



# Software License and Subscription Agreement (US version)

## Identity Automation, LP

This Identity Automation Software License and Subscription Agreement (“Agreement”) is dated and effective as of \_\_\_\_\_ (“Effective Date”), between Identity Automation, LP, a Texas limited partnership, located at 7102 N Sam Houston Pkwy W, Suite 300, Houston Texas 77064 (“Identity Automation”) and \_\_\_\_\_ (“Company”).

Definitions of terms used herein are set forth in Section 11.

In consideration of the mutual promises set forth in this Agreement, the Fees, and for other good and valuable consideration, the parties hereby consent and agree as follows:

### 1. Software License.

1.1. Subscription Rights to Use. During the Subscription Term, Identity Automation grants to Company a non-exclusive, revocable, non-transferable license to install (at Company’s facility or at a Company-controlled space within a third-party data center) and use the Software, solely for Company’s provision of identity and access management services to its end users, in accordance with the terms and conditions set forth in this Agreement. Company’s use of the Software is limited to the number of Subscription Users for which Company has paid the applicable Fees.

1.2. Reservation of Rights. All rights not expressly granted to Company are reserved by Identity Automation and its licensors.

1.3. Support Levels. Identity Automation shall provide Company with the level of support purchased by Company and specified in the applicable Order Form. Support services will be provided pursuant to Appendix A: Support SLA in the Proposal. Identity Automation reserves the right, from time to time, to modify any of the support levels offered.

1.4. Company Responsibilities. Company shall: (a) be responsible for all Subscription Users’ compliance with the Agreement, (b) promptly notify Identity Automation of any increase in the number of Subscription Users, (c) be solely responsible for the accuracy, integrity, and legality of Company Data and the means by which it acquires and uses such Company Data, (d) use the Identity Automation Product in accordance with applicable laws, rules, regulations (including, without limitation, export, data protection and privacy laws, rules and regulations) and any Identity Automation Product documentation, and (e) notify Identity Automation immediately of any unauthorized possession of, use of, or access to, the Identity Automation Product or any other materials provided by Identity Automation to Company.

1.5. Restrictions. Company shall not, directly or indirectly: (a) sublicense, resell, rent, lease, distribute, market, commercialize or otherwise transfer rights or usage to the Identity Automation Product or any modified version or derivative work of the Identity Automation Product created by or for Company, (b) provide the Identity Automation Product, or any modified version or derivative work of the Identity Automation Product created by or for Company, on a timesharing, service bureau, service provider or other similar basis, (c) remove or alter any copyright, trademark or proprietary notice in the Identity Automation Product, (d) reverse engineer, decompile, or disassemble the Identity Automation Product (or permit or instruct third parties to do so), (e) copy any features, functions or graphics of the Identity Automation Product for any purpose other than what is expressly authorized in this Agreement, (f) use the Identity Automation Product in any way that would subject the Identity Automation Product, in whole in or in part, to a Copyleft License, or (g) send or store spam, unlawful, infringing, obscene, or libelous material, or Malicious Code.

## 2. Proprietary Rights.

2.1. Identity Automation Intellectual Property. Company agrees that Identity Automation and its suppliers own all Intellectual Property Rights in and to the Identity Automation Product, including but not limited to any configuration, modifications, enhancements, or other customization developed or provided by the Company. This Agreement does not convey or transfer any ownership rights in the Identity Automation Product, or any Intellectual Property Rights therein, to Company. Identity Automation's name, logo, trade names and trademarks, including but not limited to, RapidIdentity products (RapidIdentity Portal, RapidIdentity Connect, RapidIdentity Federation, RapidIdentity Folders, RapidIdentity eSSO, RapidIdentity MFA, RapidIdentity Appliance, RapidIdentity Server, RapidIdentity Proxy, RapidIdentity Windows Client, RapidIdentity Mac Client, RapidIdentity Mobile Client, RapidIdentity Depot) are owned by Identity Automation, and no right is granted to Company to use any of the foregoing except as expressly permitted herein. Identity Automation and its suppliers reserve all rights, title, and interest in and to all copies of the Identity Automation Product. For clarity, Company recognizes and agrees that Identity Automation owns all Intellectual Property Rights in and to all documentation, manuals and training materials provided by Identity Automation to Company. Company shall keep every item to which Identity Automation retains title (including the Identity Automation Product) free and clear of all claims, liens and encumbrances (except those of Identity Automation), and any act of Company, voluntary or involuntary, purporting to create a claim, lien or encumbrance on such items shall be void. For clarity, the Identity Automation Product and all other rights granted under this Agreement are for the sole use of Customer and its Subscription Users.

2.2. Ownership of Company Data; License. As between Company and Identity Automation, Company owns all Intellectual Property Rights in and to the Company Data. Company hereby grants a license to Identity Automation to access, use and manipulate the Company Data only to the extent necessary to perform its obligations under this Agreement.

2.3. Suggestions. Identity Automation shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use, copy, modify, or distribute, including by incorporating into any product or service owned by Identity Automation, any suggestions, enhancement requests, recommendations or other feedback provided by Company and/or any of its Subscription Users, relating to any product or service owned by Identity Automation.

## 3. Fees and Payment.

3.1. Fees. Fees are as set forth in the applicable Order Form. Except as otherwise provided in an Order Form, fees set forth in each Order Form hereunder will be: (i) fixed during the Subscription Term set forth in such Order Form; (ii) invoiced upon the Order Form date or upon Identity Automation's acceptance of a purchase order, as applicable; (iii) quoted and payable in United States dollars; (iv) based upon the number of Subscription User licenses purchased, even if actual usage is lower; (v) non-cancelable and non-refundable.

3.2. Additional Subscription Users. Subscription Users added under a specific Order Form during a month will be charged for that full monthly period and each of the monthly periods remaining in the then-current Subscription Term set forth on such Order Form at the Subscription User fee set forth on such Order Form. The number of Subscription Users purchased under a specific Order Form cannot be decreased during the relevant Subscription Term set forth on such Order Form.

3.3. Renewal. Except as otherwise set forth in an Order Form, the Subscription Term of an Order Form shall automatically renew for additional one year terms, unless either party gives the other written notice of non-renewal at least 90 days prior to the end of the relevant Subscription Term. All fees will be due annually in advance 30 days prior to the applicable anniversary date, and any pricing or Subscription User changes for such renewal term will be reflected on such Identity Automation invoice. Identity Automation reserves the right to modify the fees set forth in a specific Order Form in connection with Subscription Term renewal of such Order Form in an amount not to exceed 5% per year.

3.4. **Reporting.** Upon Identity Automation's request, Company shall provide Identity Automation with a written report in a mutually-agreed-upon format regarding the number of Company's Subscription Users. For avoidance of doubt, Subscription Users accounts are specific to individual Subscription Users, and under no circumstance may Subscription Users accounts be shared among or by different Subscription Users.

3.5. **Payment.** Company shall pay all fees specified in all Order Forms within 30 days from the date of Identity Automation's invoice. Notwithstanding the foregoing, if Company purchases subscriptions through an Identity Automation Authorized Reseller and such Identity Automation Authorized Reseller's order form or invoice includes different payment terms, the Identity Automation Authorized Reseller's payment terms shall prevail. Company agrees to provide Identity Automation with complete and accurate billing and contact information.

3.6. **Overdue Charges.** Identity Automation reserves the right to add a charge for late payments of fees; such late charge shall not exceed 1.5% of the total Fees per month, or the maximum rate permitted by law.]

3.7. **Taxes.** Unless otherwise provided or as required by the applicable jurisdiction, all fees do not include Taxes, and Company is responsible for paying all Taxes associated with its purchases hereunder, excluding any Taxes based on Identity Automation's net income or property. If a certificate of exemption or similar document or proceeding is to be made in order to exempt the sale from sales or use tax liability, Company shall obtain or pursue such certificate, document or proceeding.

3.8. **Audit.** Company shall maintain accurate records (including, without limitation, the reports described above in Section 3.4) necessary to verify the number of Subscription Users. Upon Identity Automation's or its third party appointee's written request, Company shall provide Identity Automation or its third party appointee with such records within ten (10) days. If Company has more Subscription Users than Company has paid for, Company shall immediately pay the applicable fees for such additional Subscription Users, commencing on the Effective Date of the applicable Order Form.

#### **4. Term and Termination.**

4.1. **Term.** This Agreement commences on the Effective Date and continues until the Subscription Term and all Order Forms have expired or been terminated. An Order Form commences on the effective date of the Order Form and continues for the Subscription Term specified in such Order Form.

4.2. **Termination for Incurable Breach.** The Agreement shall terminate immediately if Company violates Section 1.5(f).

4.3. **Termination by Company or Identity Automation.** Either party may terminate this Agreement prior to the end of a Subscription Term if the other party: (i) materially breaches its obligations hereunder and, where such breach is curable, such breach remains uncured for thirty (30) days following written notice of the breach or (ii) becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors and such petition or proceeding is not withdrawn or otherwise terminated within thirty (30) days of its initiation.

4.4. **Effect of Termination; Surviving Provisions.** Upon any termination or expiration of this Agreement, Company shall immediately cease all use of the Identity Automation Product and shall return to Identity Automation or destroy all Identity Automation Confidential Information in its possession in accordance with Section 5.2. Company's obligation to make a payment of any outstanding, unpaid fees, the defined terms used in the Agreement and the terms of Sections 1.5, 2, 3, 4.4, 5, 6.2, 7, 8, 9, 10 and 11 shall survive termination or expiration of this Agreement.

#### **5. Confidentiality.**

5.1. **Confidentiality.** The Receiving Party will not disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except (a) to those employees, representatives, or contractors of the Receiving Party who require access to the Confidential Information to exercise its rights under this Agreement and who are bound by written

agreement not to disclose third-party confidential or proprietary information disclosed to such party, or (b) as such disclosure may be required by law or governmental regulation, subject to the Receiving Party providing to the Disclosing Party written notice to allow the Disclosing Party to seek a protective order or otherwise prevent the disclosure. Nothing in this Agreement will prohibit or limit the Receiving Party's use of information (a) previously known to it without obligation of confidence, (b) independently developed by or for it without use of or access to the Disclosing Party's Confidential Information, (c) acquired by it from a third party that is not under an obligation of confidence with respect to such information, or (d) that is or becomes publicly available through no breach of this Agreement. The Receiving Party acknowledges the irreparable harm that improper disclosure of Confidential Information may cause; therefore, the injured party is entitled to seek equitable relief, including temporary restraining order(s) or preliminary or permanent injunction, in addition to all other remedies, for any violation or threatened violation of this Section. The structure, sequence and organization of the Identity Automation Product are Confidential Information of Identity Automation or its licensors.

5.2. Destruction. Within five (5) days after a Disclosing Party's request, or upon any termination or expiration of this Agreement, the Receiving Party shall return or destroy the Disclosing Party's Confidential Information.

## 6. Warranties, Exclusive Remedies and Disclaimers.

6.1. Identity Automation Warranties. Identity Automation warrants that (i) the Support Services will be performed in a manner consistent with general industry standards; (ii) for a period of ninety (90) days following its delivery, the Identity Automation Product as originally delivered to Company shall perform materially in accordance with the online user guide for the applicable Identity Automation Product. For any breach of either warranty, Company's sole and exclusive remedy shall be to terminate the Agreement pursuant to Section 4.3 and, notwithstanding anything to the contrary in Section 3.1 of the Agreement, have Identity Automation refund to Company the pro rata unused portion of any pre-paid subscription fees.

6.2. Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE IDENTITY AUTOMATION PRODUCT IS PROVIDED TO COMPANY STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES AND SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO COMPANY.

## 7. Limitation of Liability.

IN NO EVENT SHALL IDENTITY AUTOMATION BE LIABLE, WHETHER BASED UPON CONTRACT, INDEMNITY, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (EVEN IF IDENTITY AUTOMATION HAS BEEN ADVISED OF OR COULD HAVE REASONABLY FORESEEN THE POSSIBILITY OF SUCH DAMAGES), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE, PROFITS OR BUSINESS, COSTS OF DELAY, COSTS TO COMPANY OR OTHERS ARISING UNDER OR RELATED TO THIS AGREEMENT. IDENTITY AUTOMATION'S AGGREGATE LIABILITY FOR ANY OTHER DAMAGES SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY COMPANY TO IDENTITY AUTOMATION UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE ACT OR OMISSION GIVING RISE TO THE LIABILITY. THE FOREGOING SHALL NOT LIMIT COMPANY'S PAYMENT OBLIGATIONS UNDER SECTION 3.

## 8. Indemnity.

8.1. By Identity Automation. Identity Automation shall defend Company from any third party action, suit or proceeding brought or made against Company alleging that the Software or Company's use of the Software infringes any United States patent or United States federally registered copyright and Identity Automation shall pay any expenses incurred by Company (including reasonable attorneys' fees) and any final judgment entered against Company in any such proceeding or agreed to in settlement, provided that (a) Identity Automation is promptly notified in writing of such action,

suit or proceeding, (b) Identity Automation or its designee is given sole control of such defense and all related settlement negotiations, and (c) Company gives all information and assistance reasonably requested by Identity Automation or such designee. If any such action, suit or proceeding is brought or threatened, or if Identity Automation believes any such action, suit or proceeding is imminent, Identity Automation may, at its option, (i) procure for Company the right to use the Software, or (ii) replace the Software with other suitable products that provide substantially similar functionality. In the event Identity Automation determines that Company will require rights from a third party to use the Software and Identity Automation is unable to procure such rights for Company or replace the Software with products that provide substantially similar functionality, and in lieu of the foregoing indemnity, Identity Automation shall have the option of refunding a pro-rata portion of the then-current Fee(s) paid by Company for the Software or the affected part thereof. Identity Automation shall have no liability under this Section 8 or otherwise to the extent a claim or suit is based upon (a) use of the Software in combination with software or hardware not provided by Identity Automation, if infringement would have been avoided in the absence of such combination, (b) modifications to the Software not made by Identity Automation, if infringement would have been avoided by the absence of such modifications, (c) use of any version other than a current release of the Software, if infringement would have been avoided by use of a current release, or (d) any action or omission of Company for which Company is obligated to indemnify Identity Automation under Section 8.2 below.

THIS SECTION 8 STATES IDENTITY AUTOMATION'S ENTIRE LIABILITY AND COMPANY'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT AND MISAPPROPRIATION CLAIMS BASED ON THE SOFTWARE OR SERVICES OR BOTH.

8.2. **By Company.** Company shall defend Identity Automation from any third party action, suit or proceeding brought or made against Identity Automation arising out of: (i) any breach of Sections 1.4 or 1.5 of this Agreement by Company, its affiliates, employees agents, successors and assigns or Company Customers; or (ii) relating to or based upon Company Data or the activities conducted by Company using the Software (other than the normal, ordinary, and intended uses of the Software), and Company shall pay any final judgment entered against Identity Automation in any such proceeding or agreed to in settlement; or (iii) any warranties or service level commitments made by Company to third parties, provided that (a) Company is promptly notified in writing of such claim or suit, (b) Company or its designee has sole control of such defense and/or settlement, and (c) Identity Automation gives all information and assistance requested by Company or such designee.

## 9. **United States Government Users.**

9.1. **Commercial Computer Software.** The Identity Automation Product is "Commercial Computer Software," as that term is defined in 48 C.F.R. 2.101, and as the term is used in 48 C.F.R. Part 12, and is a Commercial Item comprised of "commercial computer software" and "commercial computer software documentation".

9.2. **United States Federal Civilian Government Entities.** If Company is a federal civilian government entity, Identity Automation provides the Identity Automation Product, for ultimate federal government end use solely in accordance with the license rights customarily provided to the public as defined in this "standard" or "customary" commercial license Agreement, as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulation ("FAR") and its successors.

9.3. **United States Department of Defense Agencies.** If Company is any agency within the Department of Defense ("DOD"), Identity Automation provides the Identity Automation Product, for ultimate federal government end use solely in accordance with the license rights customarily provided to the public as defined in this "standard" or "customary" commercial Agreement, as specified in 48 C.F.R. §§227.7202-3 and 48 C.F.R. §§227.7202-4 of the DOD FAR Supplement ("DFARS") and its successors, and consistent with 48 C.F.R. 227.7202. This Government Users clause, consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202, is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software, computer software documentation or technical data related to the Identity Automation Product under this Agreement and in any subcontract under which this commercial computer software and commercial computer software documentation is acquired or licensed.

## 10. General.

10.1. Publicity. Identity Automation may include Company's name and logo in customer lists on its website and/ or in its marketing collateral. Company also agrees to: (i) serve as a reference for Identity Automation; (ii) host onsite reference visits for potential Identity Automation customers; (ii) collaborate on press releases announcing or promoting the relationship with Identity Automation; and (iii) collaborate on case studies or other marketing collateral for Identity Automation. Company shall not use Identity Automation's name or logo or any other Identity Automation trademarks, service marks, logos or slogans, without Identity Automation's prior written consent. Any other verbal or written public statement made by Company about Identity Automation (other than a public filing or statement required by law) shall be approved by Identity Automation in advance in writing.

10.2. Export Compliance. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Identity Automation Product. Without limiting the foregoing, (i) each of Identity Automation and Company represents that it is not named on any U.S. government list of person or entities prohibited from receiving exports, and (ii) Company shall not permit Subscription Users to access and/or use the Identity Automation Product in violation of any U.S. export embargo, prohibition, or restriction.

10.3. Assignment. Company may not assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Identity Automation. Any attempted assignment in breach of this section shall be void. This Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns.

10.4. Relationship of the Parties. Identity Automation and Company are independent contractors, and nothing in this Agreement or any attachment hereto will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties.

10.5. No Third-Party Beneficiaries. There are no third party beneficiaries to this Agreement.

10.6. Choice of Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of Texas and the federal U.S. laws applicable therein, excluding its conflicts of law provisions. Company and Identity Automation agree to submit to the personal and non-exclusive jurisdiction of the state courts located in Harris County, Texas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.

10.7. Attorneys' Fees. The prevailing party in any legal action regarding the subject matter of this Agreement shall be entitled to recover, in addition to other relief, reasonable attorneys' fees and expenses at trial and on appeal.

10.8. Manner of Giving Notice. Notices regarding this Agreement shall be in writing and addressed to Company at the address Company provides, or, in the case of Identity Automation, when addressed to Identity Automation, LP, Attn: Chief Financial Officer at the address first appearing in this Agreement, or such other address as Identity Automation may provide to Company. Notices shall be deemed delivered (i) on the day of delivery, if delivered by hand during business hours; (ii) two business days after sending if delivered by a reputable and recognized overnight courier, (iii) upon the addressee's confirmation of receipt if sent by email. Notices regarding the Identity Automation Product in general may be given by electronic mail to Company's e-mail address on record with Identity Automation and such notice shall be deemed to have been delivered twelve (12) hours after sending.

10.9. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to circumstances beyond such party's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (excluding those involving such party's employees), service disruptions involving hardware, software or power systems not within such party's reasonable control, and denial of service attacks.

10.10. Amendment and Waiver. No amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed (either manually or electronically) by an authorized representative of Company and Identity

Automation. To the extent of any conflict between these terms and conditions (as may be modified by an amendment signed by Company and Identity Automation) and any other schedule or attachment hereto, these terms and conditions (as may be modified by an amendment signed by Company and Identity Automation) shall prevail unless expressly stated otherwise. Notwithstanding any language to the contrary therein, and except as set forth in Section 3.5, no terms stated in a purchase order or in any other order document (other than an Order Form expressly incorporated herein) shall be incorporated into this Agreement, and all such terms shall be void. For purposes of clarity, no conflicting or additional terms contained in any Company purchase order shall apply, even if the purchase order is accepted by Identity Automation, and the terms of this Agreement shall govern any such order. No failure or delay in exercising any right hereunder shall constitute a waiver of such right. Except as otherwise provided, remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

10.11. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect.

10.12. **Entire Agreement.** This Agreement (including all Exhibits and Order Forms) is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes all prior discussions and agreements between the parties with respect to the subject matter hereof. In case of any conflict between the terms of this Agreement and any Exhibit(s) or Order Form(s) hereto, the terms of this Agreement shall govern.

## 11. Definitions.

11.1. **“Accepting”** means clicking “accept” or signing (either manually or electronically) and, if applicable, returning a manually-signed Order Form issued to you by Identity Automation.

11.2. **“Additional Terms”** means any additional terms and conditions relating to Company’s use of the Software as are specified in an Order Form or any other exhibit to this Agreement or otherwise in writing by Identity Automation.

11.3. **“Affiliate”** means a company that is Controlled by, under common Control with or Controlling the Company during the period of such control.

11.4. **“API”** means an application programming interface provided by Identity Automation as part of the Identity Automation Product, which sets forth rules and specifications that may be used to access Company Data in accordance with this Agreement.

11.5. **“Company Data”** means any data, information or material submitted by Company to, or stored by Company in, a database related primarily to a Identity Automation Product.

11.6. **“Confidential Information”** means information that one party (the “Disclosing Party”) provides to the other party (“Receiving Party”) during the term of this Agreement that is identified in writing at the time of disclosure as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes all the Software, documentation and related materials provided by Identity Automation to Company.

11.7. **“Control”** means ownership, directly or indirectly, of more than 50% of the voting securities that vote for the election of the board of directors or other managing body.

11.8. **“Copyleft License”** means a software license that requires that information necessary for reproducing and modifying such software must be made available publicly to recipients of executable versions of such software (see, e.g., GNU General Public License and <http://www.gnu.org/copyleft/>). [Alternative definition to consider: means a software license that includes as a term thereof any requirement for distribution of source code to licensees or third parties, patent license requirements on distribution, restrictions on future patent licensing terms, or other abridgement or restriction of the exercise or enforcement of any intellectual property rights through any means, including, without limitation, software licensed or distributed under the GNU General Public License (GPL).

11.9. “**Identity Automation**” means Identity Automation, LP

11.10. “**Identity Automation™ Authorized Reseller**” means an Identity Automation Product reseller that is in good standing with Identity Automation under a fully-executed Identity Automation reseller agreement and is associated with an Order Form under this Agreement.

11.11. “**Identity Automation Product**” means the Software as applicable, including associated APIs, that is ordered by Company under an Order Form and which is installed by Company or Company’s agent at Company’s premises or at a Company-controlled space within a third party data center.

11.12. “**Intellectual Property Rights**” means any and all intellectual property rights and other proprietary rights in any jurisdiction, whether registered or unregistered, including all rights and interests pertaining to or deriving from: patents and applications therefor, inventions, discoveries and improvements (whether or not patentable), works of authorship and other copyrightable subject matter (whether or not published), copyrights, trademarks, service marks, trade names, logos, slogans, domain name rights, trade secret rights, know-how, proprietary information, and all other intellectual property rights.

11.13. “**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs.

11.14. “**Order Form**” means any Identity Automation Subscription Order Form, or Purchase Order that is entered into between Identity Automation and Company or Company and an Identity Automation Authorized Reseller, as applicable, from time to time. Each Order Form contained in a Proposal as Appendix C, or Purchase Order is deemed incorporated herein by reference.

11.15. “**Proposal**” means the Identity Automation proposal document provided with an Identity Automation quote for software, services, and support including all Appendices. The Proposal is incorporated herein by reference as Exhibit A.

11.16. “**Software**” means all or any part of the RapidIdentity products (RapidIdentity Portal, RapidIdentity Connect, RapidIdentity Federation, RapidIdentity Folders, RapidIdentity eSSO, RapidIdentity MFA, RapidIdentity Appliance, RapidIdentity Server, RapidIdentity Proxy, RapidIdentity Windows Client, RapidIdentity Mac Client, RapidIdentity Mobile Client, RapidIdentity Depot), including but not limited to all source code, object code, algorithms, compilations and data, and all versions, updates, corrections, enhancements, and modifications thereto, and all related documentation, developer notes, comments, training materials and annotations thereto.

11.17. “**Subscription Term**” means the period of time during which Company may use and receive support for the applicable Identity Automation Product, as set forth in an Order Form. Each Subscription Term will last either three, five or seven years, as specified on an Order Form.

11.18. “**Subscription User**” means an individual authorized by Company to use the applicable Identity Automation Product, for whom a subscription has been purchased and who has been given a unique user identification.

11.19. “**Support Services**” means the support services to which Company is entitled as part of its subscription and that are described in Appendix A: Support SLA in the Proposal.

11.20. “**Taxes**” means any direct or indirect local, municipal, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including VAT (subject to reverse charge), GST (subject to reverse charge), excise, sales, use or withholding taxes, now in force or enacted in the future.



**EXHIBIT A**

**Identity Automation Proposal**