

## **OKTA ACCESS GATEWAY: EARLY ACCESS PROGRAM TERMS OF SERVICE**

These Terms of Service (“Terms of Service”) are between Okta, Inc. (“Okta”) and the entity (hereinafter “Customer”) identified in the applicable Order Form by which this Agreement is governed. These Terms of Service and the Order Form are collectively referred to hereinafter as the “Agreement”. Capitalized terms used in these Terms of Service not otherwise defined herein have the meanings given to them in the Order Form, as applicable. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement and (3) any documentation related to Okta’s performance under this Agreement, including but not limited to documentation published at <https://www.okta.com/trustandcompliance/OAG-EAP> (collectively, the “Documentation”).

### **1. SERVICE OFFERING**

(a) Access Grant. Upon Customer’s execution or acceptance of the applicable Order Form and payment of all required fees therein, Okta grants Customer the right to access and use the Okta Access Gateway software and services (collectively, the “Services”) ordered by Customer in such Order Form solely for Customer’s internal business purposes, subject to the terms set forth in this Agreement and in accordance with the Documentation made available by Okta. This right is non-transferable and non-exclusive. Okta reserves the right to modify or improve portions of the Services so long as Customer’s access and use of the Services is not materially adversely affected.

(b) Other Software. To the extent Okta provides Customer any software (collectively, the “Software”), Okta grants to Customer a limited, revocable, non-exclusive, non-transferable and non-sublicensable license to install, access, and use such Software solely in connection with Customer’s access and use of the Services in accordance with this Agreement and the Documentation made available by Okta. Customer will promptly uninstall and destroy all copies of such Software at the end of the applicable Subscription Term (defined below) for the Services, upon termination of the Agreement, or upon Okta’s request, whichever is sooner.

(c) Necessary Equipment. Other than as may be provided by Okta in its discretion, Customer will be solely responsible, at Customer’s expense, for acquiring, installing, and maintaining all connectivity equipment, hardware, third party software, and other equipment as may be necessary to connect to, access and use the Services. Customer will comply with Okta’s then-current minimum hardware, equipment, and infrastructure requirements for access to and use of the Services that may be disclosed to Customer by Okta.

(d) Restrictions on Use. In no event will Customer: (i) reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or underlying trade secrets, ideas, or algorithms of any of the software comprising any part of the Services; (ii) lease, distribute, license, sell or otherwise commercially exploit any of the Services or make the Services

available to a third party other than as contemplated in this Agreement and/or the Documentation, including but not limited to using the Services for timesharing, service bureau, or other similar purposes; (iii) use the Services on behalf of any third parties; (iv) tamper with other customer accounts of Okta; (v) attempt to gain unauthorized access to the Services or its related systems or networks; (vi) access or use the Service for the purpose of developing a competing product or service; (vii) enter any data into the Services whereby the provision of such data is unlawful; (viii) use the Services in violation of any applicable law or regulation; (ix) permit anyone else, to engage, directly or indirectly, in any of the activities described in the foregoing subparts (i) through (ix). All the limitations and restrictions on use of the Services in this Agreement will also apply to any Software and Documentation that is part of or provided through the Services (together with the Services and Confidential Information (defined below), collectively, the "Okta Materials"). Okta may restrict or prohibit use of or access to the Services if Customer fails to make payment of fees when due or Okta reasonably suspects that any use or access of the Services is or may be in breach of this Agreement.

(e) Customer Obligations. Customer will: (i) provide Okta with all information and assistance required to provide the Services and enable Customer's use of the Services; (ii) immediately notify Okta of any unauthorized use, copying, distribution, or other suspected security breach in connection with the Services; (iii) not send to Okta or otherwise use any data, information, materials or other Data ("Customer Data") in connection with the Services or this Agreement that is illegal, immoral, obscene, threatening, libelous, otherwise unlawful or tortious, otherwise protected by any intellectual property or proprietary right of any third party, or for which it does not own or has not procured sufficient license, right, consent and permission to copy, disclose, store, broadcast, transmit, or otherwise use in connection with the Services and this Agreement; (iv) be responsible for all activity that occurs in Customer's or its users' accounts (and any transactions completed under Customer's accounts will be deemed to have been lawfully completed by Customer); and (v) be responsible for ensuring that it obtains all consents, permissions, and licenses for any and all Customer Data that is owned or controlled by third parties that Customer copies, discloses, stores, transmits, broadcasts or otherwise uses in connection with the Services.

## **2. PAYMENT**

(a) Fees. Customer shall pay Okta the fees set forth in the applicable Order Form ("Fees") in accordance with this Agreement and the Order Form. If not otherwise specified on an Order Form, Fees will be due within thirty (30) days of date of invoice. Except as otherwise specifically provided in this Agreement, all Fees paid and payable to Okta hereunder are non-cancelable and non-refundable. If Customer fails to pay any amounts due under this Agreement by the due date, in addition to any other rights or remedies it may have under this Agreement or by matter of law, (i) Okta reserves the right to suspend the Services upon thirty (30) days written notice, until such amounts are paid in full, and (ii) Okta will have the right to charge interest at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate

permitted by applicable law until Customer pays all amounts due; provided that Okta will not exercise its right to charge interest if the applicable charges are under reasonable and good faith dispute and Customer is cooperating diligently to resolve the issue.

(b) Taxes. Fees do not include any local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder (excluding taxes based on Okta's net income or property) unless Customer provides Okta with a valid tax exemption certificate authorized by the appropriate taxing authority. The limitations set forth in Section 6(b) shall not apply to Customer's payment obligations under Section 6(a).

### **3. TERM; TERMINATION**

(a) Term. The subscription period for the Services will be specified in the applicable Order Form, and if none is specified therein, then it will be for the length of time for which Customer has paid the applicable fees (the "Subscription Term").

(b) Termination. Either party may terminate this Agreement by written notice to the other party in the event that (i) such other party materially breaches this Agreement and does not cure such breach within thirty (30) days of such notice, or (ii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Upon any termination for cause by Customer pursuant to this section, Okta will refund Customer a pro-rata portion of any prepaid fees that cover the remainder of the applicable Order Form Subscription Term after the effective date of termination.

(c) Suspension. Okta may suspend the Services: (a) if Okta considers it necessary to prevent or terminate any actual or suspected use of the Services in violation of this Agreement; or (b) upon notice to Customer if (i) Customer commits a material breach of this Agreement, (ii) Okta reasonably determines that Customer's use of the Services is in excess of the license metrics paid for by Customer in the Order Form, or (iii) if there is a threat to the security and integrity of the hosted environment for the Services. Suspension of Services will be without prejudice to any rights or liabilities accruing before or during the suspension, including Customer's obligation to pay fees.

(d) Effect of Termination. Upon expiration or termination of this Agreement for any reason: (i) any fees, expenses and other amounts accrued and owed to Okta prior to termination or expiration of this Agreement will be immediately due and payable; (ii) all Customer access to the Services and licenses granted will immediately terminate and Customer shall no longer use the Services; (iii) Okta will have no obligation to maintain any Customer Data stored on behalf of

Customer or to forward any Customer Data to any third party; (iv) at Okta's written request, Customer shall certify to Okta the return or destruction of

(e) Survival. The following Sections will survive termination of this Agreement: the second sentence of 1(b), 1(d), and 2 through 12.

#### **4. CONFIDENTIAL INFORMATION**

For the purposes of this Agreement, "Confidential Information" means any information disclosed by Okta to Customer or its users, or any Okta information, data, Software, or other materials that, under the circumstances of disclosure, would be reasonably understood to be considered confidential, including technical data, trade secrets, know-how, research, inventions, processes, designs, drawings, marketing plans, financial information, including but not limited to the Okta Materials. Customer will: (i) hold in strict confidence all Confidential Information; (ii) use the Confidential Information only to perform or to exercise its rights under this Agreement; and (iii) not transfer, display, convey or otherwise disclose or make available such Confidential Information to any person or entity except to the directors, officers, employees, agents, contractors, accountants, auditors and legal and financial advisors of Customer who need to know such Confidential Information, who are under confidentiality obligations substantially similar as those set forth hereunder, and whose handling and treatment of the Confidential Information in accordance with this Agreement is Customer's full responsibility. Customer will use at least the same degree of care to protect the Confidential Information as it uses to protect its own confidential information of like nature, but Customer will use at least reasonable care. Customer may disclose the Confidential Information in response to a valid court order, law, rule, regulation, or other governmental action provided that (x) Customer notifies Okta in writing prior to disclosure of the information in order to provide Okta a reasonable opportunity to obtain a protective order, and (y) Customer assists Okta in any attempt to limit or prevent the disclosure of the Confidential Information. Customer will promptly notify Okta in the event of any unauthorized use or disclosure of the Confidential Information. Customer agrees that Okta may have no adequate remedy at law if there is a breach or threatened breach of this Section 4 and, accordingly, that Okta will be entitled to injunctive or other equitable relief to prevent or remedy such a breach in addition to any legal remedies available to Okta. The obligations in this Agreement with respect to Confidential Information will not apply to any information that would otherwise constitute Confidential Information but that which: (i) is publicly known and made generally available in the public domain without breach of any obligation of confidentiality or restriction on disclosure; or (ii) is in the possession of Customer without breach of any obligation of confidentiality or restriction on disclosure at the time of disclosure by Okta.

#### **5. OWNERSHIP**

Okta will own all intellectual property and other rights in and to the Okta Materials. Unless explicitly stated herein, nothing in this Agreement will be construed as conferring any right or

license to such rights, whether by estoppel, implication or otherwise, and Customer acknowledges that it has no ownership interest in the Okta Materials, or any derivatives, modifications, upgrades, updates, new versions, fixes, improvements or enhancements thereof or thereto. Customer hereby assigns to Okta any rights, title and interest, including all intellectual property rights, in any feedback, derivative works, modifications, enhancements, or improvements related to the Okta Materials.

## **6. SECURITY ASSURANCES; WARRANTIES; DISCLAIMER**

(a) Okta shall ensure that it adheres to the security practices set forth at <https://www.okta.com/trustandcompliance/OAG-EAP> with respect to the Services.

(b) Customer Warranties. Customer represents and warrants that (i) it has the full corporate power and authority to enter into this Agreement and perform its obligations hereunder; (ii) it has the necessary rights to enter into this Agreement and perform its obligations hereunder; (iii) this Agreement is a binding obligation upon it and, when executed by both parties, is enforceable in accordance with its terms; (iv) it will comply with all applicable laws, rules and regulations in the course of performing its obligations and exercising its rights under this Agreement; and (v) any Customer Data provided to Okta or otherwise used by either party in connection with this Agreement will not infringe, misappropriate or otherwise violate any right of any third party.

(c) Disclaimer. EXCEPT AS OTHERWISE SET FORTH HEREIN, ALL SERVICES, SOFTWARE AND OTHER OKTA MATERIALS PROVIDED BY OKTA ARE PROVIDED TO CUSTOMER "AS-IS" AND OKTA MAKES NO, AND DISCLAIMS ALL, REPRESENTATIONS AND WARRANTIES, AND CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. OKTA DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL BE DELIVERED FREE OF ANY INTERRUPTIONS, DELAYS, OMISSIONS OR ERRORS OR IN A SECURE MANNER. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAY AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. OKTA IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR ANY LOSS OF DATA OR DAMAGES RESULTING THEREFROM. THE SERVICES MAY CONTAIN INDEPENDENT THIRD PARTY PRODUCTS AND RELY ON THEM TO PERFORM CERTAIN FUNCTIONALITY IN CONNECTION WITH THE SERVICES. OKTA MAKES NO WARRANTY AS TO THE OPERATION OF ANY THIRD PARTY PRODUCTS OR THE ACCURACY OF ANY THIRD PARTY INFORMATION. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY OKTA OR ITS AUTHORIZED REPRESENTATIVES WILL CREATE ANY WARRANTY.

## **7. INDEMNIFICATION**

Customer will defend, indemnify, and hold harmless Okta, its affiliates, subsidiaries, and parent companies, together with each of their respective officers, directors, members, employees, agents, contractors, representatives, successors and assigns (each, a “Okta Indemnitee”) against any and all losses, damages, liabilities, judgments, awards, penalties, interest, fines, costs, fees or expenses of whatever kind, including reasonable attorneys’ fees, professional fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, which are incurred by any Okta Indemnitee arising out of any third party claim, demand, allegation, investigation, or other proceeding made in connection with or otherwise related to Customer’s breach of any representation, warranty or covenant in this Agreement.

## **8. LIMITATION OF LIABILITY**

(a) Customer Responsibility. The failure or delay of Okta in its performance of its obligations under the Agreement is excused to the extent such failure is a result of: (i) any act or omission of Customer or any entity or individual acting on Customer’s behalf, including Customer’s failure to perform (or cause to be performed) its obligations hereunder; (ii) unavailability of Customer’s materials or systems, including those provided by third parties; (iii) the reliance of Okta on instructions, authorizations, approvals or other information from Customer’s representative(s); or (iv) any act or omission of a third party not under the control of Okta. Okta will use commercially reasonable efforts to provide the Services notwithstanding such circumstances, and Customer will reimburse Okta for any additional charges and expenses incurred as a result thereof.

(b) Limitation and Disclaimer. IN NO EVENT WILL OKTA (OR ITS SUPPLIERS OR AFFILIATES) BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY PUNITIVE, SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, LOST PROFIT OR OTHER SIMILAR DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL OKTA’S TOTAL AGGREGATE LIABILITY FOR DAMAGES OF ANY NATURE UNDER OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION OR THE THEORY OF RECOVERY, EXCEED THE AGGREGATE AMOUNT ACTUALLY PAID BY CUSTOMER TO OKTA UNDER THE APPLICABLE ORDER DURING THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY. IN NO EVENT WILL OKTA HAVE ANY LIABILITY ARISING OUT ANY OF CUSTOMER Data PROVIDED TO OKTA IN CONNECTION WITH THE SERVICES HEREUNDER.

## **9. MANDATORY ARBITRATION**

The parties consent to arbitrate any claim, dispute or controversy (each, a “Claim”) arising out of or relating to this Agreement or the relationships among the parties hereto through binding

arbitration administered by the American Arbitration Association ("AAA"). The parties will notify each other in writing of any Claim within 30 days of when it arises. Notice to Okta will be sent to 100 First Street, San Francisco, California 94105, Attention: Legal. The parties further agree: (i) to attempt informal resolution of the Claim prior to any demand for arbitration; (ii) that any arbitration will occur in San Francisco County, California; (iii) that arbitration will be conducted confidentially by a single arbitrator in accordance with the Rules of the American Arbitration Association; and (iv) that the state or federal courts in San Francisco County, California have exclusive jurisdiction over any appeals of an arbitration award. The arbitrator, and not any federal, state, or local court, will have exclusive authority to resolve any dispute relating to the interpretation, applicability, unconscionability, arbitrability, enforceability, or formation of this Agreement including any claim that all or any part of the Agreement is void or voidable. However, the preceding sentence will not apply to the Section entitled "Class Action Waiver" immediately below. Any dispute between the parties will be governed by this Agreement and the laws of the State of California and applicable United States law, without giving effect to any conflict of laws principles that may provide for the application of the law of another jurisdiction.

## **10. EXPORT CONTROLS**

Customer will comply with all export and re-export restrictions and regulations imposed by the government of the United States and other relevant countries or regions ("Export Restrictions"). Customer will not transfer, directly or indirectly, any restricted Software or technical data received hereunder or the direct product of such data, to any country or region identified as an embargoed destination or country in the Export Restrictions, unless prior written authorization is obtained from Okta and each appropriate United States or other government agencies.

## **11. GENERAL**

This Agreement sets forth the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and, supersedes and merges all prior oral and written agreements, discussions and understandings between the parties with respect to the subject matter hereof. Any amendment to this Agreement must be in writing and signed by the authorized representatives of the parties. Except for payment obligations, each party will be excused from performance of its obligations under this Agreement if such a failure to perform results from acts beyond its reasonable control. Customer may not assign this Agreement, by merger (including operation of law), transfer of equity, other change of control or otherwise, and any attempt to do so is null, void and of no effect. All notices required under this Agreement will be in writing and sent by express mail or other overnight delivery service providing receipt of delivery to the address set forth in the Order, with notice effective upon delivery. The parties hereto are independent contractors. Nothing in this Agreement will be deemed to create an agency, employment, partnership, fiduciary, or joint venture relationship between the parties. No waiver under this Agreement will be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of such waiver is sought. Any delay or forbearance by

either party in exercising any right hereunder will not be deemed a waiver of that right. If any portion of this Agreement is held invalid, illegal or unenforceable, such determination will not impair the enforceability of the remaining terms and provisions herein.

## **12. OKTA SUPPORT SERVICES**

Okta will provide support services to Customer in accordance with the support terms set forth in Appendix 1 to these Terms of Service.



## APPENDIX 1: SUPPORT TERMS

These Okta Access Gateway: Early Access Program Support Terms (“Support Terms”) are subject to the terms of the Okta Access Gateway Early Access Program Terms of Service (“TOS”), and capitalized terms not defined here will have the meaning specified (if applicable) in the TOS.

These Support Terms apply only to Customer’s use of the Services. Okta reserves the right to update the Support Terms at any time, in its sole discretion.

Customer success is a core value at Okta and we pride ourselves on providing an outstanding customer experience. This starts with the way we’ve designed our product, and extends to the way we partner with our customers during and after deployment.

If Okta makes updates and/or upgrades to the Services available, then Customer must install the then-current version of the Services. Documentation regarding the installation of upgrades and updates is available at <https://help.okta.com/en/prod/Content/Topics/Access-Gateway/ag-main.htm>. As a precondition to Okta’s provision of Support Services, Customer must be using the then-current, or immediately-prior, version of the Services. Customer agrees to provide any reasonable assistance required by Okta in order for Okta to provide support to Customer.

### **Support Requests:**

Customer should submit requests for support via the Okta Help Center, which is accessible at <https://support.okta.com>, and signing in. Alternatively, Customer may call Okta’s support center at 1-800-0219-0964.

### **Priority Levels:**

In the event that a Service-affecting issue is detected by Okta or reported by Customer, Okta shall, in its reasonable discretion, categorize the Priority Level pursuant to the criteria below.

<b>PRIORITY LEVEL</b>	<b>DESCRIPTION</b>	<b>EXAMPLES</b>
1	A failure or degradation of the Okta Access Gateway server resulting in the inability to access critical business resources. No immediate mitigation options available	Okta Access Gateway server is down and/or not accessible by multiple Users; Application or Configuration defects or errors prevent access to critical business systems or similar.

2	A partial failure or mild degradation of the Okta Access Gateway. Customer is able to access some but not all business resources.	Users can access some business resources. High Availability configuration allows application access, but at a reduced capacity/fault-tolerance. Customer is unable to perform administrative/configuration changes or updates.
3	Minor degradation of the Okta Access Gateway. Customer is able to access almost all business resources, or is experiencing non-critical errors.	A single user is not able to access a business application; non-critical errors are encountered while authenticating via or configuring Okta Access Gateway. Customer-initiated Upgrade/Update requests.
4	Customer is able to access all business resources. Feature request or how-to/product-functionality questions.	How-to and training questions. Pre-production setup/configuration questions. Feature requests.

**Response Times:**

Okta will use reasonable efforts to adhere to the following response times:

<b>PRIORITY LEVEL</b>	<b>FIRST RESPONSE</b>	<b>SUBSEQUENT UPDATES</b>
1	4 hours	12 hours
2	12 hours	24 hours
3	24 hours	36 hours
4	24 hours	36 hours