Sprinklr's Service Level Agreement ("SLA")?**

Sprinklr's SLA can be found at [www.sprinklr.com/legal](http://www.sprinklr.com/legal). All customers of Sprinklr are on the same version of the Platform. We cannot modify this SLA on a customer-by-customer basis, as we would not be able to scale our operations without uniformity across our entire customer base.

➤ **What is Sprinklr's Acceptable Use Policy ("AUP")?**

Sprinklr's AUP can be found at [www.sprinklr.com/legal](http://www.sprinklr.com/legal). We have created this policy to make it very clear what can and cannot be done with the Sprinklr Platform. Much of this is required by the channels and integrations that our Platform interacts with. As a result, this is required to be accepted by our customers without any amendments.

➤ **What are Sprinklr's Standard Payment Terms?**

Sprinklr invoices for all fees upon execution of an order form and/or statement of work. Payment terms are thirty (30) days from the date of the invoice.

➤ **Does Sprinklr offer Termination for Convenience?**

Sprinklr does not allow termination of an agreement, order form or statement of work for convenience. Sprinklr sets its prices based on a committed term as set forth in an order form and any right to terminate without cause impacts our ability to book the contract or to recognize revenue on the contract upon signature. It is fundamental to Sprinklr's



business that each party is committed to a term upon execution of an agreement, order form or statement of work, other than a termination due to breach.

➤ **Does Sprinklr allow Acceptance Testing of the Platform?**

SaaS models are fundamentally different than other methods of software delivery. Sprinklr operates a SaaS, multi-tenant environment that runs the Platform for all customers on a "single code line". The Platform that you license is the Platform readily available to, and already used by over 1,500 customers of Sprinklr, and is simply enabled for your use. The concept of acceptance of this Platform does not exist in Sprinklr's SaaS business model. Sprinklr's standard MSA provides warranties, support and SLA's in case the Platform is not operating in accordance with the terms of the agreement.

➤ **Does the Sprinklr Platform Leverage AI?**

Sprinklr's Platform is powered by Artificial Intelligence ("AI"). For more information about our approach to responsible AI, visit <https://trust.sprinklr.com/>. Our AI Addendum also sets out our commitments to you regarding our development and deployment of AI and is available at [www.sprinklr.com/legal](http://www.sprinklr.com/legal).

➤ **Does Sprinklr Provide an Indemnification?**

Pursuant to Section 6.1 of the MSA, if a third-party claims that you have infringed on their IP rights as a result of using the Sprinklr Platform in accordance with the terms of the MSA, we stand behind our Platform and we will indemnify you for any such claims. Sprinklr also requires indemnity from our customers for any third-party claims resulting from a customer's breach of Sprinklr's AUP.

➤ **Does Sprinklr Provide Unlimited Liability?**

Sprinklr understands the importance of each party's liability and we agree to have caps that are fair for both Sprinklr and customers. Sprinklr, in line with industry standard, believes that the liability of each party should correlate directly to the value of the agreement between the parties. To achieve this goal, Sprinklr excludes indirect damages for both parties in all circumstances. In addition, Sprinklr's mutual limitation of liability for direct damages in a contract is the fees paid by a customer in the twelve (12) months prior to the event giving rise to the liability. There are three exceptions to the direct damages limitation, these are (i) either party's gross negligence or willful misconduct, (ii) each party's standard indemnification obligations as stated in our MSA, and (iii) a customer reverse engineering, or misappropriating Sprinklr's Intellectual Property. Sprinklr does not agree to, nor do we ask for, any other liabilities to be accepted unlimitedly. Our Platform and Intellectual Property is what our company is built upon, and we cannot agree that a Customer could have any limit on direct damages if they attempt to take that Intellectual Property. Sprinklr does understand that breaches of obligations relating to confidentiality, data protection, security and business associate agreement (if applicable) are important to our customers, and, as a result, we agree to offer a separate, higher liability cap for these breaches (Two times (2x) twelve (12) months fees).



# AGENCY MASTER SERVICES AGREEMENT (USA)

## 1. DEFINITIONS

**"Account Information"** means any Content other than Client Content and Inbound Content (including Customer Care Data). Account Information which includes Agency's Personal Data (as defined in the Data Processing Addendum) shall be deemed to constitute Client Content.

**"Acceptable Use Policy"** means Sprinklr's Acceptable Use Policy, located at [www.sprinklr.com/legal](http://www.sprinklr.com/legal).

**"Affiliate"** means any entity which is directly or indirectly controlling, controlled by, or under common control with a party to this Agreement.

**"Agency User"** means an individual user who is authorized by Agency to use the Platform and to whom Agency supplied a user identification and password. Agency Users may include, for example, Agency's employees and contractors.

**"Business Associate Agreement" or "BAA"** means Sprinklr's standard HIPAA Business Associate Agreement located at [www.sprinklr.com/legal](http://www.sprinklr.com/legal), unless a separate Business Associate Agreement is executed by the parties, in which case such executed Business Associate Agreement shall apply.

**"Client"** means Agency's end-customer(s) for whose Internal Use the Sprinklr Services may be used for, defined in an Order Form.

**"Client Content"** means any material that is (i) published or entered into the Sprinklr Account by a User or (ii) published or intended to be published to the Connected Services for which Sprinklr has Connected Services Authorization, through the Sprinklr Account.

**"Connected Services"** means the various channels, data sources, and integrations supported by the Platform that Customer connects to, accesses or uses, or authorizes a third party to connect to, access and/or use, through the Platform, including social media services.

**"Connected Services Authorization"** means the authorization relating to the Client's Connected Services accounts, which enable the Platform to interact with Client's Connected Services accounts.

**"Content"** means Inbound Content, Client Content and Account Information entered into the Sprinklr Account or Platform or any other data managed by Agency via the Platform.

**"Contractor"** means subcontractors, suppliers, resellers, and advisors.

**"Customer Care Data"** means any material that is submitted to the Platform by a person other than an Agency User through the Connected Services that the Agency has integrated into the Sprinklr Platform for purposes of customer care and support (including, where applicable under the Order Form, voice data) and specifically the Sprinklr Service module.

**"Client Content"** means any material that is (i) published or entered into the Sprinklr Account by a User (ii) published or intended to be published to the Connected Services for which Sprinklr has Connected Services Authorization, through the Sprinklr Account and (iii) where Sprinklr Service is being purchased, including Customer Care Data.

**"Data Processing Addendum"** means Sprinklr's Data Processing Addendum, located at [www.sprinklr.com/legal](http://www.sprinklr.com/legal).

**"Force Majeure Event"** means circumstances beyond a party's reasonable control, including but not limited to acts of God, fire, labor difficulties, terrorism, failure of third-party networks, or the public internet, power outages, or governmental demands or restrictions.

**"HIPAA"** means the Health Insurance Portability and Accountability Act, as amended, and its implementing regulations.

**"Inbound Content"** means any information received from any Connected Service, including any information published on any Connected Service, not created by a User. Such information includes but is not limited to, in whatever form and/or nature, text, data, graphics, photos, audio, video, electronic messages, trademarks and other identifiers. Where applicable to the Sprinklr Services being purchased, Inbound Content may include Customer Care Data.

**"Internal Use"** means use of the Sprinklr Services for Client's and/or Client's Affiliates' general business use, solely for the benefit of Client and/or Client Affiliates but does not include use of the Sprinklr Services to provide any services for the benefit of third parties.

**"Order Form"** means a written order executed by the parties which defines the respective order parameters and Platform information, such as, modules purchased, term and associated fees.

**"Platform"** means Sprinklr's proprietary customer experience software service, accessed by Agency via the internet, as specified in an applicable Order Form. Platform includes Updates made during the Term.

**"Professional Services"** means services other than the Platform that may be offered from time to time, and that Agency elects to receive as described in an executed SOW.

**"Protected Health Information"** is as defined by HIPAA.



**"SLA"** means Sprinklr's Service Level Agreement, located at [www.sprinklr.com/legal](http://www.sprinklr.com/legal).

**"SOW" or "Statement of Work"** means a written order executed by the parties which identifies the Professional Services ordered by Agency, including the description, and associated fees.

**"Sprinklr Account"** means Agency's password restricted account to access and use the Platform.

**"Sprinklr Services"** means the Platform and Professional Services.

**"Trade Controls"** means applicable export control and trade and economic sanctions laws, including those of the United States.

**"Updates"** means modifications, updates and changes made by Sprinklr to the Platform which Sprinklr makes generally available to its customers at no additional fee. Updates exclude new features, functions and capabilities which are offered for an additional fee and must be specified in an Order Form or SOW.

**"User"** means an individual user who is authorized by agency to use the Platform and to whom Agency supplied a user identification and password. Users may include, for example, Agency's employees and contractors.

**"User Guides"** means Sprinklr materials made available to Agency through the support portal to assist users of the Platform, as such materials may be updated during the Term.

## 2. INTELLECTUAL PROPERTY, RIGHTS OF USE

- 2.1 Agency and/or Client own all right, title, and interest in and to all Client Content uploaded, stored, processed, or transmitted through the Platform under the Sprinklr Account.
- 2.2 Sprinklr owns all rights, title, and interest in and to the Platform, User Guide and all Sprinklr Services. The Platform allows Agency to connect to and use the Connected Services. Sprinklr makes no representation or warranties related to the Connected Services, including, but not limited to their availability, or the availability of any content or data provided from the Connected Services.
- 2.3 Subject to the terms and conditions of this Agreement, Sprinklr grants to Agency a non-exclusive, non-transferable right to access and use the licensed modules of the Platform for Internal Use, during the Term. The Platform may be accessed and used solely by the number of Users specified in the applicable Order Form(s). Sharing of User accounts (user identification and password) is prohibited. User accounts may only be reassigned to a new individual replacing one who will no longer use the Sprinklr Services. Users shall be individual human beings, and shall not be, without limit, any form of bot, computer, AI or machine learning.
- 2.4 Subject to the terms and conditions of this Agreement, Agency's Affiliates may access and use the Platform for Internal Use. All rights and obligations of Agency shall apply equally to each Agency Affiliate that uses the Sprinklr Services; provided however, Agency shall be responsible for Agency Users actions and inactions, and for ensuring that all Users comply with this Agreement (including, but not limited to the Acceptable Use Policy) and all acts or omissions of its Affiliates under this Agreement.
- 2.5 Agency grants to Sprinklr during the term of this Agreement a royalty-free, non-exclusive, non-transferable, worldwide right and license: (i) to copy, cache, store, reproduce, perform, display, use, distribute, transmit and generally make available the Client Content in electronic form via the Internet, through wireless communications services and social media through the Platform in order to provide the Sprinklr Services to Agency in accordance with this Agreement; and (ii) to access Client's accounts on the Connected Services in order to provide the Sprinklr Services.
- 2.6 The Acceptable Use Policy, in its current version at the Effective Date of this Agreement, shall be incorporated into this Agreement, in its entirety, and Agency will comply with Sprinklr's Acceptable Use Policy. All references to Customer in the Acceptable Use Policy shall apply to Agency for the purposes of this Agreement.
- 2.7 The SLA, in its current version at the Effective Date of this Agreement, shall be incorporated into this Agreement, in its entirety, and Sprinklr will provide the Sprinklr Services in accordance with the SLA. All references to Customer in the SLA shall apply to Agency for the purposes of this Agreement.
- 2.8 Agency and/or Client will not, directly or indirectly (i) misappropriate or infringe any intellectual property rights of the Platform, including Sprinklr's and any third party rights thereto, (ii) reverse engineer, decompile, disassemble, disclose or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Platform; (iii) modify, translate, or create derivative works based on the Platform; (iv) use the Sprinklr Services for purposes of a third party or otherwise for the benefit of a third party other than Client and/or Client's Affiliates as permitted hereunder; or (v) use or view the Platform for the purposes of developing, directly or indirectly, a product or service competitive to the Sprinklr Services. Agency understands and agrees that in the event of a breach of this Section 2.8 by Agency or Client, Sprinklr may immediately suspend its performance of the Sprinklr Services until the breach of this Section 2.8 is cured or the Agreement is terminated pursuant to the terms herein.

## 3. TERM AND TERMINATION





- 3.1** The term of this Agreement will begin on the Effective Date and continue until expiration or termination of all Order Forms and/or SOWs, as executed from time to time (the "Term"). Each Order Form and SOW will have its own term as stated in such document.
- 3.2** Either party may terminate this Agreement and the affected Order Forms and SOW's in the event that the other party (i) commits a non-remediable, material breach of the Agreement, and/or any Order Form or SOW or (ii) fails to cure any remediable material breach of this Agreement, and/or any Order Form or SOW, within thirty (30) days following receipt of written notice of such breach. Notice of any material breach must be provided within ninety (90) days from learning of the material breach, for this Section 3.2 to be applicable.
- 3.3** Upon expiration or termination of this Agreement: (i) in the event of termination due solely to a breach by Sprinklr, then Sprinklr shall refund any prepaid fees for Sprinklr Services that would have been rendered after the date of termination; (ii) in the event of termination due solely to a breach by Agency, then Agency shall pay all fees through the date of termination, plus all fees through the remainder of the term of the applicable Order Form and/or SOW; (iii) all rights to use the Platform immediately cease and provision of Professional Services immediately ends; (iv) within thirty (30) days, each party will return or destroy at the disclosing party's request the other party's Confidential Information; and (v) Sections 1-2, 6-8, 10 and 12 shall survive, as well as any other provisions which by their terms or sense are intended to survive.
- 3.4** Within thirty (30) days after the effective date of termination, Sprinklr will, upon Agency's request, extract all available Client Content from the Platform which shall be agreed to in an executed SOW which includes the scope as well as any agreed upon fees. Both parties will agree to an acceptable transfer methodology, (typically Sprinklr provides an SFTP for the transfer). If Sprinklr Accounts are deactivated prior to the termination date, the data contained within those accounts is not available, therefore Agency must extract account data prior to deactivating accounts. After such thirty (30) day period, Sprinklr shall have no obligation to maintain or return any Client Content.

#### **4. FEES AND PAYMENT**

- 4.1** Agency shall pay Sprinklr all fees set forth in each applicable Order Form and/or SOW (collectively, "Fees") within thirty (30) days of the invoice date. Sprinklr, or its Affiliates, will send the invoice to Agency, as applicable. Agency may withhold payment of any Fees that are the subject of a good faith dispute of which Agency has provided Sprinklr written notice within five (5) business days of invoice receipt ("Disputed Fees"); provided that all Fees which are not Disputed Fees shall be timely paid, and the Disputed Fees shall be paid within ten (10) days of resolution of the dispute.
- 4.2** All Fees are payable in advance and are non-cancelable, non-refundable and are based on the Sprinklr Services purchased and not based on usage, unless stated otherwise in an applicable Order Form and/or SOW.
- 4.3** Sprinklr reserves the right to charge Agency interest at the rate of the lesser of 1.5% per month, or the maximum rate permitted by law on any Fees not received by Sprinklr within fifteen (15) days of the payment due date. Additionally, in the event any Fees or expenses are more than thirty (30) days overdue, Sprinklr may (i) suspend its performance of the Sprinklr Services, and (ii) require full payment before Sprinklr resumes performance.
- 4.4** All Fees exclude taxes and Agency agrees to pay any applicable taxes charged arising from this Agreement in a timely manner, other than those based on Sprinklr's income. If Agency is tax-exempt, Agency shall provide Sprinklr with its tax-exemption number and certificate within five (5) business days after the Effective Date. Agency shall be responsible for any liability or expense incurred by Sprinklr as a result of Agency's failure or delay in paying taxes due or if Agency's claimed tax exemption is rejected. If Agency is legally required to withhold tax from its payment of Fees to Sprinklr, Agency agrees to gross up all Fees that are subject to such withholding tax, such that the net payment received by Sprinklr is the full originally stated amount of such Fees.

#### **5. WARRANTIES**

- 5.1** Each party represents and warrants that it has the right and authority to enter into and perform its obligations under this Agreement and shall comply with all applicable laws in carrying out its obligations herein.
- 5.2** Sprinklr warrants that during the Term, when used by Agency as expressly permitted hereunder, the Platform shall substantially conform to the User Guides, and the Sprinklr Services shall perform and be performed in all material respects in accordance with the terms of this Agreement and each Order Form or SOW. In the event Agency determines that the Platform or Sprinklr Services have not met the foregoing warranty, Agency shall give Sprinklr prompt notice of the deficiency, including details sufficient to allow Sprinklr to replicate the deficiency, and in such event Sprinklr will use commercially reasonable efforts to remedy the identified deficiency. If Sprinklr does not remedy the deficiency, either party may terminate the affected Order Form or SOW, and in such case, Sprinklr will refund to Agency the amount of any pre-paid Fees for the period after termination as its exclusive remedy. This warranty does not cover any problem with or damage to the Platform to the extent caused by: (i) Agency's negligence, abuse, misuse, improper handling and/or use, (ii) modifications by anyone other than Sprinklr or its Contractors; (iii) failure to operate the Platform in accordance with the User Guides; or (iv) a Force Majeure Event.



- 5.3** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE SOLE AND EXCLUSIVE WARRANTIES AND WARRANTY REMEDIES ARE SET FORTH IN THIS SECTION AND, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THE SPRINKLR SERVICES, INCLUDING ALL FUNCTIONS THEREOF, ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED, ORAL OR WRITTEN, INCLUDING WITHOUT LIMITATION, ACCURACY OF CONTENT, NON-INFRINGEMENT, NON-INTERFERENCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THAT THE SPRINKLR SERVICES (INCLUDING THE PLATFORM) WILL BE UNINTERRUPTED, TIMELY OR ERROR-FREE.

## **6. INDEMNIFICATION**

- 6.1** Sprinklr shall indemnify, defend and hold harmless Agency and its Affiliates (the "Agency Parties") from and against any losses, liabilities, costs, expenses (including reasonable attorneys' fees and expenses), penalties, judgments, settlement amounts and damages ("Losses") incurred by Agency arising from a claim, suit, action or proceeding brought by a third party (a "Claim") against Agency alleging that the Sprinklr Services (excluding the Content and use of the Connected Services Authorization) when used by Agency as permitted hereunder infringes any third party intellectual property right. In the event it is held (or in Sprinklr's reasonable opinion it is likely to be held) that the Sprinklr Services when used in accordance with this Agreement and the applicable Order Form and/or SOW infringe a third party's rights, Sprinklr shall at its expense either (x) procure for Agency the right to continue using the affected elements of the Sprinklr Services, or (y) replace or modify the affected elements of the Sprinklr Service, in whole or in part, so that it becomes non-infringing but provides substantially equivalent functionality. If Sprinklr, in its sole discretion, determines that neither (x) nor (y) are commercially reasonable, Sprinklr may terminate the provision of the affected Sprinklr Services and refund to Agency the amount of any pre-paid Fees applicable to the terminated Sprinklr Services for the period after termination. Agency acknowledges that its right to obtain indemnification and the rights described in the preceding sentence are its sole and exclusive rights in the event of such a claim. The foregoing obligation does not apply to the extent that the infringement arises from: (i) use of the Sprinklr Services in breach of the terms of this Agreement, (ii) use of the Sprinklr Services in connection with third party products used by Agency, to the extent the infringement is caused by such third party products, and (iii) any changes made to the Sprinklr Services by or on behalf of Agency.
- 6.2** Agency shall indemnify, defend and hold harmless Sprinklr and its Affiliates, (the "Sprinklr Parties") from and against any Losses arising from a Claim against any Sprinklr Party resulting from a breach of the Acceptable Use Policy.
- 6.3** The indemnification obligations contained in this Agreement are conditioned upon: (i) notice by the party seeking indemnity ("Indemnitee") to the party from whom indemnity is sought ("Indemnitor") of any Claim for which indemnity is claimed within five (5) days of the Indemnitee receiving notice of such claim (failure to meet this condition does not exempt the Indemnitor of its indemnification obligation, except to the extent that failure has materially prejudiced the Indemnitor's ability to defend the Claim); (ii) complete control of the defense and settlement of the Claim by the Indemnitor, provided that no settlement may be made without the consent of the Indemnitee, such consent not to be unreasonably withheld or delayed; and (iii) reasonable cooperation by the Indemnitee in the defense as the Indemnitor may request. The Indemnitee has the right to participate in the defense against the indemnified Claims with counsel of its choice and at its own expense but may not confess judgment, admit liability, or take any other actions prejudicial to the defense. Further, the Indemnitee may not settle an Indemnified claim unless such settlement includes an unconditional release of the other party from all liability on all Claims, or the other party gives its prior written consent, which shall not be unreasonably withheld.
- 6.4** This section states each party's entire liability to the other and each party's sole remedy for any third-party claim described in this section.

## **7. LIMITATIONS OF LIABILITY**

- 7.1** TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOST SALES OR ANY OTHER MATTER RELATING TO THE SPRINKLR SERVICES. SPRINKLR SHALL NOT BE LIABLE TO AGENCY FOR AGENCY'S FAILURE TO TAKE ANY ACTION REQUESTED, BY SPRINKLR, WITHIN THE PLATFORM.
- 7.2** EXCEPT FOR (i) EITHER PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD; (ii) THE PARTIES' INDEMNIFICATION OBLIGATIONS IN SECTION 6 OF THIS AGREEMENT; AND/OR (iii) A BREACH OF SECTION 2.8, IN NO EVENT SHALL THE TOTAL LIABILITY OF ONE PARTY TO THE OTHER PARTY FOR ANY AND ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE OR OTHERWISE), ARISING FROM THIS AGREEMENT OR AGENCY'S AND/OR AGENCY'S CLIENTS' USE OF THE SPRINKLR SERVICES, EXCEED, IN THE AGGREGATE:

(I) WITH RESPECT TO A BREACH OF (a) EITHER PARTY'S CONFIDENTIALITY OBLIGATIONS HEREIN, (b) EITHER PARTY'S DATA PROTECTION OBLIGATIONS HEREIN, (c) EITHER PARTY'S SECURITY OBLIGATIONS HEREIN, AND/OR (d) EITHER



PARTY'S OBLIGATIONS IN A BUSINESS ASSOCIATE AGREEMENT (IF APPLICABLE), TWO TIMES (2x) THE TOTAL FEES RECEIVED BY OR PAYABLE TO SPRINKLR FROM AGENCY UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY;

(II) FOR ALL OTHER CAUSES OF ACTION, THE TOTAL FEES RECEIVED BY OR PAYABLE TO SPRINKLR FROM AGENCY UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

- 7.3** AGENCY ACKNOWLEDGES THAT SPRINKLR HAS SET ITS PRICES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH HEREIN, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. THE PARTIES AGREE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THIS AGREEMENT WILL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. IN NO EVENT SHALL THE LIMITATIONS IN THIS SECTION APPLY TO FEES DUE FOR THE SPRINKLR SERVICES UNDER THIS AGREEMENT.
- 7.4** Neither party will be liable to the other for any failure to perform, or delay in the performance of, any obligation under this Agreement caused by a Force Majeure Event.

## **8. CONFIDENTIALITY**

- 8.1** "Confidential Information" means (i) business or technical information, including product plans, designs, source code, marketing plans, business opportunities information provided as part of current and future opportunities including request for proposal and proof of concepts, personnel, research, development or know-how (all of the foregoing as they relate to the Sprinklr Services, including the Platform (current or planned), are Sprinklr's Confidential Information, and all of the foregoing as they relate to Agency's business, are Agency's Confidential Information); and (ii) information designated by the disclosing party as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential. Confidential Information includes information disclosed prior to or during the Term of this Agreement. Confidential Information shall not include information which: (i) is or becomes generally available to the public other than as a result of wrongful disclosure by the receiving party; (ii) is or becomes available to the receiving party on a non-confidential basis from a third party that rightfully possesses the Confidential Information and has the legal right to make such disclosure; or (iii) is developed independently by the receiving party without use of any of disclosing party's Confidential Information and by persons without access to such Confidential Information.
- 8.2** Agency and Sprinklr each agree not to use any Confidential Information of the other party for any purpose other than as necessary to perform its obligations under this Agreement. During and after the Term, neither receiving party will disclose any Confidential Information of the disclosing party to any third party without the prior written consent of the disclosing party, except (i) where such disclosure is necessary for the performance of the receiving party's obligations under this Agreement; or (ii) as may be required by laws (provided that the party obligated to make the disclosure shall give the other party advance notice of such requirement to the extent legally permitted). Each receiving party shall be responsible for compliance with this Section and applicable provisions of this Agreement by its employees, Affiliates and Contractors and shall obtain the agreement by each employee and Contractor to keep the Confidential Information of the disclosing party confidential and to use it solely as required for the performance of the receiving party's obligations hereunder. For purposes of clarity, Agency may publicly disclose the fact that they are using the Sprinklr Services, but all details about the uses, functionalities, or other aspects of the Sprinklr Services (including screenshots and specific features of the Platform) are Confidential Information of Sprinklr and may not be disclosed.

## **9. DATA PROTECTION AND SECURITY**

- 9.1** The parties acknowledge and agree that with regard to the Processing of Personal Data and within the meaning of the definitions set out in the Data Processing Addendum, Sprinklr is the Processor and, unless otherwise stated in the Data Processing Addendum, Agency is the Controller as such terms are defined in the Data Processing Addendum. During the Term of this Agreement, Sprinklr shall comply with the security measures further defined in the Enterprise Security Addendum, of the Data Processing Addendum.
- 9.2** Agency acknowledges and agrees that it will not provide Sprinklr with any access to Protected Health Information," as defined by HIPAA without executing an applicable Order Form, SOW and Business Associate Agreement. Such terms will govern Sprinklr's access, use, and disclosure of HIPAA Protected Health Information." Agency is responsible for informing Sprinklr if there will be any Protected Health Information" in the Client Content and only using HIPAA Enabled Sprinklr Services for the processing of such Protected Health Information. If not informed, or if Agency uses Sprinklr Services other than the HIPAA Enabled Sprinklr Services for the processing of Protected Health Information, Sprinklr is not liable for such Protected Health Information.

## **10. GOVERNING LAW & JURISDICTION**





This Agreement is governed by the laws of the State of New York, without reference to conflict of law principles. The parties irrevocably consent to the exclusive jurisdiction of the state or federal courts located in New York County, NY, over any suit, action or proceeding arising out of or relating to this Agreement. THE PARTIES UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATING TO OR ARISING OUT OF THIS AGREEMENT ANY ORDER FORM AND/OR SOW.

## **11. TRADE COMPLIANCE**

Sprinklr and Customer, including any party to which either may permissibly assign this Agreement, shall conduct its activities under the Agreement in compliance with applicable Trade Controls. Customer shall not directly or indirectly export, reexport, or transfer any Sprinklr products or provide any services to any prohibited country or territory or to any restricted entity or individual in violation of applicable Trade Controls. Sprinklr may, as required to maintain compliance with applicable Trade Controls, immediately suspend its performance of the Sprinklr Services until the breach of this Section 11 is cured or the Agreement is terminated pursuant to the terms herein.

## **12. MISCELLANEOUS**

- 12.1** This Agreement incorporates any exhibits, appendices and other documents referred to in it, including, but not limited to, the Acceptable Use Policy, the SLA, Enterprise Security Addendum and/or, if applicable, any Data Processing Agreement, and Business Associate Agreement. This Agreement together with each Order Form and/or SOW is the entire agreement between the parties relating to this subject matter, and supersedes (i) any pre-printed terms on a purchase order, which shall have no effect, and (ii) all prior or contemporaneous understandings of the parties related thereto, including (a) any prior or presales discussions, resources, demos, workshops or future roadmaps; (b) any separate non-disclosure agreement between the parties relating to this subject matter as it relates to confidential information disclosed after the date of and pursuant to this Agreement. In the event that the parties execute a non-disclosure agreement after this Agreement is executed, the parties agree that such non-disclosure will apply only for the purpose identified therein and will not, in any way, apply to or amend the confidentiality terms of this Agreement. Sprinklr may amend this Agreement at any time upon giving notice to you. Such notice shall be made by sending an email to you or by publication of the amendment on the Sprinklr's website. If the amendment of this Agreement materially affects your rights related to the use of the Sprinklr Services, you may terminate the use of said Services. If you continue to use the Sprinklr Services after notice of the amendment of this Agreement is given, you shall be deemed to have agreed to this Agreement as amended. Agency affirms and agrees that Sprinklr has not made any representations to induce Agency to enter this Agreement except for those representations explicitly set forth in this Agreement or in an Order Form or SOW entered into under this Agreement.
- 12.2** In no event may either party initiate any action against the other party pursuant to this Agreement more than two (2) years from the date the claim arose, in case such limitation is permitted by applicable law.
- 12.3** Either party may assign this Agreement in whole or in part (i) to an Affiliate; (ii) in connection with a merger where the contracting entity does not survive such merger, or (iii) in connection with the sale of all or substantially all of the contracting entity's assets related thereto. Except as expressly stated in this section, neither party may assign its rights or obligations under this Agreement without obtaining the other party's prior written consent. Any assignment in contravention of this section is void. The party to which this Agreement is assigned must maintain compliance with the terms of this Agreement and will assume all obligations and liabilities of the assigning party.
- 12.4** Sprinklr may identify Agency and/or Client as a Sprinklr partner and/or customer in Sprinklr's marketing materials, promotional presentations, customer lists, website and other written and electronic materials (name and logo). Any other uses of a party's name and logo shall be subject to the prior review and approval of the owning party, such approval not to be unreasonably withheld.
- 12.5** Nothing in this Agreement will create any association, partnership, or joint venture between the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly stated in this Agreement. If a court of competent jurisdiction finds any provision of this Agreement unenforceable, all other provisions will remain in full force and effect and the unenforceable provision will be replaced with an enforceable provision that most nearly achieves the intent and economic effect of the unenforceable provision. Sprinklr shall be responsible for ensuring that its Contractors comply with this Agreement and all acts or omissions of its Contractors under this Agreement.
- 12.6** In the event of a conflict between any provision of this Agreement and an SOW or Order Form, the terms of the SOW or Order Form shall prevail with respect to the matters covered by the applicable SOW and/or Order Form. In the event of a conflict arising between the terms of this Agreement and, to the extent applicable, the DPA and the Business Associate Agreement, the terms of the DPA and/or the Business Associate Agreement, as applicable, shall prevail with respect to the matters covered by the applicable DPA and/or the Business Associate Agreement.