

CYBERARK SOFTWARE LTD. AND/OR ITS AFFILIATES AS INDICATED IN THE APPLICABLE ORDER (“**CYBERARK**”) IS WILLING TO LICENSE THE SOFTWARE TO YOU AS THE COMPANY OR THE LEGAL ENTITY THAT WILL BE UTILIZING THE SOFTWARE (REFERENCED BELOW AS “**CUSTOMER**”) ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS SOFTWARE LICENSE AGREEMENT (“**AGREEMENT**”). BY ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ENTITY OR ORGANIZATION, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY OR ORGANIZATION TO THIS AGREEMENT. CUSTOMER AND CYBERARK MAY EACH ALSO BE REFERRED TO AS A “**PARTY**” AND TOGETHER, THE “**PARTIES**”.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE. THIS AGREEMENT CONSTITUTES A LEGAL AND ENFORCEABLE CONTRACT BETWEEN CUSTOMER AND CYBERARK. BY EXECUTING A WRITTEN ORDER FOR THE SOFTWARE, CUSTOMER AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THIS AGREEMENT, DO NOT INDICATE CONSENT ELECTRONICALLY AND MAKE NO FURTHER USE OF THE SOFTWARE.

## 1. **Grant of License**

**1.1. Software License.** In consideration of the license fees stated in an Order or payment in accordance with section 2.3 “Indirect Orders” (as appropriate), and the terms and conditions of this Agreement, CyberArk grants Customer a world-wide, non-exclusive, non-transferable license to use (and to permit the Authorized Users to use) the Software and the Documentation during the license term set forth in the Order solely for Customer’s and its Affiliates’ internal business purposes in accordance with the Documentation and in the quantity specified in the Order. Customer may make a reasonable number of copies of any Documentation and one archival copy of the Software. Except for the licenses granted under this Agreement, all rights, title, and interest in and to the Software and Documentation are hereby reserved by CyberArk, its Affiliates or licensors.

**1.2. Restrictions on Use.** Customer shall not (directly or indirectly): (a) copy or reproduce the Software or the Documentation except as permitted under this Agreement; (b) exceed the licensed quantities, users or other entitlement measures of the Software as set forth in the applicable Order; (c) remove or destroy any copyright, trademark or other proprietary marking or legends placed on or contained in the Software or Documentation; (d) assign, sell, resell, sublicense, rent, lease, time-share, distribute or otherwise transfer the rights granted to Customer under this Agreement to any third party except as expressly set forth herein; (e) modify, reverse engineer or disassemble the Software; (f) except to the limited extent applicable laws specifically prohibit such restriction, decompile, attempt to derive the source code or underlying ideas or algorithms of any part of the Software, attempt to recreate the Software or use the Software for any competitive or benchmark purposes; (g) create, translate or otherwise prepare derivative works based upon the Software or Documentation; (h) use the Software in a manner that infringes on the Intellectual Property rights, publicity rights, or privacy rights of any third party, or to store or transfer defamatory, trade libelous or otherwise unlawful data; or (i) store in or process with the Software any personal health data, credit card data, personal financial data or other such sensitive regulated data not required by the Documentation.

## 2. **Payment and Taxes**

**2.1. Payment Terms.** Customer shall pay all invoices within thirty (30) days of receipt date of invoice, without any deduction or set-off (except for any amount disputed promptly and in writing by Customer in good faith), and payment will be sent to the address specified by CyberArk or its authorized reseller as applicable. Any amounts arising in relation to this Agreement not paid when due will be subject to a late charge at the interest rate established by the Secretary of the Treasury as provided in [41 U.S.C. 7109](#), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid. CyberArk or its authorized reseller as applicable may invoice for purchases of Software upon delivery.

**2.2. Taxes.** CyberArk or its authorized reseller as applicable shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with 552.212-4(k). For the avoidance of doubt, CyberArk will be responsible for direct taxes imposed on CyberArk’s net income or gross receipts in its tax jurisdiction.

**2.3. Indirect Orders.** If Customer places an Indirect Order, then CyberArk grants the rights described in this Agreement in consideration for and subject to: (a) Customer's agreement to comply with the pricing and payment terms of the Indirect Order, to be separately agreed between Customer and the applicable Channel Partner; and (b) Customer's agreement to comply with its obligations set forth in this Agreement (including the restrictions on use of the Software). Notwithstanding the foregoing, the final sales price or rate shall be freely and independently determined between the applicable Channel Partner and Customer. For the avoidance of doubt, in the case of such an Indirect Order, any indication in this Agreement of an agreement between Customer and CyberArk for the price payable by Customer for such Indirect Order shall be null and void and not form a binding part of this Agreement and the provisions of this Agreement related to payment terms, pricing and/or order procedures shall not apply.

### **3. Confidentiality**

**3.1. Confidential Information.** The Parties acknowledge that each may disclose certain valuable confidential and proprietary information to the other. The receiving Party may only use the disclosing Party's Confidential Information to fulfil the purposes of this Agreement. The receiving Party will protect the disclosing Party's Confidential Information by using at least the same degree of care as the receiving Party uses to protect its own Confidential Information of a like nature (but no less than a reasonable degree of care) to prevent the unauthorized use, dissemination, disclosure or publication of such Confidential Information. Notwithstanding the foregoing, the receiving Party may disclose Confidential Information to its (and its Affiliates') employees, advisors, consultants, and agents on a need-to-know basis and provided that such party is bound by obligations of confidentiality substantially similar to those contained herein. CyberArk recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

**3.2. Exclusions.** Information will not be deemed Confidential Information if it: (i) is known to the receiving Party prior to receipt from the disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (ii) becomes known (independently of disclosure by the disclosing Party) to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving Party; or (iv) is independently developed by the receiving Party without use of or reliance upon the disclosing Party's Confidential Information, and the receiving Party can provide evidence to that effect. The receiving Party may disclose Confidential Information pursuant to the requirements of a court, governmental agency or by operation of law but shall (to the extent permissible by law) limit such disclosure to only the information requested and give the disclosing Party prior written notice sufficient to permit the disclosing Party to contest such disclosure. This section supersedes any and all prior or contemporaneous understandings and agreements, whether written or oral, between the Parties with respect to Confidential Information and is a complete and exclusive statement thereof.

### **4. Limited Warranty**

**4.1. Software Warranty.** CyberArk warrants that the Software delivered under the initial Order will perform substantially as described in the Documentation for a period of ninety (90) days from the date of initial delivery of the Software. CyberArk's sole liability and Customer's exclusive remedy for breach of these warranties will be, at CyberArk's option and expense, either: (a) repair or replacement of the Software that does not meet the limited warranty set forth above; or (b) termination of the applicable license and the return of the license fee paid to CyberArk for the applicable Software. This limited warranty is void if the failure of the Software has resulted from negligence, error, or misuse of the Software (including use not in accordance with the Documentation) by Customer, the Authorized User or by anyone other than CyberArk or its authorized agents. Without derogating from CyberArk's obligations under this Agreement, Customer warrants that it shall take and maintain appropriate steps within its control to protect the confidentiality, integrity, and security of its Confidential Information, including: (i) operating the Software in accordance with the Documentation and applicable law; and (ii) dedicating reasonably adequate personnel and resources to implement and maintain the security controls set forth in the Documentation. Customer will be responsible for the acts and omissions of its Authorized Users.

**4.2. Disclaimer.** Any and all warranties, expressed, incorporated or implied, are limited to the extent and period mentioned in this Agreement. To the maximum extent allowed by applicable law, CyberArk disclaims (and disclaims on behalf of its licensors and/or contributors to any Third-Party Materials) all other warranties, conditions and other terms, whether implied or incorporated into this Agreement by statute, common law or otherwise, including the implied conditions and warranties of merchantability and fitness for a particular purpose. CyberArk will have no liability for delays, failures or losses attributable or related in any way to the use or implementation of third-party software or services not provided by CyberArk.

## **5. Third Party Materials**

The Software includes Third-Party Materials, use of which is subject to their respective OSS Licenses as indicated in the Documentation. CyberArk warrants that the inclusion of such Third-Party Materials in the Software will not prevent Customer from exercising the license rights provided to Customer herein in respect of the Software or limit Customer's ability to use the Software in accordance with the Documentation. Nothing herein shall derogate from mandatory rights Customer may have under any OSS Licenses, if any. Customer may obtain a copy of the source code for certain Third-Party Materials by following the instructions set forth in the Documentation.

## **6. Limitation of Liability**

**6.1. Maximum Liability.** Except for liability caused by Customer's payment obligations, in no event will either Party's maximum aggregate liability arising out of or related to this Agreement, regardless of the cause of action and whether in contract, tort (including negligence), warranty, indemnity or any other legal theory, exceed the total amount paid or payable to CyberArk under this Agreement during the twelve (12) month period preceding the date of initial claim.

**6.2. No Consequential Damages.** Neither Party will have any liability to the other Party for any loss of profits or revenues, loss of goodwill, or for any indirect, special, incidental, consequential or punitive damages arising out of, or in connection with this agreement, however caused, whether in contract, tort (including negligence), warranty, indemnity or any other legal theory, and whether or not the Party has been advised of the possibility of such damages. The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Licensor's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

**6.3. Construction.** This Agreement is not intended to and will not be construed as excluding or limiting any liability which cannot be limited or excluded by applicable law, including liability for: (a) death or bodily injury caused by a Party's negligence; or (b) gross negligence, willful misconduct or fraud.

## **7. Support Services; Professional Services**

Customer may separately purchase from CyberArk support services, professional services and hardware in relation to the Software as generally made available by CyberArk to its customers, pursuant to CyberArk's then applicable service terms (available for review upon request). Support services for subscription Software licenses are included with the license subscription unless stated otherwise in the applicable Order.

## **8. Term and Termination of the Agreement**

This Agreement shall remain in force during the applicable license term of the Software until terminated by either Party pursuant to this section. When the Customer is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, CyberArk shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Upon termination or expiration of the Agreement, (x) any accrued rights and obligations will survive; (y) all outstanding fees and other charges under the Agreement or Order (as applicable) will become immediately due and payable, and (z) Customer will have no further right to access or use the applicable Software. If Customer is converting its perpetual self-hosted Software licenses to a subscription-based Software license, the applicable previously licensed perpetual self-hosted Software licenses will be terminated, along with any associated support services, in accordance with the terms of the applicable Order.

## **9. Free Trial or Beta Versions of the Software**

If Customer is using a Trial Version, CyberArk makes such Trial Version available to Customer for a period ending on the earlier of: (i) the end of the free trial or proof of concept period or beta testing period as communicated by CyberArk or specified in an Order; (ii) the start date of any purchased version of such Software; or (iii) written notice of termination from CyberArk ("Trial Version Period") and the following terms apply to use of the Trial Version notwithstanding anything to the contrary elsewhere in this Agreement. CyberArk grants Customer, during the Trial Version Period, a non-exclusive, non-transferable license (without the right to sub-license) to access and use the Trial Version for Customer's internal evaluation purposes in accordance with the Documentation and subject to the restrictions on use set forth in this Agreement. Customer shall use the Trial Version only for evaluation and not for any business or productive purposes, unless otherwise authorized by CyberArk in writing. CyberArk provides the Trial Version "as is" without any warranties or representations of any kind. To the extent permitted by law, CyberArk disclaims all implied warranties and representations, including, without limitation, any implied warranties of

merchantability, fitness for a particular purpose and non-infringement. Customer assumes all risks and all costs associated with its use of the Trial Version. Customer's sole and exclusive remedy in case of any dissatisfaction or CyberArk's breach of the Agreement with respect to such Trial Version is termination of the license for the Trial Version. Any obligations on behalf of CyberArk to indemnify, defend, or hold harmless under this Agreement are not applicable to Customer's use of a Trial Version. There is no guarantee that features or functions of the Trial Version will be available, or if available will be the same, in the general release version of the Software, and Customer should review the Software's features and functions before making a purchase. CyberArk will be under no obligation to provide Customer any support services with respect to the Trial Version.

## **10. Restricted Rights and Export Control**

**10.1. Export Control.** The exportation of the Software and Documentation, and all related technology and information thereof are subject to U.S. laws and regulations pertaining to export controls and trade and economic sanctions, including the U.S. Export Administration Act, Export Administration Regulations, the Export Control Reform Act, and the Office of Foreign Assets Control's sanctions programs, the laws of the State of Israel, and the laws of any country or organization of nations within whose jurisdiction Customer (or its Authorized Users who may use or otherwise receive the Software as expressly authorized by this Agreement) operates or does business, as amended, and the rules and regulations promulgated from time to time thereunder. Specifically, Customer hereby undertakes not to export, re-export or grant access to the Software and all related technology, information, materials and any upgrades thereto to: (a) any Prohibited Persons; (b) any country to which such export, re-export or grant of access is restricted or prohibited per the foregoing applicable laws; or (c) otherwise in violation of any applicable export or import restrictions, laws or regulations. Customer also certifies that it is not a Prohibited Person nor owned, controlled by, or acting on behalf of a Prohibited Person.

**10.2. Commercial Computer Software.** If Customer is an agency or contractor of the United States Government, the Parties acknowledge and agree that: (i) the Software (including any software forming a part thereof) was developed entirely at private expense; (ii) the Software (including any software forming a part thereof) in all respects constitute proprietary data belonging solely to CyberArk and its licensors; (iii) the Software (including any software forming a part thereof) is not in the public domain; and (iv) the software forming a part of the Software is "Commercial Computer Software" as defined in sub-paragraph (a)(1) of DFAR section 252.227-7014 or FAR Part 12.212. Customer shall provide no rights in the Software (including any software forming a part thereof) to any U.S. Government agency or any other party except as expressly provided in this Agreement.

## **11. Assignment**

Neither Party may assign any of its rights or obligations under this Agreement without the other Party's prior written consent, which will not be unreasonably withheld.

## **12. Severability and Waiver**

This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Should any term or provision of this Agreement be declared void or unenforceable by any court of competent jurisdiction, the Parties intend that a substitute provision will be added to this Agreement that, to the greatest extent possible, achieves the intended commercial result of the original provision. The failure of either Party to enforce any rights granted to it hereunder or to take action against the other Party in the event of any breach hereunder will not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

## **13. Choice of Law and Exclusive Jurisdiction**

This Agreement shall be governed by the Federal law of the United States. To the extent not prohibited by applicable law, each of the Parties hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

## **14. Force Majeure**

With the exception of Customer's payment obligations herein, in accordance with GSAR 552.212-4(f)A, neither Party will be liable to the other Party for any delay or failure to perform which is due to fire, pandemic, virus, epidemic, travel advisories as to health, security and/or terrorism, flood, lockout, transportation delay, war, acts of God, governmental rule or order, strikes or other labor difficulties, or other causes beyond its reasonable control.

However, in such event, both Parties will resume performance promptly after the cause of such delay or failure has been removed.

15.

[Reserved].

## 16. **Entire Agreement**

This Agreement, along with any additional terms incorporated herein by reference, including in the Order, represents the complete and exclusive terms and conditions under which this Software is licensed to Customer by CyberArk, and it supersedes all prior agreements and representations between the Parties, unless specifically stated otherwise. The terms and conditions contained in any purchase order issued to CyberArk in connection with this Agreement will be of no force or effect, even if the Order is accepted by CyberArk. This Agreement may only be amended by a written instrument specifically intended for this sole purpose and signed by the authorized representatives of both Parties. All Notices will be in writing and will be deemed to have been duly given: (a) when delivered by hand; (b) three (3) days after being sent by registered or certified mail, return receipt requested and postage prepaid; (c) one (1) day after deposit with a nationally recognized overnight delivery or express courier service; or (d) when provided via email, when the sender has received a delivery/read receipt. Notices for CyberArk should be sent to the following addresses: (i) for physical Notices the address specified for CyberArk in section 14 "Choice of Law and Exclusive Jurisdiction" and; (ii) for electronic Notices to: [contract-notices@cyberark.com](mailto:contract-notices@cyberark.com). In the event that Customer has any technical support-related queries, the contact information for support can be found at: <https://www.cyberark.com/customer-support/>.

17. **Definitions.** Capitalized terms shall have the meanings set forth below. Defined terms stated in the singular may be used in the plural, and vice versa.

**"Affiliate"** means a company controlling, controlled by, or under common control with a Party (an entity will be deemed to have control if it owns over 50% of another entity).

**"Authorized Users"** means employees, agents, consultants, contractors, or vendors authorized by Customer to use the Software solely for the internal use of Customer and its Affiliates, subject to the terms and conditions of this Agreement.

**"Channel Partner"** means a third-party business entity that CyberArk has appointed as an approved partner to as applicable, distribute, re-sell and support the Software.

**"Claim"** is defined in section 5.1 of the Agreement.

**"Confidential Information"** means all information provided by the disclosing Party to the receiving Party concerning the disclosing Party or its Affiliates' business, products or services that is not generally known to the public, including information relating to customers, vendors, trade secrets, products, services, computer programs and other intellectual property and any other information which a Party should reasonably understand to be considered Confidential Information whether or not such information is marked "Confidential" or contains such similar legend by the disclosing Party at the time of disclosure.

**"Documentation"** means the user guides, installation documents and specifications for the Software that are generally made available from time to time by CyberArk in electronic or tangible form and found at docs.cyberark.com, including the documentation located therein under the 'Security' section for the relevant Software, but excluding any sales or marketing materials.

**"Indirect Order"** means an Order for the Software from a Channel Partner of Customer's choosing pursuant to an independent commercial agreement.

**"Indirect Taxes"** means excise, sales, use, gross-turnover, value added, goods and services tax or other similar types of indirect taxes on turnover and/or revenues, duties, customs or tariffs (however designated, levied or based and whether foreign or domestic, federal, state or province).

**"Notice"** means any notice or other communication required or permitted under this Agreement.

**"Order"** means CyberArk's quote accepted by Customer via Customer's purchase order or other ordering document

submitted to CyberArk (directly or indirectly through a Channel Partner) to order CyberArk's products or services, which references the Software, services, pricing, payment terms, quantities, expiration date and other applicable terms set forth in an applicable CyberArk quote or ordering document.

**"OSS Licenses"** means the respective open source licenses that the Third-Party Materials are subject to.

**"Prohibited Persons"** means anyone on the U.S. Commerce Department's Denied Persons, Entity, or Unverified Lists or the U.S. Treasury Department's list of Specially Designated Nationals and Consolidated Sanctions list.

**"Software"** means CyberArk's proprietary self-hosted software specified in the Order as further described in the Documentation.

**"Third-Party Materials"** means open source software programs that are made available by third parties under their respective OSS Licenses.

**"Trial Version"** means a where Customer is using a free trial, a proof of concept of the Software, a beta version of the Software, or is using the Software on any other free-of-charge basis.

**"Trial Version Period"** is defined in section 10 of the Agreement

Any words following the terms including or include shall be regarded as examples only and not construed as an exhaustive list.

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Updated as of 01 Feb 2023

## SAAS TERMS OF SERVICE

CYBERARK SOFTWARE LTD. AND/OR ITS AFFILIATES (“**CYBERARK**”) IS WILLING TO GRANT ACCESS TO THE SAAS PRODUCTS TO YOU AS THE COMPANY OR THE LEGAL ENTITY THAT WILL BE UTILIZING THE SAAS PRODUCTS (REFERENCED BELOW AS “**CUSTOMER**”) ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT (AS DEFINED BELOW). BY ENTERING INTO THIS AGREEMENT ON BEHALF OF THE CUSTOMER, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THE CUSTOMER TO THIS AGREEMENT. CUSTOMER AND CYBERARK MAY EACH ALSO BE REFERRED TO AS A “PARTY” AND TOGETHER, THE “PARTIES”.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SAAS PRODUCTS. THIS SAAS TERMS OF SERVICE (“**AGREEMENT**”) CONSTITUTES A LEGAL AND ENFORCEABLE CONTRACT BETWEEN CUSTOMER AND CYBERARK. BY EXECUTING A WRITTEN ORDER FOR THE SAAS PRODUCTS, CUSTOMER AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THIS AGREEMENT, DO NOT INDICATE CONSENT ELECTRONICALLY AND MAKE NO FURTHER USE OF THE SAAS PRODUCTS.

### **1. Access and Use**

**1.1. Access and Use.** Subject to payment of all applicable fees set forth in the Order or payment in accordance with an Indirect Order through a Channel Partner (as appropriate) and the terms and conditions of this Agreement, CyberArk grants Customer, during the Subscription Term, a non-exclusive, non-transferable right to access and use (and permit Authorized Users to access and use) the SaaS Products and applicable Documentation solely for Customer's and its Affiliates' internal business purposes in accordance with the Documentation and in the quantity specified in the applicable Order. CyberArk may update the SaaS Products from time-to-time in its sole discretion but shall not remove a primary function of the SaaS Products without providing prior notice to Customer.

**1.2. Access and Use Restrictions.** Customer shall not (directly or indirectly): (a) copy or reproduce the SaaS Products or the Documentation except as permitted under this Agreement; (b) exceed the subscribed quantities, users or other entitlement measures of the SaaS Products as set forth in the applicable Order; (c) remove or destroy any copyright, trademark or other proprietary marking or legends placed on or contained in the SaaS Products, Documentation or CyberArk Intellectual Property; (d) assign, sell, resell, sublicense, rent, lease, time-share, distribute or otherwise transfer the rights granted to Customer under this Agreement to any third party except as expressly set forth herein; (e) modify, reverse engineer or disassemble the SaaS Products; (f) except to the limited extent applicable laws specifically prohibit such restriction, decompile, attempt to derive the source code or underlying ideas or algorithms of any part of the SaaS Products, attempt to recreate the SaaS Products or use the SaaS Products for any competitive or benchmark purposes; (g) create, translate or otherwise prepare derivative works based upon the SaaS Products, Documentation or CyberArk Intellectual Property; (h) interfere with or disrupt the integrity or performance of the SaaS Products; (i) attempt to gain unauthorized access to the SaaS Products or its related systems or networks, or perform unauthorized penetrating testing on the SaaS Products; (j) use the SaaS Products in a manner that infringes on the Intellectual Property rights, publicity rights, or privacy rights of any third party, or to store or transfer defamatory, trade libelous or otherwise unlawful data; or (k) except as otherwise agreed by the Parties in the applicable BAA, store in or process with the SaaS Products any personal health data, credit card data, personal financial data or other such sensitive regulated data not required by the Documentation, or any Customer Data that is subject to the International Traffic in Arms Regulations maintained by the United States Department of State. Fees for the SaaS Products are based on use of the SaaS Products in a manner consistent with the Documentation. If Customer uses the SaaS products in a manner that is outside or in violation of the Documentation, then Customer will cooperate with CyberArk to address any applicable burden on the SaaS Products or pay an additional mutually agreed upon fee.

**1.3. Login Access to the SaaS Products.** Customer is solely responsible for ensuring: (i) that only appropriate Authorized Users have access to the SaaS Products, (ii) that such Authorized Users have been trained in proper use of the SaaS Products, and (iii) proper usage of passwords, tokens and access procedures with respect to logging into the SaaS Products. CyberArk reserves the right to refuse registration of, or to cancel, login IDs that it reasonably believes to violate the terms and conditions set forth in this Agreement, in which case CyberArk will promptly inform Customer in writing of such refusal or cancellation. In addition to the rights set forth in this

Agreement, CyberArk may temporarily suspend Customer's access and use of the SaaS Products if there is an unusual and material spike or increase in Customer's use of the SaaS Products and CyberArk reasonably suspects or knows that such traffic or use is fraudulent or materially and negatively impacting the operating capability of the SaaS Products. CyberArk will provide notice prior to such suspension if permitted by applicable law or unless CyberArk reasonably believes that providing such notice poses a risk to the security of the SaaS Products. CyberArk will promptly reinstate Customer's access and use once the issue has been resolved.

**1.4. Trial Services.** If Customer is using a free trial, a proof of concept version of the SaaS Products, a beta version of the SaaS Products, or using the SaaS Products on any other free-of-charge basis as specified in an Order including any related support services to the extent provided by CyberArk in its sole discretion (collectively, "**Trial Services**"), CyberArk makes such Trial Services available to Customer until the earlier of: (i) the end of the free trial or proof of concept period or beta testing period as communicated by CyberArk or specified in an Order; (ii) the start date of any purchased version of such SaaS Products; or (iii) written notice of termination from CyberArk ("**Trial Services Period**"). CyberArk grants Customer, during the Trial Services Period, a non-exclusive, non-transferable right to access and use the Trial Services for Customer's internal evaluation purposes in accordance with the Documentation and subject to the access and use restrictions set forth in this Agreement. Customer is authorized to use Trial Services only for evaluation and not for any business or productive purposes, unless otherwise authorized by CyberArk in writing. Any data Customer enters into the Trial Services and any configurations made to the Trial Services by or for Customer during the term of such Trial Services will be permanently lost unless Customer: (a) has purchased a subscription to the same SaaS Products as covered by the Trial Services; or (b) exports such data or configurations before the end of such free period. There is no guarantee that features or functions of the Trial Services will be available, or if available will be the same, in the general release version of the SaaS Products, and Customer should review the SaaS Products features and functions before making a purchase. CyberArk will be under no obligation to provide Customer any support services with respect to the Trial Services. Notwithstanding anything to the contrary, CyberArk provides the Trial Services "as is" and "as available" without any warranties or representations of any kind. To the extent permitted by law, CyberArk disclaims all implied warranties and representations, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose and non-infringement. Customer assumes all risks and all costs associated with its use of the Trial Services. Customer's sole and exclusive remedy in case of any dissatisfaction or CyberArk's breach of the Agreement with respect to such Trial Services is termination of the Trial Services. Any obligations on behalf of CyberArk to indemnify, defend, or hold harmless under this Agreement are not applicable to Customers using Trial Services.

**1.5. Third Party Materials.** The SaaS Products include Third-Party Materials, use of which is subject to their respective OSS Licenses as indicated in the Documentation. CyberArk warrants that the inclusion of such Third-Party Materials in the SaaS Products will not prevent Customer from exercising the license rights provided to Customer herein in respect of the SaaS Products or limit Customer's ability to use the SaaS Products in accordance with the Documentation. Nothing herein shall derogate from mandatory rights Customer may have under any OSS Licenses, if any. Customer may obtain a copy of the source code for certain Third-Party Materials by following the instructions set forth in the Documentation.

**1.6. Support.** As part of its provision of the SaaS Products, CyberArk shall make available technical support to Customer in accordance with the Support Services terms applicable to the SaaS Products. Upon notification from CyberArk, Customer shall promptly update any Agents on Customer systems that interact with the SaaS Products. Customer acknowledges and agrees that its failure to timely install such an update may result in disruptions to or failures of the SaaS Products, security risks or suspension of Customer's access to the SaaS Products, without any liability on the part of CyberArk to Customer. As used herein, "**Agents**" means CyberArk's proprietary software, systems and locally installed software agents and connectors that interact with the SaaS Products as may be provided by CyberArk in connection with the SaaS Products.

**1.7. Mobile Applications.** With regard to SaaS Products that require the use of mobile applications by an Authorized User, Customer shall ensure that all Authorized Users promptly download and install all available updates for the mobile applications. Customer further acknowledges and agrees that the SaaS Products may not properly operate should any Authorized User fail to do so, and that CyberArk is not liable for any damages caused by a failure to update mobile applications accordingly.

## 2. Payment and Taxes

**2.1. Payment Terms.** Customer shall pay all invoices within thirty (30) days of receipt date of invoice, without any deduction or set-off (except for any amount disputed promptly and in writing by Customer in good faith), and payment will be sent to the address specified by CyberArk or its authorized reseller as applicable. Any amounts arising in relation to this Agreement not paid when due will be subject to a late charge at the interest rate established by the Secretary of the Treasury as provided in [41 U.S.C. 7109](#), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.. CyberArk or its authorized reseller as applicable may invoice for purchases of SaaS Products upon delivery.

**2.2. Taxes.** CyberArk or its authorized reseller as applicable shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with 552.212-4(k). Notwithstanding the forgoing, all payments made under this Agreement shall be in cleared funds, without any deduction or set-off, and free and clear of and without deduction from any Indirect Taxes or other withholdings of any nature.

**2.3. Indirect Orders.** If Customer places an Indirect Order, then CyberArk grants the rights described in this Agreement in consideration for and subject to: (a) Customer's agreement to comply with the pricing and payment terms of the Indirect Order, to be separately agreed between Customer and the applicable Channel Partner; and (b) Customer's agreement to comply with its obligations set forth in this Agreement (including the restrictions on use of the SaaS Products). Notwithstanding the foregoing, the final sales price or rate shall be freely and independently determined between the applicable Channel Partner and Customer. For the avoidance of doubt, in the case of such an Indirect Order, any indication in this Agreement of an agreement between Customer and CyberArk for the price payable by Customer for such Indirect Order shall be null and void and not form a binding part of this Agreement and the provisions of this Agreement related to payment terms, pricing and/or order procedures shall not apply.

## 3. Rights in Intellectual Property

**3.1. Intellectual Property.** Except for the rights granted in this Agreement, all rights, title, and interest in and to the SaaS Products, Documentation, and CyberArk Intellectual Property are hereby reserved by CyberArk, its Affiliates or licensors. Except as provided for herein, all rights, title, and interest in and to Customer Intellectual Property are hereby reserved by Customer, its Affiliates or licensors. Nothing in this Agreement shall transfer ownership of any Intellectual Property rights from one Party to the other.

**3.2. Customer Data.** Customer owns all right, title and interest in all Customer Data. Nothing in this Agreement shall be construed to grant CyberArk any rights in Customer Data beyond those expressly provided herein. Customer grants CyberArk and its Affiliates the limited, non-exclusive, worldwide license to view and use the Customer Data solely for the purpose of providing the SaaS Products.

**3.3. Usage Data and Suggestions.** CyberArk shall be permitted to collect and use the Usage Data for its reasonable business purposes and for Customer's benefit. In the event CyberArk wishes to disclose the Usage Data or any part thereof to third parties (either during the Subscription Term or thereafter), such data shall be deidentified and/or presented in the aggregate so that it will not identify Customer or its Authorized Users. The foregoing shall not limit in any way CyberArk's confidentiality obligations pursuant to section 4 below. To the extent that Customer provides CyberArk with Suggestions, such Suggestions shall be free from any confidentiality restrictions that might otherwise be imposed upon CyberArk pursuant to this Agreement, and may be implemented by CyberArk in its sole discretion. Customer acknowledges that any CyberArk products or materials incorporating any such Suggestions shall be the sole and exclusive property of CyberArk.

## 4. Confidentiality

**4.1. Confidential Information.** The Parties acknowledge that each may disclose certain valuable confidential and proprietary information to the other Party. The receiving Party may only use the disclosing Party's Confidential Information to fulfill the purposes of this Agreement and in accordance with the terms of this Agreement. The receiving Party will protect the disclosing Party's Confidential Information by using at least the same degree of care as the receiving Party uses to protect its own Confidential Information of a like nature (but no less than a reasonable degree of care) to prevent the unauthorized use, dissemination, disclosure or publication of such Confidential Information. Notwithstanding the foregoing, the receiving Party may disclose Confidential Information to its (and its Affiliates) employees, advisors, consultants, and agents on a need-to-know basis and provided that such party is bound by obligations of confidentiality substantially similar to those contained herein. This section 4 supersedes any and all prior or contemporaneous understandings and agreements, whether written or oral, between the Parties with respect to Confidential Information and is a complete and exclusive statement thereof. Additionally, the obligations set forth in section 5.4 and not this section 4 herein apply to Customer Data.

**4.2. Exceptions.** Information will not be deemed Confidential Information if it: (i) is known to the receiving Party prior to receipt from the disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (ii) becomes known (independently of disclosure by the disclosing Party) to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving Party; or (iv) is independently developed by the receiving Party without use of or reliance upon the disclosing Party's Confidential Information, and the receiving Party can provide evidence to that effect. The receiving Party may disclose Confidential Information pursuant to the requirements of a court, governmental agency or by operation of law but shall (to the extent permissible by law) limit such disclosure to only the information requested and give the disclosing Party prior written notice sufficient to permit the disclosing Party to contest such disclosure.

**4.3. Advertising and Publicity.** Neither Party shall make or permit to be made any public announcement concerning the existence, subject matter or terms of this Agreement or relationship between the Parties without the prior written consent of the other Party except as expressly permitted in this section. Customer grants CyberArk and its Affiliates during the term of the Agreement the right to use Customer's trade names ("Customer Marks") in its public promotional materials and communications for the sole purpose of identifying Customer as a CyberArk customer to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71. CyberArk shall not modify the Customer Marks, or display the Customer Marks any larger or more prominent on its promotional materials than the names, logos, or symbols of other CyberArk customers. The foregoing promotional materials and communications may be created, displayed, and reproduced without Customer's review, provided that they are in compliance with this section and any Customer Marks usage guidelines provided by Customer to CyberArk in writing.

## 5. Security and Processing of Personal Data

**5.1. Customer Data Content.** As between CyberArk and Customer, Customer is solely responsible for: (i) the content, quality and accuracy of Customer Data as made available by Customer and by Authorized Users; (ii) providing notice to Authorized Users with regards to how Customer Data will be collected and used for the purpose of the SaaS Products; (iii) ensuring Customer has a valid legal basis for processing Customer Data and for sharing Customer Data with CyberArk (to the extent applicable); and (iv) ensuring that the Customer Data as made available by Customer complies with applicable laws and regulations including Applicable Data Protection Laws.

**5.2. Data Protection Laws.** The Parties shall comply with their respective obligations under the Applicable Data Protection Laws. In particular, if Customer is established in the European Economic Area ("EEA"), in the United Kingdom ("UK") or in California, or will, in connection with the SaaS Products, provide CyberArk with personal data relating to an individual located within the EEA, the UK or California, the Parties shall comply with the Data Processing Addendum attached hereto as Exhibit 1.

**5.3. HIPAA.** If the Customer buying a product listed at <https://www.cyberark.com/trust/hipaa-compliance/> is a "covered entity" or a "business associate" and includes "Protected Health Information" in Customer Data (as these

terms are defined in the Business Associate Agreement (“**BAA**”), the Parties shall comply with the BAA found at [cyberark.com/Igl/CyberArk-BAA.pdf](https://cyberark.com/Igl/CyberArk-BAA.pdf). In such case, the terms of the BAA are hereby incorporated into this Agreement by reference.

**5.4. Security of Customer Data.** CyberArk shall: (i) ensure that it has in place appropriate administrative, physical and technical measures designed to protect the security and confidentiality of Customer Data against any accidental or illicit destruction, alteration or unauthorized access or disclosure to third parties; (ii) have measures in place designed to protect the security and confidentiality of Customer Data; and (iii) access and use the Customer Data solely to perform its obligations in accordance with the terms of this Agreement, and as otherwise expressly permitted in this Agreement. CyberArk shall not materially diminish its security controls with respect to Customer Data during a particular SaaS Products term. The obligations set forth in this Section 5.4 are in addition to any confidentiality, privacy, security or other requirements contained in the BAA or DPA, as applicable.

## **6. Warranties**

**6.1. Limited SaaS Products Warranty.** During the applicable Subscription Term, CyberArk warrants that: (a) the SaaS Products will perform in substantial conformity with the Documentation; and (b) CyberArk will use industry standard measures designed to detect viruses, worms, Trojan horses or other unintended malicious or destructive code in the SaaS Products. The foregoing warranties are void if the failure of the SaaS Products has resulted from negligence, error, or misuse of the SaaS Products (including use not in accordance with the Documentation) by Customer, the Authorized User or by anyone other than CyberArk. Customer shall be required to report any breach of warranty to CyberArk within a period of thirty (30) days of the date on which the incident giving rise to the claim occurred. CyberArk’s sole and exclusive liability, and Customer’s sole and exclusive remedy, for breach of these warranties will be for CyberArk, at its expense, to use reasonable commercial efforts to correct such nonconformity within thirty (30) days of the date that notice of the breach was provided; and, if CyberArk fails to correct the breach within such cure period, Customer may terminate the affected Order and, in such event, CyberArk shall provide Customer with a pro-rata refund of any unused pre-paid fees paid for the period following termination as calculated on a monthly basis for the affected SaaS Products. Without derogating from CyberArk’s obligations under this Agreement, Customer warrants that it shall take and maintain appropriate steps within its control to protect the confidentiality, integrity, and security of its Confidential Information and Customer Data, including: (i) operating the SaaS Products in accordance with the Documentation and applicable law and; and (ii) dedicating reasonably adequate personnel and resources to implement and maintain the security controls set forth in the Documentation. Customer will be responsible for the acts and omissions of its Authorized Users.

**6.2. Compliance with Law.** Each Party shall comply with all applicable, laws and regulations in connection with the performance of its obligations and the exercise of its rights under this Agreement.

**6.3. Disclaimer.** Any and all warranties, expressed, incorporated or implied, are limited to the extent and period mentioned in this Agreement. To the maximum extent allowed by applicable law, CyberArk disclaims (and disclaims on behalf of its licensors and/or contributors to any Third-Party Materials) all other warranties, conditions and other terms, whether express or implied or incorporated into this Agreement by statute, common law or otherwise, including the implied conditions and warranties of merchantability and fitness for a particular purpose. CyberArk will have no liability for delays, failures or losses attributable or related in any way to the use or implementation of third-party software or services not provided by CyberArk.

## **7. Indemnification – [Reserved]**

## **8. Limitation of Liability**

**8.1. Maximum Liability.** Except for liability caused by CyberArk’s intellectual property infringement indemnification obligations in section 7.1, Customer’s data infringement indemnity in section 7.2, or Customer’s payment obligations herein, in no event will either Party’s maximum aggregate liability arising out of or related to this Agreement, regardless of the cause of action and whether in contract, tort (including negligence), warranty, indemnity or any other legal theory, exceed the total amount paid or payable to CyberArk under this Agreement during the twelve (12) month period preceding the date of initial claim.

**8.2. No Consequential Damages.** Neither Party will have any liability to the other Party for any loss of profits

or revenues, loss of goodwill, or for any indirect, special, incidental, consequential or punitive damages arising out of, or in connection with this Agreement, however caused, whether in contract, tort (including negligence), warranty, indemnity or any other legal theory, and whether or not the Party has been advised of the possibility of such damages.

**8.3. Construction.** This Agreement is not intended to and will not be construed as excluding or limiting any liability which cannot be limited or excluded by applicable law, including liability for (a) death or bodily injury caused by a Party's negligence; or (b) gross negligence, willful misconduct, or fraud.

**9. Assignment.** Neither Party may assign any of its rights or obligations under this Agreement without the other Party's prior written consent, which will not be unreasonably withheld.

## **10. Restricted Rights and Export Control**

**10.1. Export Control.** The exportation of the SaaS Products and Documentation, and all related technology and information thereof are subject to U.S. laws and regulations pertaining to export controls and trade and economic sanctions, including the U.S. Export Administration Act, Export Administration Regulations, the Export Control Reform Act, and the Office of Foreign Assets Control's sanctions programs, the laws of the State of Israel, and the laws of any country or organization of nations within whose jurisdiction Customer (or its Authorized Users who may use or otherwise receive the SaaS Products as expressly authorized by this Agreement) operates or does business, as amended, and the rules and regulations promulgated from time to time thereunder. Specifically, Customer hereby undertakes not to export, re-export, access or grant access to the SaaS Products and all related technology, information, materials and any upgrades thereto to: (a) any Prohibited Persons; (b) any country to which such export, re-export or access from is restricted or prohibited per the foregoing applicable laws; or (c) otherwise in violation of any applicable export or import restrictions, laws or regulations. Customer also certifies that it is not a Prohibited Person nor owned, controlled by, or acting on behalf of a Prohibited Person.

**10.2. Commercial Computer Software and FedRAMP Products.** If Customer is an agency or contractor of the United States Government, Customer acknowledges and agrees that: (i) the SaaS Products (including any software forming a part thereof) were developed entirely at private expense; (ii) the SaaS Products (including any software forming a part thereof) in all respects constitute proprietary data belonging solely to CyberArk; (iii) the SaaS Products (including any software forming a part thereof) are not in the public domain; and (iv) the software forming a part of the SaaS Products is "Commercial Computer Software" as defined in sub-paragraph (a)(1) of DFARS section 252.227-7014 or FAR Part 12.212. Customer shall provide no rights in the Software (including any software forming a part thereof) to any U.S. Government agency or any other party except as expressly provided in this Agreement. If Customer places an Order for SaaS Products which are designated as "FedRAMP Authorized," the CyberArk Rider to SaaS Terms of Service for FedRAMP Products attached hereto as Exhibit 2, and will apply to CyberArk's provision of such SaaS Products.

**11. Professional Services.** Customer may separately purchase from CyberArk professional services in relation to the SaaS Products as may be generally available by CyberArk to its customers, pursuant to CyberArk's then applicable professional services terms.

## **12. Term and Termination**

**12.1. Term.** This Agreement will be effective upon Customer's first access of a SaaS Product and shall remain in force during the applicable Subscription Term of the SaaS Product or throughout Customer's continued use of the SaaS Product, as applicable.

**12.2. Termination.** When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, CyberArk shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Upon termination or expiration of the Agreement or an Order, (x) any accrued rights and obligations will survive; (y) all outstanding fees and other charges under the Agreement or Order (as applicable) will become immediately due and payable, and (z) Customer will have no further right to access or use the applicable SaaS Products or professional services. If Customer is

converting its perpetual self-hosted software licenses to a SaaS Product, the applicable previously licensed perpetual self-hosted software licenses will be terminated, along with any associated support services, in accordance with the terms of the applicable Order.

**12.3. Effects of Termination/Expiration.** Upon termination or expiration of an applicable Subscription Term, CyberArk may immediately deactivate Customer's account, and: (i) Customer will have no further right to access or use the SaaS Products; and (ii) each Party shall return or destroy any tangible Confidential Information of the other Party within its possession or control that is not contained on the SaaS Products promptly upon receiving written request from the other Party. Any Customer Data contained on the SaaS Products will be deleted within sixty (60) days of termination/expiration of Customer's Subscription Term. Customer acknowledges that it is responsible for exporting any Customer Data to which Customer desires continued access after termination/expiration, and CyberArk shall have no liability for any failure of Customer to retrieve such Customer Data and no obligation to store or retain any such Customer Data beyond 40 days following termination or expiration of the Customer's Subscription Term. Any Customer Data contained on the SaaS Products will be deleted within 60 days of termination or expiration of Customer's Subscription Term.

### **13. Miscellaneous**

**13.1. Independent Contractors.** Nothing in this Agreement will be construed to imply a joint venture, partnership or principal-agent relationship between CyberArk and Customer, and neither Party will have the right, power or authority to obligate or bind the other in any manner whatsoever.

**13.2. Notices.** All Notices will be in writing and will be deemed to have been duly given: (a) when delivered by hand; (b) three (3) days after being sent by registered or certified mail, return receipt requested and postage prepaid; (c) one (1) day after deposit with a nationally recognized overnight delivery or express courier service; or (d) when provided via email when the sender has received a delivery/read receipt. Notices for CyberArk should be sent to the following addresses: (i) for physical Notices the address specified for CyberArk in section 13.4 "Governing Law and Jurisdiction" and; (ii) for electronic Notices to: [contract-notices@cyberark.com](mailto:contract-notices@cyberark.com). In the event that Customer has any technical support-related queries, the contact information for support can be found at: <https://www.cyberark.com/customer-support/>.

**13.3. Force Majeure.** In accordance with GSAR 552.212-4(f), With the exception of Customer's payment obligations herein, neither Party will be liable to the other Party for any delay or failure to perform which is due to fire, pandemic, virus, epidemic, travel advisories as to health, security and/or terrorism, flood, lockout, transportation delay, war, acts of God, governmental rule or order, strikes or other labor difficulties, or other causes beyond its reasonable control. However, in such event, both Parties will resume performance promptly after the cause of such delay or failure has been removed.

**13.4. Governing Law and Jurisdiction.** This Agreement shall be governed by the Federal laws of the United States. To the extent not prohibited by applicable law, each of the Parties hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

**13.5. Entire Agreement, Execution, and Modification.** This Agreement supersedes all prior agreements and representations between the Parties regarding the subject matter of this Agreement. The terms and conditions contained in any Order issued by Customer will be of no force or effect, even if the Order is accepted by CyberArk. CyberArk may make non-material changes to these Terms of Service from time to time.. If Customer does not agree to the non-material change, Customer must so notify CyberArk by e-mail to [contract-notices@cyberark.com](mailto:contract-notices@cyberark.com) within thirty (30) days after CyberArk's notice. If Customer so notifies CyberArk, then Customer will remain governed by the most recent non-materially modified terms of service applicable to Customer until the end of the then-current year of the Subscription Term and the non-materially updated terms shall apply upon the commencement of the subsequent Subscription Term.

**13.6. Severability and Waiver.** This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Should any term or provision of this Agreement be declared void or unenforceable by any court of competent jurisdiction, the Parties intend that a substitute provision will be added to this Agreement that, to the greatest extent possible, achieves the intended commercial result of the original provision. The failure of either Party to enforce any rights granted to it hereunder or to take action against the other Party in the event of any breach hereunder will not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions

in the event of future breaches.

**13.7. Definitions and Interpretation.** The following definitions and rules of interpretation apply in this Agreement:

**“Affiliate”** means a company controlling, controlled by, or under common control with a Party (an entity will be deemed to have control if it owns over 50% of another entity).

**“Agents”** means CyberArk’s proprietary software, systems and locally-installed software agents and connectors that interact with the SaaS Products as may be provided by CyberArk in connection with the SaaS Products.

**“Applicable Data Protection Laws”** means all applicable privacy and data protection laws, their implementing regulations, regulatory guidance and secondary legislations, each as updated or replaced from time to time, including: (a) the General Data Protection Regulation (EU 2016/679) (the “GDPR”) and any applicable national implementing laws; (b) the UK General Data Protection Regulation (“UK GDPR”) and the UK Data Protection Act 2018; (c) the Privacy and Electronic Communications Directive (2002/ 58/ EC) and any applicable implementing laws, including the Privacy and Electronic Communications Regulations 2003 (SI 2003/ 2426) (“EC Directive”); (d) the Canadian Personal Information Protection and Electronic Documents Act (“PIPEDA”); (e) U.S. legislation (e.g. the California Consumer Privacy Act (“CCPA”) and the California Privacy Rights Act (“CPRA”); and (f) any other laws that may be applicable.

**“Authorized Users”** means employees, agents, consultants, contractors, or vendors authorized by Customer to use the SaaS Products solely for the internal use of Customer and its Affiliates, subject to the terms and conditions of this Agreement.

**“Channel Partner”** means a third-party business entity that CyberArk has appointed as an approved partner to as applicable, distribute, re-sell and support the SaaS Products.

**“Confidential Information”** means all information provided by the disclosing Party to the receiving Party concerning the disclosing Party or its Affiliates’ business, products or services that is not generally known to the public, including information relating to customers, vendors, trade secrets, prices, products, services, computer programs and other intellectual property and any other information which a Party should reasonably understand to be considered Confidential Information whether or not such information is marked “Confidential” or contains such similar legend by the disclosing Party at the time of disclosure.

**“Customer Data”** means all data and/or content uploaded to the SaaS Products by Customer (including where applicable Authorized Users), and in all data derived from it. For the avoidance of doubt, Customer Data does not include Usage Data.

**“CyberArk”** means the CyberArk legal entity providing the SaaS Product to Customer pursuant to this Agreement, at the address specified in section 13.4 “Governing Law and Jurisdiction.

**“Documentation”** means the user guides, installation documents, and specifications for the SaaS Products that are made available from time to time by CyberArk in electronic or tangible form and found at docs.cyberark.com, including the documentation located therein under the ‘Security’ section for the relevant SaaS Products, but excluding any sales or marketing materials.

**“Indirect Order”** means an Order for the Software or Services from a Channel Partner of Customer’s choosing pursuant to an independent commercial agreement.

**“Indirect Taxes”** means excise, sales, use, gross-turnover, value added, goods and services tax or other similar types of indirect taxes on turnover and/or revenues, duties, customs or tariffs (however designated, levied or based and whether foreign or domestic, federal, state or province).

**“Intellectual Property”** means a Party’s proprietary material, technology, or processes (excluding the SaaS Products and Documentation), including services, software tools, proprietary framework and methodology, hardware designs, algorithms, objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world (whether owned or licensed by a third party) and any derivatives, improvements, enhancements or extensions of such Intellectual Property

conceived, reduced to practice, or developed.

**“Notice”** means any notice or other communication required or permitted under this Agreement.

**“Order”** means CyberArk’s quote accepted by Customer via Customer’s purchase order or other ordering document received by CyberArk (directly or indirectly through a Channel Partner) to order CyberArk’s SaaS Products, which

references the SaaS Products, pricing, payment terms, quantities, expiration date and other applicable terms set forth in an applicable CyberArk quote or ordering document.

“**OSS Licenses**” means the respective open source licenses that the Third-Party Materials are subject to.

“**Prohibited Persons**” means anyone on the U.S. Commerce Department’s Denied Persons, Entity, or Unverified Lists or the U.S. Treasury Department’s list of Specially Designated Nationals and Consolidated Sanctions list.

“**SaaS Products**” means the software-as-a-service products specified in the Order as further described in the Documentation (including any updates and upgrades to the SaaS Products provided by CyberArk in its sole discretion, and any software, systems and locally-installed software agents and connectors that interact with the SaaS Products as may be provided by CyberArk in connection with the SaaS Products), provided that any free trial SaaS software, proof of concept of the SaaS Products, beta version of the SaaS Products, or any other free-of- charge software product will be subject to Section 1.4 of this Agreement.

“**Subscription Term**” means the period of time during which Customer is subscribed to the SaaS Products, as specified in an Order and which shall begin upon delivery of the SaaS Products.

“**Suggestions**” means, any ideas or suggestions for improvements, new features, functionalities, corrections, enhancements or changes to the SaaS Products suggested by Customer to CyberArk, excluding any Customer Data and Customer Intellectual Property.

“**Support Services**” means the maintenance and technical support services for the SaaS Products provided by CyberArk to Customer as part of an active SaaS Products subscription, set out at <https://www.cyberark.com/maintenance-support-terms.pdf>.

“**Third-Party Materials**” means open source software programs that are made available by third parties under their respective OSS Licenses.

“**Usage Data**” means data generated in connection with Customer’s access, use and configuration of the SaaS Products and data derived from it (e.g., types of applications or accounts utilized or interacting with the SaaS Products).

Any words following the terms **including** or **include** shall be regarded as examples only and not construed as an exhaustive list.

## Exhibit 1

### **DATA PROCESSING ADDENDUM**

This Data Processing Addendum including all of its Annexes ("**Addendum**") is entered into as of the later signature date below (the "**Effective Date**") between the CyberArk entity specified on the signature line below (or if this Addendum is being incorporated by reference, the CyberArk entity identified on the applicable CyberArk quote) ("**CyberArk**") and the customer entity(ies) specified on the signature line below (or if this Addendum is being incorporated by reference, the customer entity identified on the applicable CyberArk quote) ("**Customer**"). This Addendum amends and forms part of the service agreement(s) between the parties that reference this Addendum (including, without limitation, the CyberArk Maintenance And Support Terms and the Terms of Service (SAAS), if applicable) which respectively govern the technical support services and/or software-as-a-service solutions provided by CyberArk to Customer ("**Services**") (together, the "**Agreement**"). In the event that any terms and conditions contained herein are in conflict with the terms and conditions set forth in the Agreement, the terms and conditions set forth in this Addendum shall be deemed to be the controlling terms and conditions, except as otherwise stated. "**Controller**", "**processor**", "**data subject**", "**personal data**", "**processing**" and "**appropriate technical and organisational measures**" shall be interpreted in accordance with the applicable Data Protection Legislation. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement or in applicable Data Protection Legislation. In the course of providing the Services to Customer pursuant to the Agreement, CyberArk may process personal data on behalf of Customer. This Addendum sets out the additional terms, requirements and conditions on which CyberArk will process personal data as far as such processing relates to the performance of the Services.

If the Customer is an Ordering Activity under GSA Schedule Contracts, it shall only be required to comply with the Federal law of the United States and expressly does not agree to comply with any provision of this Data Processing Agreement, EU Law, or law of an EU Member State that is inconsistent with the Federal law of the United States.

#### **1. Roles of the Parties**

This Addendum shall apply where Customer acts as a controller and CyberArk as a processor, or where Customer acts as a processor and CyberArk as a sub-processor.

#### **2. Compliance with Data Protection Legislation**

Both parties will comply with all applicable requirements of the Data Protection Legislation. As used in this Addendum, "**Data Protection Legislation**" means all applicable privacy and data protection laws, their implementing regulations, regulatory guidance, and secondary legislation, each as updated or replaced from time to time, including: (i) the General Data Protection Regulation ((EU) 2016/679) (the "**GDPR**") and any applicable national implementing laws; (ii) the UK General Data Protection Regulation (UK GDPR) and the UK Data Protection Act 2018; (iii) the Privacy and Electronic Communications Directive (2002/58/EC) and any applicable national implementing laws including the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426); (iv) the Canadian Personal Information Protection and Electronic Documents Act (PIPEDA); (v) U.S. legislation (e.g., the California Consumer Privacy Act ("**CCPA**") and the California Privacy Rights Act ("**CPRA**")); and (vi) any other laws that may be applicable.

#### **3. Processing of Personal Data**

3.1. **Details of Processing.** Annex A sets out the scope, nature and purpose of processing by CyberArk, the duration of the processing and the types of personal data and categories of data subject.

3.2. **Instructions.** Customer appoints CyberArk to process such personal data on behalf of Customer, CyberArk Rider to SaaS TOS for FedRAMP

and in accordance with Customer's documented instructions, as otherwise necessary to provide the Services, or as otherwise agreed in writing by the parties. The scope of such instructions are initially defined by the Agreement. CyberArk shall inform Customer if, in its opinion, an instruction infringes the Data Protection Legislation, or if it cannot comply with Customer's documented instructions for whatever reason. In any such case, the parties shall work together to find an alternative. If CyberArk notifies Customer that neither the instruction nor an alternative is feasible, Customer may terminate the affected Services in accordance with the terms of the Agreement. Any previously accrued rights and obligations will survive such termination. Customer acknowledges that certain specific instructions may result in additional fees payable by Customer to CyberArk for carrying out those instructions.

3.3. **Customer Responsibilities.** Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to CyberArk for the duration and purposes of this Addendum. Customer shall not cause CyberArk to violate any applicable laws in its processing of the personal data in accordance with Customer's instructions.

3.4. **Service Provider Requirements.** CyberArk acknowledges and agrees that it shall act in the role of a Service Provider as defined under the CCPA and the CPRA. Customer discloses personal data to CyberArk solely for performing the Services, which includes the following limited and specified business purposes: the business purposes set out under sections 1798.140(e)(2), (3), (5) and (7) of the CPRA ("Business Purposes"). CyberArk is prohibited from: (i) selling or sharing Customer's personal data; (ii) retaining, using, or disclosing Customer's personal data for any purpose other than providing the Business Purposes to Customer and as otherwise permitted by the CCPA, the CPRA and their implementing regulations; (iii) retaining, using, or disclosing Customer's personal data for any commercial purpose other than the Business Purposes, unless expressly permitted by the CCPA, the CPRA and their implementing regulations; (iv) retaining, using, or disclosing Customer's personal data outside of the direct business relationship between CyberArk and Customer, unless expressly permitted by the CCPA, the CPRA and their implementing regulations; and (v) combining or updating Customer's personal data with personal data that CyberArk obtains from other sources, unless expressly permitted by the CCPA, the CPRA and their implementing regulations. CyberArk certifies that it understands the prohibitions outlined in this Section 3.4 and will comply with them. Customer understands and agrees that CyberArk may use sub-processors to provide the Services and process personal data on Customer's behalf in accordance with Section 8 below. The parties agree that any monetary consideration provided by Customer to CyberArk is provided for the provision of the Services and not for the provision of personal data. CyberArk shall notify Customer no later than five (5) business days after it makes a determination that it can no longer meet its obligations under the CCPA, the CPRA and their implementing regulations. CyberArk permits Customer the right, upon notice, to take reasonable and appropriate steps to stop and remediate CyberArk's unauthorized use of Customer's personal data.

#### 4. **Security**

4.1. **Security Measures.** CyberArk shall implement appropriate technical and organizational measures for processing Customer's personal data which shall, at minimum, meet the requirements in **Annex B**.

4.2. **Breach Notification.** CyberArk shall, to the extent permitted by law, notify Customer without undue delay upon discovery of the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data processed by CyberArk on behalf of Customer.

4.3. **Personnel.** CyberArk shall ensure that all personnel who process (including having access to) personal data have committed themselves to keep the personal data confidential in accordance with CyberArk's confidentiality obligations under the Agreement.

#### 5. **Assistance**

5.1. **Cooperation with Customer.** Taking into account the nature of the processing and the information available to CyberArk, CyberArk shall reasonably assist Customer, at Customer's expense, in

responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, privacy impact assessments, litigation, inquiries or consultations with supervisory authorities or regulators.

5.2. **Third-Party Requests.** CyberArk shall inform Customer of any data subject's request or communications from a regulator, government body, or other supervisory authority relating to personal data that CyberArk or its sub-processors receive, unless applicable law prohibits such notification on important grounds of public interest. CyberArk will not respond to such requests except as instructed by Customer, unless otherwise required by Data Protection Legislation, in which case CyberArk will inform Company of such legal requirement prior to responding to such request.

5.3. **Reimbursement.** To the extent that CyberArk's cooperation and assistance according to this section 5 involve significant costs, the parties agree to negotiate in good faith to reimburse CyberArk for such costs.

## 6. Return and Deletion of Personal Data

Following the termination of the Agreement, or upon Customer's prior written request, CyberArk shall delete or return all personal data and copies thereof to Customer, unless otherwise required under the applicable laws (including any Data Protection Legislation). Should CyberArk be required under the applicable law to process Customer's personal data following the termination of the Agreement, this Addendum shall stay in full force and effect until the complete deletion or return of all Customer's personal data.

## 7. Audit

7.1. **Audit Requirements.** The parties acknowledge that Customer must be able to assess CyberArk's compliance with its obligations under Data Protection Legislation, to the extent that CyberArk is acting as a processor on behalf of Customer. Customer further agrees that the audits described in Section 7.3 below meet Customer's audit requirements, and Customer agrees to exercise any right it may have to conduct an inspection or audit (including under the Standard Contractual Clauses, as applicable) by written notice to CyberArk to carry out the audits described in Section 7.3.

7.2. **Certification.** Without prejudice to the rights granted in Section 7.3 below, if the requested audit scope is addressed in an ISO certification, SOC report or similar audit report issued by a qualified third party auditor within the prior twelve months and CyberArk provides such report to Customer upon request confirming that there are no known material changes in the controls audited, Customer agrees to accept the findings presented in such third party audit report in lieu of requesting an audit of the same controls covered in the report.

7.3. **Audit Procedures.** Upon not less than thirty (30) days' advance written notice to CyberArk and no more frequently than once annually, with CyberArk's reasonable costs of complying with any such request to be met by Customer, CyberArk shall (i) make available all information necessary to demonstrate to Customer its compliance with Article 28 of the GDPR, including without limitation, executive summaries of its information security and privacy policies, and (ii) cooperate with and respond promptly to Customer's reasonable privacy and/or security questionnaire(s). Notwithstanding the above, if Customer's request for audit occurs during CyberArk's quarter or year end, or such other time during which CyberArk cannot reasonably accommodate such request, the parties shall mutually agree on an extension to the thirty (30) days' advance written notification. Customer shall execute a confidentiality agreement in form and substance reasonably satisfactory to CyberArk prior to such audit. For the avoidance of doubt, nothing contained herein will allow Customer to review data pertaining to CyberArk's other customers or partners. Customer shall bear its own costs and expenses with respect to the audits described in this Section 7.2. The parties shall use all reasonable endeavours when exercising rights under this Section 7 to minimize disruption to CyberArk's business activities.

## 8. Sub-Processors

- 8.1. **Use of Sub-Processors.** Customer provides general written authorization for: (a) CyberArk to engage the sub-processors set out at CyberArk's Privacy Center available at <https://www.cyberark.com/sub-processors/> (the "**Privacy Center**"), (b) CyberArk to engage CyberArk's Affiliates as sub-processors set out at the Privacy Center and (c) CyberArk's Affiliates to engage third-party sub-processors (including other Affiliates as sub-processors) set out at the Privacy Center. For purposes of this Addendum, "**Affiliate**" means an entity controlling, controlled by, or under common control with a party (an entity will be deemed to have control if it owns over 50% of another entity). CyberArk and its Affiliates may engage such sub-processors to process personal data, provided that CyberArk and its Affiliates have entered into a written agreement with the third-party processor containing data protection terms that require it to protect the personal data to the same standard required under this Addendum.
- 8.2. **Changes to Sub-Processors.** If CyberArk or its Affiliates appoint a new (or remove an existing) sub-processor, it shall update the list at the Privacy Center. Customer may opt in to receiving alerts regarding such list updates via the mechanism set out at the Privacy Center, and, provided Customer has done so, CyberArk will send an email publicizing the change, to the email address the Customer has provided at the Privacy Center. Customer may object to CyberArk's appointment or replacement of a sub-processor, provided Customer notifies CyberArk in writing of its specific objection within thirty (30) days of receiving such notification from CyberArk. If Customer does not object within such period, the addition of the new sub-processor shall be deemed accepted. If Customer does object to the addition of a new sub-processor and CyberArk, in its reasonable opinion, cannot reasonably accommodate Customer's objection, Customer may terminate the affected Service(s) upon written notice to CyberArk. Any previously accrued rights and obligations will survive such termination.
- 8.3. **General authorization under the Standard Contractual Clauses.** If the Standard Contractual Clauses apply, then the Parties agree to select Option 2 (general written authorization) under clause 9(a) of the Standard Contractual Clauses (Module Two). Customer acknowledges and agrees that it will be informed of any intended changes to the list of Sub-Processors and have the ability to exercise the corresponding right to object under Clause 9(a) of the Standard Contractual Clauses (Module Two) in the manner described under Clause 8.2 of this Addendum.
- 8.4. **Liability.** CyberArk remains liable for the acts and omissions of its sub-processors to the same extent CyberArk would be liable if performing the Services of each sub-processor directly under the terms of this Addendum.
- 8.5. **Copies of Sub-processor Agreements.** The parties agree that the copies of the sub-processor agreements that must be provided by CyberArk to Customer pursuant to Clause 9(c) of the Standard Contractual Clauses may have all commercial information, or clauses unrelated to the Standard Contractual Clauses or their equivalent, removed by CyberArk beforehand. CyberArk will provide such copies in a manner to be determined in its sole discretion, upon request by Customer.

## 9. International Transfers of Personal Data

- 9.1. **General Obligation.** CyberArk shall comply with all applicable requirements for cross-border transfers of personal data under Data Protection Legislation.
- 9.2. **Transfers to third countries.** To the extent that CyberArk processes any personal data under this Addendum that originates from the European Economic Area ("**EEA**") or Switzerland in a country that has not been designated by the European Commission or the Swiss Federal Data Protection Authority (as applicable) as providing an adequate level of protection for personal data, or from one jurisdiction to another jurisdiction not recognized as adequate by the authorities of the exporter's jurisdiction, the parties agree to enter into the Standard Contractual Clauses for the transfer of personal data to third countries as set out in the Annex to Commission Decision (EU) 2021/914 adopted on June 4, 2021 ("**Standard Contractual Clauses**") which are hereby incorporated into and form part of this Addendum. The Parties agree to include the optional Clause 7 (Docking clause) to

the Standard Contractual Clauses incorporated into this Addendum. With regards to clauses 8 to 18 of the Standard Contractual Clauses, the different modules will apply as follows:

9.2.1. Where Customer acts as a processor and CyberArk as a sub-processor (as applicable), both parties agree that Module Three will apply;

9.2.2. Where Customer acts as a controller and CyberArk as processor (as applicable), both parties agree that Module Two will apply.

9.2.3. In both of the cases set out in clauses 9.2.1. and 9.2.2. above, the option at Clause 11(a) (Redress) shall not apply, option 2 (General Written Authorisation) at Clause 9(a) shall apply and the period shall be 30 days.

9.2.4. Where Standard Contractual Clauses apply to transfers of personal data from Switzerland, the term 'member state' in the Standard Contractual Clauses must not be interpreted in such a way as to exclude data subjects in Switzerland from the possibility of suing for their rights in their place of habitual residence (Switzerland) in accordance with Clause 18(c) of the Standard Contractual Clauses.

9.2.5. Where the Standard Contractual Clauses apply to the transfer of personal data from one jurisdiction (not being the EEA, the UK or Switzerland) to another jurisdiction not recognized as adequate by the authorities of the exporter's jurisdiction, the competent supervisory authority and the governing law shall be those of the exporter's jurisdiction. The term 'member state' in the Standard Contractual Clauses shall refer to the jurisdiction of the exporter.

9.3. **Transfers from the UK by Customer to CyberArk.** To the extent that CyberArk processes under this Addendum any personal data that originates from the UK in a country that has not been designated by the UK Government as providing an adequate level of protection for personal data, the parties agree (i) that the UK International Data Transfer Addendum ("**UK Addendum**") to the EU Commission Standard Contractual Clauses as in force from 21 March 2022 as issued by the Information Commissioner's Office under s.119A (1) of the UK Data Protection Act 2018 shall apply and is hereby incorporated by reference and (ii) that:

9.3.1. Table 2 of the UK Addendum shall be read by reference to clause 9.2.

9.3.2. Table 3 of the UK Addendum shall be read by reference to clause 9.4;

9.3.3. For the purposes of Table 4, both parties shall have the ability to terminate the UK Addendum.

9.4. **Annexes.** The parties hereby agree that data processing details set out in **Annex A** of this Addendum shall apply for the purposes of Annex 1 of the Standard Contractual Clauses and the technical and organizational security measures set out in **Annex B** of this Addendum shall apply for the purpose of Annex 2 to the Standard Contractual Clauses. CyberArk shall be deemed the "**data importer**" and Customer the "**data exporter**" under the Standard Contractual Clauses, and the parties will comply with their respective obligations under the Standard Contractual Clauses. Customer grants CyberArk a mandate to execute the Standard Contractual Clauses (Module 3) with any relevant sub-processor (including CyberArk Affiliates). Unless CyberArk notifies Customer to the contrary, if the European Commission subsequently amends the Standard Contractual Clauses at a later date, such amended terms will supersede and replace any Standard Contractual Clauses executed between the parties. **Annex C** shall apply to the use of the Standard Contractual Clauses.

9.5. **Alternative Data Export Solution.** The parties agree that the data export solution identified in Section 9.2 and 9.3 will not apply if and to the extent that Customer adopts an alternative data export solution for the lawful transfer of personal data (as recognized under the Data Protection Legislation), in which event, Customer shall reasonably cooperate with CyberArk to implement such solution and such alternative data export solution will apply instead (but solely to the extent such alternative data export solution extends to the territories to which personal data is transferred under this Addendum).

## 10. Miscellaneous

- 10.1. **Interpretation.** Any words following the terms “including” and similar expressions shall not limit the sense of the words preceding those terms.
- 10.2. **Entire Agreement.** This Addendum shall replace and supersede any existing data processing addendum (including any privacy addendums), attachment or exhibit (including any standard contractual clauses) between the parties, except as provided for in section 9.4, if applicable. Any addenda, attachments, or exhibits related to security shall remain in place and supplement any security measures set out in **Annex B**. In the event of a conflict between **Annex B** and any other agreement that Customer has entered into with CyberArk governing information security, including administrative, physical, or technical safeguards regarding the protection of data, the provisions more protective of the data shall prevail.
- 10.3. **Liability.** Notwithstanding anything to the contrary in the Agreement or this Addendum, the liability of each party and each party’s Affiliates under this Addendum shall be subject to the exclusions and limitations of liability set out in the Agreement or, in the absence of such a provision in the Agreement, the following will apply: (a) in no event will either party’s maximum aggregate liability arising out of or related to the Agreement or this Addendum exceed the total amount paid or payable to CyberArk under the Agreement during the twelve (12) month period preceding the date of initial claim, and (b) neither party will have any liability to the other party for any loss of profits or revenues, loss of goodwill, loss or corruption of data or for any indirect, special, incidental, consequential or punitive damages arising out of, or in connection with the Agreement or this Addendum.
- 10.4. **Governing Law and Jurisdiction.** This Addendum will be governed by and construed in accordance with governing law and jurisdiction provisions in the Agreement, unless required otherwise by applicable Data Protection Legislation.
- 10.5. **Termination of Addendum.** This Addendum will terminate on the later of the following events: (1) upon termination or expiry of the Agreement; and (2) the complete deletion and/or return of Customer’s personal data

## ANNEX A

### PERSONAL DATA PROCESSING PURPOSES AND DETAILS

#### A. LIST OF PARTIES

##### **Data exporter(s):**

*Legal entity(ies) and date of signature: See Front sheet of the Agreement*

*Address: See Front sheet of the Agreement*

Role (controller/processor): Controller

Contact person for data protection matters position and contact details of the data protection officer and/or representative in the European Union (if different): data exporter shall provide these details by email to [privacy@cyberark.com](mailto:privacy@cyberark.com) upon signature of the Agreement.

Activities relevant to the data transferred under these SCCs: The data importer will provide services to the data exporter involving the transfer of personal data as detailed under the Agreement.

##### **Data importer(s):**

*Legal entity(ies) and date of signature: See Front sheet of the Agreement*

*Address: See Front sheet of the Agreement*

Contact details for data protection matters: [privacy.request@cyberark.com](mailto:privacy.request@cyberark.com)

Role (controller/processor): Processor

Activities relevant to the data transferred under these SCCs: The data importer will provide services to the data exporter involving the transfer of personal data as detailed under the Agreement.

#### B. DESCRIPTION OF TRANSFER

##### **Categories of data subjects whose personal data is transferred**

Customer may submit personal data to CyberArk to enable CyberArk to perform the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to personal data relating to the following categories of data subjects:

- Customers, business partners, and vendors of Customer (who are natural persons)
- Employees or contact persons (both of whom are natural persons) of Customer customers, business partners, and vendors
- Employees, agents, advisors, contractors, or any user authorized by Customer to use the Services (who are natural persons)

##### **Categories of personal data transferred**

Customer may submit personal data to CyberArk to enable CyberArk to perform the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include (depending on the nature of the Services):

- First and last name and title;
- Employer and position;
- Contact information (email, username, cell / mobile phone number, physical business address);
- Device identification data (Device ID);
- Electronic identification data (IP address; MAC address);
- Technical data (operating system information; software logs; crash reports);

- Username and password to CyberArk Services; and
- In relation to certain CyberArk Services, including the CyberArk Identity services, the geolocation of the device using such Services.

***Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.***

Sensitive data may be transferred by Customer to CyberArk solely where Customer needs to transfer such data to CyberArk for the provision of the Services as described pursuant to the Agreement.

The safeguards applying to the processing of such data are as described under Annex B.

***The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).***

Continuous.

***Nature of the processing***

CyberArk will process personal data as necessary to perform the Services pursuant to the Agreement, as further instructed by Customer (as expressly set forth in this Addendum) in its use of the Services.

***Purpose(s) of the data transfer and further processing***

CyberArk will process personal data for the purposes necessary to perform the Services pursuant to the Agreement, as further instructed by Customer (as expressly set forth in this Addendum) in its use of the Services.

***The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period***

The personal data will be retained as long as needed for the provision of Services by CyberArk under the Agreement.

***For transfers to (sub-)processors, also specify subject matter, nature and duration of the processing***

Matter and nature of the processing, as set out at [cyberark.com/sub-processors](https://cyberark.com/sub-processors), for the duration required for the data importer to provide the Services to the data exporter.

***C. COMPETENT SUPERVISORY AUTHORITY***

*Identify the competent supervisory authority/ies in accordance with Clause 13 of the Standard Contractual Clauses*

Data exporter shall provide this information by email to [privacy@cyberark.com](mailto:privacy@cyberark.com) upon signature of the Agreement.

## ANNEX B

### TECHNICAL AND ORGANISATIONAL MEASURES

This Annex B sets forth the security measures that CyberArk shall maintain in connection with the personal data submitted by Customer to CyberArk to enable it to provide the services under the Agreement.

#### **1. Measures of pseudonymisation and encryption of personal data:**

CyberArk encrypts Customer personal data it processes while in transit over corporate networks and from and to CyberArk's SaaS products.

#### **2. Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services**

CyberArk maintains documented business continuity and disaster recovery plans that are designed to ensure that business functions can respond quickly and continue with minimum disruption in case of an unexpected interruption that may materially impact Customer personal data or CyberArk's ability to provide products and services under the Agreement.

#### **3. Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident**

CyberArk performs ongoing data replication and backup as necessary, designed to prevent data loss and to facilitate service recovery for the Customer.

#### **4. Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing**

CyberArk utilizes various tools to continuously track and monitor security vulnerabilities to identify, report, and remediate network vulnerabilities. As part of the ongoing information security activities, the security vulnerabilities are prioritized and assigned an appropriate remediation process according to the type of vulnerability, its severity and its potential impact.

CyberArk also frequently performs penetration testing to its networks, infrastructure and products, including to identify security vulnerabilities. CyberArk further leverages automated penetration testing tools for a wide and comprehensive view over existing vulnerabilities and attack vectors to mitigate the risk of cyberattacks

#### **5. Measures for user identification and authorization**

CyberArk controls, monitors and protects the credentials and secrets related to users' access by utilizing industry standard tools, including its own security products. CyberArk also secures physical access to its equipment used to store Customer personal data by using industry standard processes to limit access to authorized personnel.

CyberArk's policies governing internal access to Customer personal data are designed on a least privilege and need-to-know basis, based on individual roles and responsibilities. CyberArk maintains methods and procedures designed to prevent unauthorized access to the Customer personal data and the systems that host it. Appropriate authentication methods are used to control access to the network applications and systems that contain Customer personal data (which may include Virtual Private Network (VPN) and Multi-Factor Authentication (MFA) and more).

#### **6. Measures for the protection of data during transmission**

CyberArk encrypts all Customer personal data it processes while in transit over corporate networks and from and to CyberArk's SaaS products.

#### **7. Measures for the protection of data during storage**

Where possible in light of the services being provided to Customer, CyberArk encrypts Customer personal data it processes while at rest.

#### **8. Measures for ensuring physical security of locations at which personal data are processed**

CyberArk applies security measures to its offices and facilities that host servers that contain sensitive or critical information, including Customer personal data, ("Facilities") and limits access to these Facilities only to authorized personnel. These measures include:

- 24/7 monitoring and access control of these Facilities;
- CCTV cameras;
- Procedure to promptly disable any (1) lost access cards and; (2) identifiable badges no longer needed in case of employee termination.
- Policies and training of employees to secure workstations and prevent unauthorized disclosure of Customer personal data (e.g. screen locks and least privilege access).

#### **9. Measures for ensuring events logging**

We have put in place processes and policies to ensure that incidents are dealt with and logged in accordance with the following process:

- Identification,
- Classification,
- Reported to appropriate internal (and where required external) stakeholders,
- Mitigated and remediated throughout incident response stages including post-incident assessments.

#### **10. Measures for ensuring system configuration, including default configuration**

CyberArk develops, documents, and maintains under configuration control, a current baseline configuration for systems, and reviews these configurations at least annually. Default configurations of technical controls are removed prior of operational use.

#### **11. Measures for internal IT and IT security governance and management**

CyberArk has implemented policies and processes to ensure that roles and responsibilities regarding the management and monitoring of CyberArk's security requirements and procedures, are clearly determined. For example, CyberArk's organizational roles and responsibilities include the following roles:

- Chief Information Technology Officer;
- Director of Information Security;
- Product security managers and production services security managers.

#### **12. Measures for certification/assurance of processes and products**

CyberArk currently adopts industry practices to develop its products and services such as (but not limited to), Open Web Application Security Project (OWASP), Application Security Verification Standard (ASVS) and CSA Consensus Assessments Initiative Questionnaire (CAIQ).

In addition, CyberArk undergoes security audits on an annual basis and adheres to industry recognized security practices, such as ISO 27001:2013 and SOC 2 Type II as applicable, or other certificates or standards in line with industry practice.

#### **13. Measures for ensuring data minimization**

All of CyberArk's personnel are required to undergo onboarding and refresher training courses on information security and GDPR compliance. This includes specific modules about data minimization.

CyberArk's Internal Privacy Policy & Handbook also contains practical guidance for employees designed to ensure that the data they process is limited in scope and time to the extent which is necessary for the purpose of that processing.

CyberArk handles the data which customers provide to us. The extent of the processed data is determined and controlled by Customer in its sole discretion.

#### **14. Measures for ensuring data quality**

CyberArk handles the data which customers provide to us. CyberArk isn't responsible for the accuracy and quality of the data provided by Customers.

The quality of the data generated by CyberArk's products is ensured by the implementation of secure development practices. When introducing or modifying code, this includes:

- Peer-reviews of changes/new code;
- Examination by static code analysis;
- regression testing, prior to code being introduced into production, designed to identify any potential security vulnerabilities.
- Tracking in a source control system;
- Deployment into production environments by different personnel than the ones who developed such code;
- Logical or physical separation of environments for development, testing, and production.

#### **15. Measures for ensuring limited data retention**

CyberArk retains Customer Information only for as long as specified within the Agreement or Documentation, except to the extent that a longer retention period is required by applicable law or regulations.

CyberArk securely disposes of Customer personal data in accordance with applicable law and the Agreement, in a manner that Customer personal data cannot be read or reconstructed.

#### **16. Measures for ensuring accountability**

CyberArk's information security framework includes practices and procedures such as asset management, access management, physical security, people security, network security, third-party security, product security, vulnerability management, security monitoring and incident response. Information security policies and standards are approved by management and available to all CyberArk employees.

#### **17. Measures for allowing data portability and ensuring erasure**

Upon request, CyberArk may provide APIs for the purpose of data retrieval by Customers for our SaaS products. For certain of our products, Customer may also be able to directly retrieve and export Customer data via the product interface.

#### **18. For transfers to (sub-) processors, also describe the specific technical and organisational measures to be taken by the (sub-) processor to be able to provide assistance to the controller and, for transfers from a processor to a sub-processor, to the data exporter.**

Prior to engaging with a new third party that may have access to Customer personal data, CyberArk evaluates such third party's data security standards using a qualification risk assessment and, if necessary at CyberArk's reasonable determination, maintains ongoing oversight of such third party in order to meet its information security standards. This includes measures replicating CyberArk's own assistance obligations towards Customer as indicated under the Data Processing Addendum.

## ANNEX C

### STANDARD CONTRACTUAL CLAUSES - SUPPLEMENTARY TERMS TO PROVIDE ADDITIONAL SAFEGUARDS

1. This Annex is supplemental to, and should be read in conjunction with, the Standard Contractual Clauses. Any references to the 'Clauses' in this Annex should be read as references to the Standard Contractual Clauses.
2. The data subject can enforce, as third-party beneficiary, this Paragraph 2 and Paragraph 4 of this Annex against the data importer in accordance with Clause 3 of the Clauses.
3. The data importer shall reasonably assist the data exporter with the data exporter's continuing assessment of the adequacy of the protection of the personal data in accordance with the requirements of the applicable data protection law.
4. Upon receipt of any legally binding order or request for disclosure of the personal data by a law enforcement authority or other competent government authority, the data importer will, in accordance with and supplementing Clause 15 of the Clauses:
  - 4.1. use reasonable efforts to re-direct the relevant authority to request or obtain the personal data directly from the data exporter;
  - 4.2. in addition to promptly notifying the data exporter of the request or order pursuant to Clause 15.1(a) of the Clauses, use reasonable efforts to assist the data exporter in its efforts to oppose the request or order, if applicable; and
  - 4.3. in the event it is prohibited by applicable laws from notifying the data exporter of the request or order, use reasonable efforts to challenge such request or order.

## Exhibit 2

### CyberArk Rider to SaaS Terms of Service for FedRAMP Products

1. **Scope and Applicability.** This Rider (“**Rider**”) amends and supplements the CyberArk SaaS Terms of Service found at <https://www.cyberark.com/SaaS-Terms-of-Service.pdf> (“**SaaS Terms**”) solely with respect to CyberArk’s provision of CyberArk “FedRAMP Authorized” SaaS Products (“**FedRAMP Products**”) to U.S. Federal Government agencies (each, a “**Government Customer**”) and other entities (each, a “**Commercial Customer**”). Capitalized terms not otherwise defined herein shall have the meaning given to them in the SaaS Terms or the governing Federal Law, whichever is applicable. “**Federal Law**” shall mean all applicable federal statutes and regulations, including, but not limited to, the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101-7109), the Prompt Payment Act (31 U.S.C. §§ 3901-3907), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ)), 28 U.S.C. § 1498 (Patent and copyright cases), and the Federal Acquisition Regulation (“FAR”) 12.212(a). If a conflict occurs between this Rider, the SaaS Terms, and Federal Law the order of precedence shall be: (i) Federal Law (but only with respect to Government Customers), (ii) this Rider, and (iii) the SaaS Terms. This Rider shall only be applicable to purchases of FedRAMP Products and will not apply to SaaS Products which have not attained a “FedRAMP Authorized” designation.
2. **Terms for Government Customers.** For Government Customers purchasing FedRAMP Products either directly or indirectly, the terms and conditions in the SaaS Terms (as modified by the terms of this Rider) apply to the extent that they do not conflict with Federal Law. The SaaS Terms are amended for Government Customers as follows:
  - 2.1. **Advertisements and Endorsements.** Unless specifically authorized by the Government Customer in writing, use of the name or logo of the Government Customer is prohibited.
  - 2.2. **Assignment.** All clauses regarding assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing assignment in the SaaS Terms are hereby deemed to be deleted.
  - 2.3. **Changes to Work and Delays.** With regard to any changes or delays, such changes shall be subject to FAR 552.212-4 Contract Terms and Conditions – Commercial Items and Commercial Services (DEC 2022).
  - 2.4. **Updating terms.** After award, CyberArk may unilaterally revise the SaaS Terms or the terms of this Rider provided that the revisions are not material. A material change is any change that (a) alters the Government Customer’s rights or obligations, (b) increases prices, (c) decreases overall levels of service, or (d) limits any other Government Customer right addressed elsewhere in the Agreement. For revisions that will materially change the SaaS Terms or this Rider, the revisions must be incorporated into the Agreement using a bilateral modification.
  - 2.5. **Confidential Information.** Any provisions that require the Government Customer to keep certain information confidential are subject to the Freedom of Information Act, and any order by a Court with appropriate jurisdiction. The Government Customer may provide information to other components of the United States government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.). The SaaS Terms includes a confidentiality clause, and such clause is hereby amended to state that neither the SaaS Terms nor the contract price list, as applicable, shall be deemed “Confidential Information.” Issues regarding release of “unit pricing” will be resolved consistent with the Freedom of Information Act. Notwithstanding anything in this agreement to the contrary, the Government Customer may retain any confidential information as required by law, regulation or its internal document retention procedures for legal, regulatory or compliance purposes; provided, however, that all such retained confidential information will continue to be subject to the confidentiality obligations of this agreement.

**2.6. Consent to Government Law / Consent to Jurisdiction.** The validity, interpretation and enforcement of this Rider and the SaaS Terms will be governed by and construed in accordance with the laws of the United States. Any terms and conditions in the SaaS Terms that identify the jurisdiction in which a

lawsuit may be brought, the law which shall apply to such lawsuit, or the requirements to pursue any alternative dispute resolution prior to such lawsuit are deemed to be deleted. All clauses in the SaaS Terms referencing equitable remedies are deemed to be deleted.

**2.7. Force Majeure.** Subject to FAR 552.212-4(f) Contract Terms and Conditions – Commercial Items and Commercial Services, Excusable Delays (DEC 2022). Clauses in the SaaS Terms referencing unilateral termination rights of CyberArk are hereby deemed to be deleted.

**2.8. Future Fees or Penalties.** All of the SaaS Terms clauses that violate the Anti- Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government Customer from paying any fees, including reinstatement fees, interest fees or penalties beyond the fixed price contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access to Justice Act 31

U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted. Additional fees or penalties such as liquidated damages or license, maintenance or subscription reinstatement fees be incorporated into the contract only by bilateral written agreement of the Parties. For clarity, nothing here shall limit CyberArk’s right to sue for damages in case of breach of the SaaS Terms by the Government Customer according to the dispute process.

**2.9. Indemnitees.**

**2.9.1. Customer Indemnities.** All of the SaaS Terms clauses referencing customer indemnities and are hereby deemed to be deleted.

**2.9.2. Contractor Indemnities.** All of the SaaS Terms clauses that (1) violate DOJ’s right (28 U.S.C. 516) to represent the Government Customer in any case and/or (2) require that the Government Customer give sole control over the litigation and/or settlement, are hereby deemed to be deleted. The reference of sole control and settlement for indemnity claims are vested in the U.S. Department of Justice provided that: (i) CyberArk will not be bound by any settlement that the Government Customer enters into without CyberArk’s prior written consent, and (ii) the Government Customer shall bear all damages, losses, costs and expenses (including without limitation reasonable attorneys’ fees and expert witness costs) incurred or suffered under such claim. CyberArk shall have the right to intervene in the proceeding at its own expense through counsel of its own choice.

**2.10. Installation and Use of the SaaS Products.** Installation and use of the SaaS Products shall be in accordance with the Rider and SaaS Terms, unless a Government Customer determines that it requires different terms of use and CyberArk agrees in writing to such terms in a valid order placed by the Government Customer.

**2.11. Public Access to Information.** CyberArk agrees that the SaaS Terms and this Rider contain no confidential or proprietary information and acknowledges the SaaS Terms and this Rider will be available to the public.

**2.12. Renewals.** All of the SaaS Terms clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.

**2.13. Taxes.** Taxes are subject to FAR 52.212-4(k) (DEC 2022) and General Services Administration Acquisition Regulation (“GSAR”) 552.212-4 (w)(1)(x) Contract Terms and Conditions – Commercial Items and Commercial Services, Taxes (FAR Deviation – JAN 2023).

**2.14. Termination.** Clauses in the SaaS Terms referencing suspension, termination or cancellation of the SaaS Terms, the license, or the Government Customer’s account are hereby deemed to be deleted. Termination shall be governed by FAR 52.212-4 and the Contract Disputes Act, 41 U.S.C.

§§ 7101-7109, subject to the following exception:

2.14.1. CyberArk may request cancellation or termination of the SaaS Terms if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced above, or if such remedy is otherwise ordered by a United States Federal Court.

2.15. **Third Party Terms.** No entity shall have privity of contract with the United States with respect to any third-party product or service, referenced in the SaaS Terms unless expressly stated in the Government Customer's order. Absent agreement by the Government Customer to the contrary, third parties shall have no rights or obligations with respect to such agreements vis-à-vis the United States. Any third-party terms are subordinate to, and shall not take precedence over, the actual language agreed to in the Government Customer Order by the applicable contracting officer.

2.16. **Waiver of Jury Trial.** All clauses referencing waiver of jury trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the SaaS Terms are hereby deemed to be deleted.

2.17. **Continued performance.** CyberArk shall not unilaterally revoke, terminate or suspend any rights granted to the Government except as permitted by the SaaS Terms. If CyberArk believes the Government Customer to be in breach of the agreement, it shall pursue its rights under the Contract Disputes Act or other applicable Federal Law statute while continuing performance.

3. **FedRAMP Additional Terms.** For both Government Customers and Commercial Customers, the following terms shall apply, and shall take precedence over any contradicting terms in any CyberArk agreement or documentation unless a deviation specifically referencing this Section 3 ("FedRAMP Additional Terms") is agreed to in writing and signed by all applicable parties:

3.1. **Access to Non-U.S. Persons.** In order to provide Customers the required level of maintenance and support, including managing vulnerabilities and security incidents and providing third level support services, CyberArk shall be permitted to share relevant information originating from the FedRAMP Products with certain management and key CyberArk personnel who are non-U.S. persons, provided that the information shared shall be (i) limited in scope and detail solely to the necessary required for providing the services to the Customer; and (ii) using CyberArk organizational communication tools having appropriate security controls (such as Microsoft Teams which is part of a segregated Microsoft 365 tenant limited to CyberArk domain users only).

3.2. **Vulnerability Management.** All components of the FedRAMP Products within the FedRAMP boundary shall be subject to the FedRAMP requirements for vulnerability management. Any other component provided with the FedRAMP Products but that is outside the boundary (such as agents and connectors) shall be subject to CyberArk's Vulnerability Management Policy available at <https://www.cyberark.com/product-security/>.