



Evaluation Agreement

This Evaluation Agreement (this "**Agreement**") is a binding contract between you ("**you**," or "**Company**") and SugarCRM Inc. ("**Sugar**") and governs Company's access to Evaluation Services (defined below). This Agreement takes effect on the effective date you accept access to the Evaluation Services as specified in an ordering document, click-through acknowledgement, or otherwise, which references applicability of this Agreement.

BY ACCESSING THE EVALUATION SERVICES, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THIS AGREEMENT; (B) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT, AND IF ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ORGANIZATION, CORPORATION, GOVERNMENTAL ORGANIZATION, OR OTHER LEGAL ENTITY, YOU CERTIFY THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY; AND (C) ACCEPT THIS AGREEMENT AND AGREE THAT YOU ARE LEGALLY BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THESE TERMS, YOU MAY NOT ACCESS AND USE THE EVALUATION SERVICES.

IMPORTANT. You may not access the Evaluation Services if Company is a direct competitor to SugarCRM Inc., a government user, or based in an U.S. embargoed country (currently Crimea, Cuba, Iran, North Korea, Syria) or in Russia, Ukraine, or China (each, a "**Restricted Country**").

1. Certain Definitions

- 1.1. "**Authorized User**" means Company's individual employee authorized by Company to use the Evaluation Services and who has been given a user identification and password.
- 1.2. "**Confidential Information**" means the Evaluation Services and all private, proprietary, or otherwise confidential information disclosed by Sugar to Company that should reasonably have been understood by Company, because of legends or other markings, or the circumstances of disclosure or the nature of the information itself, to be proprietary and confidential to Sugar or to a third party.
- 1.3. "**Data Protection Laws**" means all applicable laws and regulations governing data protection applicable to the processing of Personal Data, including, where applicable GDPR, CCPA, and laws and regulations of the United States, Australia, Singapore, the European Union, the European Economic Area and their member states, Switzerland, and the United Kingdom.
- 1.4. "**Evaluation Period**" means the period beginning the Effective Date and ending 30 days thereafter, except as otherwise specified in writing, including pursuant to an order for the Evaluation Services, unless earlier terminated in accordance with this Agreement. The Evaluation Period may be extended by Sugar in its sole discretion.
- 1.5. "**Evaluation Services**" means the Sugar business application suite(s) made available to Company for evaluation hereunder, which is provided as a service on a web-based platform hosted by Sugar or a third-party hosting facility designated by Sugar, including access initiated via an authorized reseller or distribution partner authorized by Sugar.
- 1.6. "**Personal Data**" means any information relating to (a) an identified or identifiable natural person, and (b) an identified or identifiable legal entity (where such information is protected similarly as personal data or personally identifiable information under applicable Data Protection Laws).

2. Authorization

- 2.1. Grant. Subject to the terms and conditions of this Agreement, Company will have a personal, non-transferable, non-exclusive, non-sublicensable and limited right to use or have access to the Evaluation Services during the Evaluation Period solely for the purpose of evaluating the suitability of the Evaluation Services for Company's internal use.
- 2.2. Limitations. Company agrees to only allow Authorized Users to access Evaluation Services and to not share usernames, passwords, or log-in information with other persons or entities. Company is not permitted to allow its affiliates, subsidiaries, sister companies or entities, related entities, parent entities (collectively referred to herein as "**Affiliates**"), or any other party to use the Evaluation Services without Sugar's specific prior written consent. Company agrees to notify Sugar in writing immediately upon becoming aware of any unauthorized use of, or access to, the Evaluation Services or any Authorized User account or password thereof.
- 2.3. General Restrictions. Company may not, and may not cause or permit others to: (a) perform or disclose any benchmarking, availability or performance testing of the Evaluation Services; (b) perform or disclose any performance or vulnerability testing of the Evaluation Services; (c) introduce or subject the Evaluation Services to any viruses, worms, defects, Trojan horses, time bombs, and other harmful or malicious code, files, scripts, agents, or programs, or any items of a destructive nature; (d) use the Evaluation Services in any manner that could damage, disable, disrupt, overburden, or impair the integrity or performance of the Evaluation Services; (e) modify, make derivative works of, reproduce, republish, download, or copy any part of Evaluation Services; (f) disassemble, decompile or reverse engineer the Evaluation Services; (g) access or use Evaluation Services to build or support, directly or indirectly, products or services competitive to Sugar; or (h) license, sell, transfer, assign, distribute, outsource, permit timesharing or service bureau use of, commercially exploit, or make available the Evaluation Services to any third party.
- 2.4. Additional Terms. Additional terms and conditions may appear in the Evaluation Services registration materials, which such terms and conditions are incorporated into this Agreement by reference.

3. **Company Responsibilities**. Company is responsible and liable for all uses of the Evaluation Services resulting from access provided by Company, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the foregoing, Company is responsible for all acts and omissions of Authorized Users and will be responsible for any breach of this Agreement caused by its Authorized Users. Company will ensure all Authorized Users are aware of and comply with the terms of this Agreement.
4. **Support**. Sugar has no obligation under this Agreement to provide support, maintenance, upgrades, modifications, or new releases of the Evaluation Services to Company.
5. **Ownership**. Company acknowledges that Sugar or its suppliers own all rights, title and interests in the Evaluation Services and except for the limited license in Section 2.1, Company will not acquire any rights, title, or interest of the Evaluation Services.

6. **Company Data.** Company acknowledges any data it inputs into the Evaluation Services (“**Company Data**”) and any configurations or modifications it makes to the Evaluation Services will be deleted upon completion of the Evaluation Period unless Company engages Sugar to migrate the Company Data and/or configurations or modifications to a production instance of Sugar’s products are services, where possible. Company acknowledges it may not be possible to migrate items to a production service that is a downgrade from that covered by the Evaluation Services. Company acknowledges and agrees that Evaluation Services are not configured to receive or store (a) technical data controlled by International Traffic in Arms Regulations (ITAR), (b) covered defense information as defined under US Defense Federal Regulation Supplement (DFARS), (c) Health Insurance Portability and Accountability Act (HIPAA) protected health information (PHI), (d) Payment Card Industry Data Security Standard (PCI-DSS) cardholder data, or (e) Federal Information Modernization Act (FISMA) personal data (“**Regulated Data**”). Company agrees neither it nor its Authorized Users will use Evaluation Services to store Regulated Data or provide access to or submit or transmit any Regulated Data to Sugar when requesting Evaluation Services or otherwise. Company also acknowledges and agrees that Evaluation Services are not configured to receive or store “special categories of data” as such is defined under Data Protection Laws. Any Company Data that constitutes Personal Data processed by Sugar as part of the Evaluation Services will be processed as instructed in the Data Processing Addendum available at: <https://www.sugarcrm.com/legal/agreements/customers/>. Company may obtain a signed copy of the Data Processing Addendum by following the instructions at <https://www.sugarcrm.com/legal/agreements/customers/> or otherwise upon request.
7. **Provision of Evaluation Service; Passwords.** Sugar or an authorized Sugar channel partner will provide access to the Evaluation Services promptly following the Effective Date. The Evaluation Services are deployed by means of software-as-a-service hosted by Sugar. Company and Authorized Users may access the Evaluation Services through a combination of usernames and passwords assigned by Sugar. Company shall be entirely responsible for maintaining the confidentiality of the password(s) assigned to Company. Company will immediately notify Sugar if a password is lost, stolen, disclosed to an unauthorized third party, or has otherwise been compromised. Company will be solely responsible for any and all activities made under Company’s account and will defend, indemnify and hold Sugar harmless from and against all damages, penalties, costs and expenses (including court costs and reasonable attorney’s fees) incurred by Sugar in connection with any suit, claim or proceeding arising or resulting from Company’s failure to comply with the terms of this Section 7.
8. **Nondisclosure.** Company will not disclose or use any Confidential Information except as expressly permitted under this Agreement. Company shall hold all Confidential Information in strict confidence during the term of this Agreement and for a period of 3 years after the termination of this Agreement. Company will take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents to third parties who are not subject in writing to the confidentiality obligations of this Section.
9. **Warranties; Disclaimers; Limitation of Liability; Indemnification**
- 9.1. Company Warranties. Company represents and warrants it will not use the Evaluation Services or Sugar’s (or its suppliers’) hosting equipment to which it has access (pursuant to this Agreement) to gain or attempt to gain unauthorized access to other computer systems accessible via the Internet, any other Sugar products or services for which Company has not been expressly authorized to use pursuant to this Agreement, or software or computer systems belonging to others which are also hosted by Sugar (or its suppliers).
- 9.2. Sugar Warranty and Disclaimer. SUGAR PROVIDES THE EVALUATION SERVICES, INCLUDING ANY DOCUMENTATION THAT MAY ACCOMPANY THE EVALUATION SERVICES, TO COMPANY ON AN “AS IS” BASIS. SUGAR MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. SUGAR DOES NOT WARRANT THE OPERATION OF THE EVALUATION SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.
- 9.3. Limitation of Liability. IN NO EVENT WILL SUGAR’S LIABILITY FOR ACTUAL DIRECT DAMAGES ARISING OUT OF THIS AGREEMENT, THE DATA PROCESSING ADDENDUM, OR THE USE OR PERFORMANCE OF THE EVALUATION SERVICES EXCEED \$100. TO THE MAXIMUM EXTENT ALLOWABLE BY LAW, IN NO EVENT WILL SUGAR BE LIABLE FOR ANY LOST PROFITS, LOST REVENUE, LOSS OF COMPANY DATA OR FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING UNDER THIS AGREEMENT, EVEN IF SUGAR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING. THE PARTIES AGREE THIS SECTION 9.3 REPRESENTS A REASONABLE ALLOCATION OF RISK. COMPANY IS FULLY LIABLE UNDER THIS AGREEMENT TO SUGAR AND ITS AFFILIATES FOR ANY DAMAGES ARISING OUT OF COMPANY’S USE OF THE EVALUATION SERVICES, ANY BREACH BY COMPANY OF THIS AGREEMENT, AND ANY OF COMPANY’S INDEMNIFICATION OBLIGATIONS HEREUNDER.
- 9.4. Indemnification by Company. Company will defend, indemnify, and hold Sugar harmless against all losses, damages, and costs (including court costs and reasonable attorneys’ fees) resulting from (i) Company’s breach of its obligations specified in Sections 2.3 or 3., or (ii) any Company Data or Company’s use of Company Data with the Evaluation Services.
10. **Term and Termination**
- 10.1. Term; Termination. This Agreement will commence on the Effective Date and continue until the end of the Evaluation Period unless terminated earlier because of Company’s breach of the terms and conditions contained herein or by mutual agreement of the parties. Sugar will have the right, in its sole discretion, to immediately terminate this Agreement without notice if Company breaches any of its warranties or obligations hereunder, in addition to any other remedies available at law or in equity.
- 10.2. Termination for Convenience. Sugar may terminate this Agreement without cause at any time upon 10 days’ prior written notice.
- 10.3. Effect of Termination or Expiration. Upon the expiration or termination of this Agreement for any reason all authorizations granted hereunder automatically revert to Sugar and Company will no longer have access to the Evaluation Services. Company is required to delete all code obtained through use of the Evaluation Services.
- 10.4. Survival. The provisions of Sections 2.3, 3, 8, 9, 10.3, and 11, will survive expiration or termination of this Agreement.
11. **Miscellaneous**
- 11.1. Assignment. Company shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Sugar, which may be withheld in Sugar’s sole discretion. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns. Sugar may freely assign or transfer any rights or obligations under this Agreement without the prior written consent of Company.

- 11.2. Governing Law. This Agreement and any dispute arising from or relating to the performance or breach hereof shall be governed by and construed and enforced in accordance with the laws of the State of California, USA, without reference to conflicts of laws principles, and excluding the United Nations Convention on Contracts for the International Sale of Goods.
- 11.3. Jurisdiction. Any legal action or proceeding relating to this Agreement shall be instituted in a state or federal court in Santa Clara County, California USA. Sugar and Company agree to submit to the jurisdiction of, and agree that venue is proper in, these courts for any legal action or proceeding.
- 11.4. Notices. Notices regarding this Agreement will be in writing and addressed to Company at the email address or mailing address it provides, or, in the case of Sugar, to legal@sugarcrm.com.
- 11.5. Severability; Construing. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision will 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 will remain in effect.
- 11.6. Waiver. The waiver by either party of a breach of any provision of this Agreement or the failure by either party to exercise any right hereunder shall not operate or be construed as a waiver of any subsequent breach of that right or as a waiver of any other right.
- 11.7. Export Compliance. The Evaluation Services are subject to certain export control laws and regulations, including those of the United States Government. As may be reasonably necessary for Sugar to comply with such laws, Company agrees to make Company records available to Sugar upon reasonable request to permit Sugar to confirm Company's compliance with its obligations as set forth in this Section. Company will not permit anyone to use the Evaluation Services who is in any Restricted Country or who is on a U.S. government sanctioned or denied party list. Company represents and warrants it is not named on any U.S. government sanctioned or denied party list.
- 11.8. Entire Agreement. This Agreement represents the entire agreement of the parties concerning the subject matter thereof and is intended to be the final expression of the parties' agreement and intent. This Agreement supersedes all prior and contemporaneous agreements, proposals, requests for proposals (RFP's) or responses thereto, and representations, whether written or oral. The parties hereto agree any terms or conditions stated or referenced in or on a document or documents other than this Agreement that contradict this Agreement are null and void. No amendment or waiver of any provision of the Agreement will be effective unless in writing and signed by both parties.
- 11.9. Feedback; Contributions. Company may, from time to time, provide suggestions, comments or other feedback to Sugar with respect to the Evaluation Services or other services of Sugar (collectively, "**Feedback**"). Company agrees that all Feedback is and will be given by Company entirely voluntarily. Sugar will be free to use, disclose, reproduce, sell, license or otherwise distribute and exploit the Feedback in its discretion, without restriction or obligation of any kind or nature.