ServiceNow, Inc.
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Carahsoft Rider to Manufacturer End User License Agreements
(for U.S. Government End Users)

1. **Scope.** This Carahsoft Rider and the Manufacturer End User License Agreement ("EULA") establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee"). The "EULA" herein shall mean Manufacturer's "End User License Agreement" hereto attached when the Software is delivered as downloadable software; or Manufacturer's "Subscription Service Agreement" hereto attached when the Software is delivered as a service.

2. **Applicability.** The terms and conditions in the attached Manufacturer EULA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41. U.S.C. § 601-613), the Prompt Payment Act, 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), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's EULA are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's contract #GS-35F-0119Y, including, but not limited to the following:

(a) **Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under GSA contracts as set forth in GSA ORDER 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

(b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 200 0) (Deviation I 2010) (AUG 1987), and 52.212 -4 (f) Excusable delays. (JUN 2010) regarding which the GSAR and the FAR provisions shall take precedence.

(c) **Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

(d) **Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours

contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

(e) Termination. Clauses in the Manufacturer EULA referencing termination or cancellation the Manufacturer's EULA are hereby deemed to be deleted. Termination shall be governed by the FAR 52.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:

> Carahsoft may request cancellation or termination of the License Agreement on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section Q below or if such remedy is otherwise ordered by a United States Federal Court.

(f) Consent to Government Law / Consent to Jurisdiction. Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.

(g) Force Majeure. Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer EULA referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.

(h) Assignment. All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer EULA are hereby deemed to be deleted.

(i) Waiver of Jury Trial. All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer EULA are hereby deemed to be deleted.

(j) Customer Indemnities. All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.

(k) Contractor Indemnities. All Manufacturer EULA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.

(l) Renewals. All Manufacturer EULA 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.

(m) Future Fees or Penalties. All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the 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.

(n) Taxes. Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all federal, state, local taxes and duties.

(o) Third Party Terms. Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.

(p) Installation and Use of the Software. Installation and use of the software shall be in accordance with the Rider and Manufacturer EULA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.

(q) Dispute Resolution and Venue. Any disputes relating to the Manufacturer EULA and to this Rider shall be resolved in accordance with the FAR, and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Ordering Activity expressly acknowledges that Carahsoft, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.

(r) Limitation of Liability: Subject to the following:

> Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

(s) Advertisements and Endorsements. Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

(t) Public Access to Information. Manufacturer agrees that the EULA and this Rider contain no confidential or proprietary information and acknowledges the EULA and this Rider will be available to the public.

(u) **Confidentiality.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court.

END USER LICENSE AGREEMENT

IMPORTANT: PLEASE READ BEFORE INSTALLATION OR USE OF THE SERVICENOW, INC. ("**SERVICENOW**") SOFTWARE. BY INSTALLING OR IN ANY WAY USING THE SOFTWARE, THE ENTITY OR COMPANY THAT YOU REPRESENT ("**CUSTOMER**") IS UNCONDITIONALLY CONSENTING TO BE BOUND BY AND IS BECOMING A PARTY TO THIS END USER LICENSE AGREEMENT ("**EULA**") WITH SERVICENOW. IF CUSTOMER DOES NOT UNCONDITIONALLY AGREE TO ALL OF THE TERMS OF THIS EULA, INSTALLATION OR USE OF THE SOFTWARE IS STRICTLY PROHIBITED. IF THE TERMS OF THIS EULA ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS.

1. Provision of Software and Professional Services

ServiceNow will make the following available to Customer, subject to the terms and conditions of this EULA and each use certificate provided by ServiceNow's authorized reseller ("**Reseller**") to Customer (each, a "**Use Certificate**"):

    (a)   use of the ServiceNow software as specified on a Use Certificate ("**Software**"); and

    (b)   professional services from ServiceNow as specified on a Use Certificate ("**Professional Services**").

2. ORDERING.

2.1   RESELLER ORDERS. Customer shall order and purchase the Software license and/or Professional Services directly from Reseller pursuant to a separate agreement specifying price, payment and other commercial terms. ServiceNow is not a party to that separate agreement but will provide the purchases pursuant to this EULA. Reseller is not authorized to make any changes to this EULA (including any Use Certificate issued hereunder) or bind ServiceNow to any additional or different terms and conditions.

2.2   USE CERTIFICATE. For each order, Reseller will provide Customer with a Use Certificate issued by ServiceNow that specifies the Software license and Professional Services that Customer has purchased from Reseller. Each Use Certificate is hereby incorporated into and made a part of this EULA.

2.3   SOFTWARE. When Customer has ordered the Software license, the Use Certificate associated with that order shall specify the purchased Software license, term of authorized use of the Software ("**License Term**"), the fees and other charges for use of the Software, and the numbers, types and identifiers of permitted users, servers, capacity and locations at or through which Customer is permitted to use the Software. Customer may not use or otherwise access the Software in a manner that exceeds Customer's authorized use. Unless otherwise expressly provided in the applicable Use Certificate, the Software is for Customer's internal IT service management use only. "**Software**" means (i) the Software products, in executable code form; (ii) any modifications to the Software for repairs or enhancements provided by ServiceNow to Customer at no additional fee during the License Term ("**Upgrades**"); and (iii) documentation relating to the operation and use of the Software that are provided by ServiceNow to Customer under this EULA, as reasonably updated by ServiceNow from time to time ("**Documentation**").

2.4   PROFESSIONAL SERVICES. When Customer has ordered Professional Services, the Use Certificate associated with that order shall specify either or both of: (a) ServiceNow packaged professional services (each offering, a "**Packaged Service**"), which are as described under the name of such Professional Service offering at www.service-now.com/schedules.do ("**Service Description**"), or (b) other Professional Services described in one or more written statements of work ("**SOW**").

3. CUSTOMER OBLIGATIONS.

3.1   CUSTOMER RESPONSIBILITIES. Without limitation, Customer is responsible for: (a) Customer's implementation of the Software; (b) protecting Customer designated User names and passwords and preventing and notifying ServiceNow of unauthorized use; (c) the lawfulness of, and results obtained from, all Customer Data (defined below) submitted by Users (defined below) to the Software and each User's acts and omissions; (d) using the Software's column level encryption feature for all Customer-created columns and attachments containing sensitive Customer Data, including for personally identifiable information and other sensitive information; (e) using the Software only in accordance with this EULA and the Use Certificate; (f) using the Software only in accordance with the Documentation; and (g) complying with the ServiceNow Non-Hosted Software Support Guidelines ("**Support Guidelines**"). The current version of the Support Guidelines is hereto attached as Exhibit A and which is incorporated herein by reference and made a part of this EULA. If Customer exceeds its permitted use of the Software, it will regain compliance within 30-days by: (i) disabling un-permitted use; or (ii) purchasing additional Software licenses.

3.2   AUDIT. Customer will maintain accurate records as to its use of the Software as authorized by this EULA, for at least two (2) years from the last day on which the License Term expired for the applicable Software. ServiceNow, or persons designated by ServiceNow, will, at any time upon reasonable notice during the period when Customer is obliged to maintain such records, be entitled to inspect such records and Customer's computing devices, in order to verify that the Software is used by Customer in accordance with the terms of this EULA and the Use Certificate and that Customer has paid the applicable license fees for the Software; provided that ServiceNow may conduct no more than one (1) audit in any six (6) month period. Customer shall promptly pay to ServiceNow any underpayments revealed by any such audit. Any such audit will be performed at ServiceNow's expense during normal business hours, provided that Customer shall promptly reimburse ServiceNow for the cost of such audit and any applicable fees if such audit reveals an underpayment by Customer of more than five percent (5%) of the amounts payable by Customer to ServiceNow for the period audited.

3.3   PAYMENT; CUSTOMER CLAIMS. Customer shall pay Reseller for the Software license and Professional Services provided hereunder at such prices and other terms upon which Customer and Reseller have agreed. Any warranty claim or claim for partial or

total refund of fees paid hereunder, or for service credits or service extensions under the service level agreement, must be made to the Reseller, not ServiceNow.

4. GRANT OF LICENSE.

4.1 SERVICENOW GRANT OF LICENSE. Subject to Customer's compliance with the terms and conditions of this EULA (including, without limitation, payment of the applicable fees) and the Use Certificate, ServiceNow hereby grants to Customer a limited, non-exclusive, non-transferable, worldwide right during the License Term:

(a) to access and use the Software and the Documentation; and

(b) to copy the Software as reasonably necessary to exercise the license rights granted in subsection (a), including making a reasonable number of copies for backup and archival purposes. Licensee's rights in the Software will be limited to those expressly granted in this EULA. ServiceNow reserves all rights and licenses in and to the Software not expressly granted to Customer under this EULA.

The license grant is not perpetual and is only for the License Term, and if no license term is specified in the applicable Use Certificate then the License Term shall be one (1) year from the date of the Use Certificate. Customer shall cease using the Software on the expiration of the License Term unless Customer shall have purchased a renewal of authorized use of the Software. Unless otherwise expressly provided in the applicable Use Certificate, the Software is for Customer's internal IT service management use only. The Software and/or Deliverables (as defined below) may include independent code that is licensed under third party license agreements, including open source, made available or provided with the Software or Deliverables as applicable.

4.2 CUSTOMER GRANT OF LICENSE. Customer hereby agrees that ServiceNow may use the electronic data specifically pertaining to Customer and/or its users that is processed using the Software (collectively "**Customer Data**") strictly for the limited purpose of providing Support to Customer.

(a) USERS. Customer authorizes "**Users**" to access the Software, each with a unique username and password that may not be shared or transferred. Customer designates to some Users a named level of access or functionality defined by Customer (a "**Role**"). Unless stated otherwise on the Use Certificate, any User with a Role is a "**Process User**", and a User without a Role is an "**End User**." A Role is not required for Users to: (i) create a task; (ii) check on the status of a task the User created; (iii) shop a service catalog; or (iv) view knowledge articles, reports and other general published information. Customer shall limit the number of Process Users or any other fee-based user type to the number specified in the applicable Use Certificate.

(b) SERVERS. A "**Discovery Server**" is a non-virtual machine configured as a server. An "**RBA Server**" is a physical or virtual machine configured as a server upon which a task is performed as a step in a process or procedure automated by ServiceNow Runbook Automation. Customer shall limit the number of Discovery Servers and RBA Servers managed through ServiceNow Discovery and Runbook Automation to the number specified in the applicable Use Certificate.

4.3 OWNERSHIP. As between ServiceNow and Customer, all rights, title, and interest in and to all intellectual property rights in the Software, Documentation and/or ServiceNow Core Technology (as defined below) are owned exclusively by ServiceNow. Except as expressly provided in this EULA, ServiceNow does not grant Customer (and expressly reserves) any rights, express or implied, or ownership in the Software, Documentation, and/or ServiceNow Core Technology. ServiceNow shall have a royalty-free, worldwide, non-exclusive, transferable, sub-licensable, irrevocable, perpetual right to make, use, sell, offer for sale, import, or otherwise incorporate into the Software, Documentation, and/or ServiceNow Core Technology, any suggestions, enhancements, recommendations or other feedback provided by Customer relating to the Software, Documentation, and/or ServiceNow Core Technology.

4.4 RESTRICTIONS. Customer shall not (and shall not permit others to): (i) license, sub-license, sell, re-sell, rent, lease, transfer, distribute, or time share the Software or Documentation or make any of them available for access by third parties, such as for example in the manner of a service bureau or hosted application; (ii) create derivative works based on or otherwise modify the Software or Documentation; (iii) disassemble, reverse engineer or decompile the Software; (iv) access the Software or Documentation in order to develop a competing product or service; (v) use the Software as a service for others; (vi) use or send viruses or other harmful computer code; (vii) interfere with the integrity of the Software; or (viii) remove or modify a copyright or other proprietary rights notice on or in the Software or Documentation; or (ix) use or distribute to ServiceNow material protected by copyright or other intellectual property right (including the right of publicity and/or privacy) without first obtaining the permission of the owner.

4.5 DELIVERABLES. Subject to the provisions of this Section 4.4, ServiceNow shall assign to Customer any Newly Created IP (defined below) in Deliverables upon payment in full by Customer of all amounts due for the Professional Services under which the Deliverable was created. A "**Deliverable**" is a deliverable that is identified in the applicable SOW or Service Description and that is created by ServiceNow for Customer in the performance of the Professional Services. "**Newly Created IP**" means intellectual property in any inventions or works of authorship that are made by ServiceNow for Customer in the course of performing Professional Services for Customer, other than ServiceNow Core Technology. "**ServiceNow Core Technology**" means: (a) ServiceNow technology, methodologies and intellectual property (including, without limitation, product(s), software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation (both printed and electronic)) existing at the Effective Date of this EULA or otherwise arising in whole or in part outside of work under a Professional Service for Customer; (b) any derivatives, improvements, enhancements or extensions of the foregoing, whether or not conceived, reduced to practice, or developed during the term of this EULA or in performance of Professional Service, as applicable; and (c) any intellectual property anywhere in the world relating to any of the foregoing. To the extent (if at all) any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the ServiceNow Core Technology solely to use the Deliverable in connection with the Software as contemplated under this EULA during the License Term. Nothing in this EULA shall be deemed to restrict or limit ServiceNow's

right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party.

4.6   U.S. GOVERNMENT RIGHTS.   All ServiceNow software is commercial computer software and all services are commercial items. "**Commercial computer software**" has the meaning set forth in Federal Acquisition Regulation ("**FAR**") 2.101 for civilian agency purchases and the Department of Defense ("**DOD**") FAR Supplement ("**DFARS**") 252.227-7014(a)(1) for defense agency purchases. If the software is licensed or the services are acquired by or on behalf of a civilian agency, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this EULA as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the services are acquired by or on behalf of any agency within the DOD, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this EULA as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software or technical data.

5.   SOFTWARE SUPPORT

5.1   SUPPORT. During the License Term, Customer may, through its designated representatives as agreed by the parties, request, via the online portal https://hi.service-now.com/ or any successor site, at no additional charge, that ServiceNow correct a problem ("**Defect**") causing Customer's instances of the Software to not conform to the functional specifications for the Software ("**Specifications**"). Support ("**Support**") is offered for the current release of the Software and the two (2) prior releases ("**Supported Versions**") except for: Defects known to be resolved by Upgrading; insubstantial Defects; or corrections that will degrade the Software. Support does not include: implementation services; configuration services; integration services; custom software development; support for Customer or third-party modifications to the Software; onsite support; training or "how-to"; hardware or network support; backup or replication of Customer Data; monitoring of the service; applying Upgrades; database administration; best practices; performance optimization; or assistance with administrative functions or other Professional Services. Prior to submission of any Support request, Customer is encouraged to consult the Documentation to determine if the Support issue has been addressed.

5.2   EXCLUSIONS TO SUPPORT. Without limiting the generality of Section 5.1, ServiceNow will have no obligation of any kind to provide Support of any kind for problems in the operation or performance of the Software to the extent caused by any of the following (each, a "**Customer-Generated Error**"): (a) installation of the Software on hardware or in a network infrastructure not recommended by ServiceNow or non-ServiceNow Software products or use of the Software in conjunction therewith; (b) modifications to the Software; (c) Customer's use of the Software other than as authorized in this EULA or as provided in the Documentation; or (d) Customer's use of other than Supported Versions. If ServiceNow determines that it is necessary and agrees to perform Support for a problem in the operation or performance of the Software that is caused by a Customer-Generated Error, then ServiceNow will notify Customer thereof as soon as ServiceNow is aware of such Customer-Generated Error and ServiceNow will have the right to invoice Customer at ServiceNow's then-current published time and materials rates for Professional Services for all such Support performed by ServiceNow.

5.3   UPGRADES. ServiceNow determines how and when to develop and release any Upgrade. ServiceNow reserves the right to exclude new functionality from Upgrades, and to make new functionality commercially available for a separate fee. Customer shall be solely responsible for downloading, installing and implementation of any Upgrades.

6.   TERM AND TERMINATION

6.1   TERM AND TERMINATION. This EULA continues until terminated. Each party may terminate this EULA in its entirety either: (i) upon thirty (30) days prior notice to the other party, if at the time such notice is served there are no Use Certificates in effect; or (ii) upon notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership, liquidation in any jurisdiction that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Either party may terminate this EULA (and all Use Certificates) in its entirety or with respect to any Software or Professional Services effective immediately upon written notice if the other party materially breaches a material obligation under this EULA or the applicable Use Certificate for the affected Software or Professional Services and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party. Professional Services are separately ordered from the Software license, and are not required for the use of the Software. A breach by a party of its obligations with respect to Professional Services shall not by itself constitute a breach by that party of its obligations with respect to the Software even if both are enumerated in the same Use Certificate.

6.2   EFFECT OF TERMINATION. Upon any expiration or other termination of this EULA for any reason, the Software license will terminate, Customer will immediately stop using the Software, and Customer will destroy all copies of the Software and remove all copies of the Software, including all backup copies, from computers on which it is installed. (a) If the Software license is terminated by Customer due to ServiceNow's breach, then Reseller shall refund to Customer, within thirty (30) days after the effective date of termination, all prepaid fees for the remaining portion of the License Term for the terminated Software license after the effective date of termination. (b) If Professional Services are terminated due to ServiceNow's breach, Customer may terminate the affected Professional Services whereupon Reseller shall refund to Customer of any prepaid amounts for unperformed Professional Services. (c) If the Software license is terminated by ServiceNow for cause, then Customer shall pay to Reseller, within thirty (30) days after the effective date of termination, fees for the terminated Software license that would have been payable for the remainder of the License Term after the effective date of termination.

6.3   SURVIVAL. Upon termination of this EULA for any reason, Customer shall pay to Reseller all amounts owed by it in connection with the Software and Professional Services provided hereunder. Sections 3.2 (Audit), 3.3 (Payment, Customer Claims), 4.3 (Ownership), 4.4 (Restrictions), 6 (Term and Termination), 7 (Confidentiality and Non-Use Restrictions), 9 (Indemnifications), 10 (Limitations of

Liability and Damages), and 11 (General) of this EULA, together with any other provision required for their construction or enforcement, shall survive termination of this EULA for any reason.

7. CONFIDENTIALITY AND NON-USE RESTRICTIONS

7.1   CONFIDENTIAL INFORMATION. "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure: including of the foregoing, without limitation, each party's respective business plans and processes; financial and employee data; proprietary technology and product information and designs; the Software; Customer Data; and the terms of this EULA, Use Certificate(s) and pricing. Confidential Information excludes information that: (i) is or becomes generally known to the public; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation to the Disclosing Party; (iii) is received from a third party without breach of any obligation to the Disclosing Party; or (iv) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information.

7.2   PROTECTION. The Receiving Party shall: (i) at all times protect the confidentiality of the Disclosing Party's Confidential Information using no less than reasonable care; and (ii) not use Confidential Information of the Disclosing Party except to the extent necessary to exercise its rights or fulfill its obligations under this EULA. To the extent necessary under this EULA, the Receiving Party may disclose the Confidential Information of the Disclosing Party to the Receiving Party's employees or subcontractors who are bound by written obligations of confidentiality and non-use restrictions at least as protective as those set forth herein. In the event of a court order or government regulation compelling disclosure of any Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt written notice thereof, and shall reasonably cooperate with the Disclosing Party to seek confidential or other protective treatment. Each party's obligations set forth in this Section 7 shall remain in effect during the term and three (3) years after termination of this EULA. The Receiving Party shall promptly return to the Disclosing Party or destroy (with certification of such destruction provided by the Receiving Party upon request) all Confidential Information of the Disclosing Party in its possession or control upon request from the Disclosing Party. The Confidential Information is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. §552 ("**FOIA**") and is trade secret information as that term is used in the Trade Secrets Act, 18 U.S.C. §1905 and the Economic Espionage Act, 18 U.S.C. §§1831 and 1832; provided that such is properly marked in accordance to the FOIA and the Trade Secrets Act and Economic Espionage Act.

8. WARRANTIES

8.1   LIMITED SOFTWARE WARRANTY. ServiceNow warrants that for a period of 90 days after the date of making the Software available the Software will operate without a Defect that causes a material failure of Customer's production instances of the Software to perform in accordance with the Specifications. Customer's exclusive remedy for breach of this warranty is to request Reseller and ServiceNow to correct or work around the Defect, subject to and in accordance with the procedures and limitations for receiving Support, as defined in the Operations Guide. If the Defect persists in causing a material failure in Customer's production instances of the Software to conform to the Specifications without correction or work-around forty-five (45) days after written notice to ServiceNow of a warranty claim under this Section 8.1, then Customer may terminate the affected Software and Reseller shall refund to Customer any prepaid license fees covering the remainder of the License Term of the affected Software after the date of termination; provided that: (a) the Software has been properly installed and used at all times and in accordance with the instructions in the Documentation; (b) no modification, alteration or addition has been made to the Software by persons other than ServiceNow or ServiceNow's authorized representative; and (c) ServiceNow receives written notice of the non-conformity within ninety (90) days after the Software is made available. This Section 8.1 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with any Defect or other failure of the Software to perform in accordance with the Specifications or any other manner.

8.2   LIMITED PROFESSIONAL SERVICES WARRANTY. ServiceNow warrants that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements set forth in the Service Description or SOW, as applicable. Customer's exclusive remedy for breach of this warranty is to notify ServiceNow in writing of the breach within forty-five (45) days after performance of the non-conforming Professional Services. Upon receipt of such notice, ServiceNow, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services, whereupon the Reseller shall refund Customer any prepaid amounts for unperformed Professional Services. This Section 8.2 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with the performance of Professional Services.

8.3   DISCLAIMER OF WARRANTIES. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS EULA, THE SOFTWARE AND PROFESSIONAL SERVICES (INCLUDING THE DELIVERABLES) PROVIDED HEREUNDER ARE PROVIDED "AS-IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND AND, TO THE MAXIMUM EXTENT ALLOWED BY LAW, SERVICENOW DISCLAIMS ALL WARRANTIES OF ANY KIND INCLUDING WARRANTIES ARISING UNDER STATUTE, WARRANTIES OF MERCHANTABILITY, ACCURACY, QUIET ENJOYMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SERVICENOW SPECIFICALLY DOES NOT WARRANT THAT THE SOFTWARE, PROFESSIONAL SERVICES, OR DELIVERABLES WILL MEET THE REQUIREMENTS OF CUSTOMER OR OTHERS OR THAT THEY WILL BE ACCURATE OR OPERATE WITHOUT INTERRUPTION OR ERROR.

9. INDEMNIFICATION

9.1   SERVICENOW OBLIGATION. ServiceNow shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand ("**Claim**") alleging that Customer's use of the Software in accordance with this EULA infringes any valid patent, copyright, or trademark of a third party that is issued or registered in the United States; and (ii) pay any court-ordered award of

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damages or settlement amount, and reasonable attorney fees, to the extent caused by such Claim. If any portion of the Software becomes the subject of a Claim, ServiceNow may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Software; (c) replace or modify the Software to avoid infringement, if such replacement or modification has substantially the same capabilities as the Software; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in ServiceNow's judgment, then (d) terminate Customer's use of the affected Software upon forty-five (45) days' written notice, whereupon the Reseller shall pay to Customer a refund of any prepaid license fees covering the remaining portion of the applicable License Term for the affected Software after the date of termination. Notwithstanding the above, ServiceNow shall have no liability for any Claim arising in whole or in part from: (i) any use of the Software which exceeds the authorized use in the Use Certificate; (ii) the Customer Data; (iii) use of the Software by Customer in violation of applicable law; (iv) use of the affected Software after termination in accordance with clause (d) of this Section 9.1; (v) modifications to the Software by any person other than ServiceNow or a person acting at ServiceNow's direction; or (vi) use of the Software in combination with any hardware, software, application or service made or provided other than by ServiceNow.

9.2   PROCESS. All of the foregoing indemnity obligations of ServiceNow are conditioned on Customer notifying ServiceNow promptly in writing of any actual or threatened Claim, Customer giving ServiceNow sole control of the defense thereof and any related settlement negotiations, and Customer cooperating and, at ServiceNow's request and expense, assisting in such defense. SECTION 9 STATES SERVICENOW'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR THIRD PARTY INFRINGEMENT CLAIMS AND ACTIONS.

10.   LIMITATIONS OF LIABILITY AND DAMAGES

10.1   LIMITATIONS OF LIABILITY. SERVICENOW SHALL HAVE NO LIABILITY FOR ANY REFUND THAT, IN ACCORDANCE WITH THE TERMS HEREOF, IS TO BE PAID BY THE RESELLER. TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS EULA OR THE SOFTWARE OR PROFESSIONAL SERVICES PROVIDED HEREUNDER, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE SOFTWARE AND/OR PROFESSIONAL SERVICE GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) BODILY INJURY OR DEATH; (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED TO RESELLER FOR SOFTWARE LICENSES, PROFESSIONAL SERVICES AND DELIVERABLES PROVIDED HEREUNDER.

10.2   EXCLUSION OF DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COSTS OF SUBSTITUTE GOODS, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) BODILY INJURY OR DEATH; AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

11.   GENERAL PROVISIONS

11.1   ASSIGNMENT. Neither party may assign its rights or obligations, whether by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may upon notice: (i) in connection with a merger, reorganization, or sale of all or substantially all of the assets or equity of such party, assign this EULA in its entirety to such party's successor without the other party's consent; and (ii) assign this EULA in its entirety to any company, partnership or other legal entity which from time to time directly or indirectly Controls, is Controlled by or is under the common Control with such party, where **"Control"** means the legal power to direct or cause the direction of, the general management of the company, partnership or other legal entity. Any attempted or purported assignment in violation of this Section 11.1 will be null and void. Subject to the foregoing, this EULA shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

11.2   GOVERNING LAW; VENUE; TIME FOR BRINGING ACTION. This EULA shall be governed by, subject to, and interpreted in accordance with the laws of the state of California, without regard to conflict of laws principles. The parties hereby irrevocably consent to the nonexclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in San Diego, California or New York, New York, for the purposes of adjudicating any action or proceeding to enforce the terms of this EULA. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply. No cause of action arising hereunder or relating hereto may be brought more than one (1) year after it first accrues. The prevailing party in an action to enforce this EULA shall be entitled to costs of bringing the claim and reasonable attorneys' and experts' fees and expenses. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding either party's intellectual property rights.

11.3   NOTICE. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery, (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested), (iii) the second business day after mailing; or (iv) the first business day after sending by confirmed email; provided that e-mail shall not be sufficient for notices of termination or a Claim.

11.4   RELATIONSHIP OF THE PARTIES. The parties are independent contractors. Nothing in this EULA shall be construed to create a partnership, joint venture or agency relationship. Neither party shall have any right or authority to assume or create any obligation of

any kind expressed or implied in the name of or on behalf of the other party. ServiceNow may at any time subcontract or delegate in any manner any or all of its obligations under this EULA to any third party or agent.

11.5 EXPORT COMPLIANCE. Each party shall comply with United States and foreign export control laws and regulations. Customer acknowledges that the Software is subject to the U.S. Export Administration Regulations (the "**EAR**") and that Customer shall comply with the EAR. Without limiting the foregoing, Customer represents and warrants that: (i) Customer is not located in any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan, and Syria); (ii) Customer shall not use the Software in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, and sounding rockets, or unmanned air vehicle systems; and (iii) Customer is not prohibited from participating in the U.S. export transactions by any federal agency of the U.S. government. Notwithstanding the provisions of Section 11.5, this EULA shall automatically and immediately terminate for cause upon breach of any of these representations and warranties by Customer.

11.6 FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this EULA, for any failure or delay in fulfilling or performing any term of this EULA (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including but not limited to strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, theft or other criminal acts, failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions (a "**Force Majeure Event**"). The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.

11.7 ENTIRETY. This EULA, together with the referenced and/or attached documents, is the final and entire agreement of the parties regarding the subject matter of this EULA, and supersedes all prior or contemporaneous oral or written agreements, representations, understanding, undertakings, and negotiations. In the event of any conflict between this EULA and any referenced and/or attached documents or Use Certificate(s), this EULA shall govern unless such referenced and/or attached document, is signed by both parties and manifests a clear intent to override the terms of this EULA. The terms of this EULA apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any purchase order submitted by Customer is for Customer's internal purposes only and its terms and conditions are superseded and replaced by this EULA, and the purchase order terms and conditions have no force or effect. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ServiceNow which is not set out in this EULA, or the applicable Use Certificate or SOW or Service Description. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any verbal or written communication about ServiceNow's future plans. This EULA may be executed in counterparts, each of which shall be deemed to be an original.

11.8 WAIVER AND AMENDMENT. A waiver of any right is only effective if it is in writing and only against the party who signed and for the circumstances given. Any modification of this EULA, or a Use Certificate or SOW or Service Description must be in writing and signed by authorized representatives of the parties; provided that the ServiceNow Non-Hosted Software Support Guidelines, in effect at the time of a Use Certificate under this EULA shall be applicable to the Software licenses purchased or renewed under the Use Certificate and are incorporated herein by this reference.

11.9 CONSTRUCTION. The Software and Professional Services shall be provided in the English language unless agreed otherwise. The parties confirm that they have requested that this EULA and all related documents be drafted in English at the express wishes of the parties. Section headings are for convenience only and are not to be used in interpreting this EULA.

Exhibit A

ServiceNow Non-Hosted Software Support Guidelines

servicenow

NON-HOSTED SOFTWARE SUPPORT

Guidelines

Document ID #: 10776

Version: 5.0

Effective date: September 26, 2012

Table of Contents

List of Tables

1 Purpose and Scope

1.1 Purpose

This document describes the configuration requirements, responsibilities, and scope of technical support services for non-hosted software deployments of the ServiceNow application, to help ensure these deployments are successful, and can be effectively supported.

1.2 Scope

This document provides information for customer team members who maintain a non-hosted software deployment of the ServiceNow application.

This document also outlines the requirements customers must meet for ServiceNow to support non-hosted software deployments and defines the scope of support services.

1.3 Dependencies

Customers must meet the minimum configuration requirements outlined in this document, and are encouraged to discuss their needs with ServiceNow before implementing any configuration changes.

1.4 Architecture

The ServiceNow server architecture is comprised of application servers and a database server. Load balancers will also be employed for an SSL termination. Optional high-availability failover hardware may also be employed to maintain failover functionality for application and database services.

For non-hosted software deployments, all hardware and software are the responsibility of the customer to install and maintain, including any high-availability, monitoring, and load-balancing solutions. ServiceNow will provide hardware and software architecture specifications.

2 Configuration Requirements

2.1 Standard Deployment Architecture

The Standard Configuration has two dedicated servers running the application nodes and one dedicated server running the database. The application server can be connected to through a load balancer. Additionally, if utilizing Discovery, RBA, and/or Integration features, a stateless MID Server component is required to be installed on a separate application server.

Sizing is a complex determination and depends greatly on the way the application is used, the way it was customized, and the typical workload of each user. If some guideline is needed as a starting estimate, then use the number of 500 concurrently connected users per application node. Another metric that can be used for sizing is 100 concurrent users, per CPU core. This is a loose approximation that can be used to determine capacity. Additional application servers can be added to the application tier, scaling the environment horizontally. Actual results may vary.

2.2 Deployment Architecture for High Availability

In addition to the standard deployment architecture specified above, additional elements can be included for high availability and disaster recovery. This can include database replication (MySQL binary logging, or Oracle EE Active Data Guard, as examples.)

In this configuration the ServiceNow application servers point to the active or primary database. The DR location will have application nodes configured to communicate with the primary/active database. Failover requires manual intervention by stopping all application nodes, changing properties files on all nodes to communicate with the secondary database, starting the application nodes, and the re-pointing of DNS for the application URL to the secondary location. The now-standby database will be reconfigured to be read only. Maintenance and management of this configuration and any failover activities would be the responsibility of the customer.

2.3 Hardware Requirements

Whenever possible, it is recommended that the application nodes and the database are installed on dedicated servers that are not shared with other customer systems. This approach provides the most benefit in terms of overall performance, scalability, and app isolation.

The database itself must be dedicated to the ServiceNow application.

The following provides hardware specifications for a typical ServiceNow deployment. These are provided as a reference. Other hardware brands/models should suffice, provided they have comparable or better CPU, memory, and storage specifications. Note that any hardware-specific issues (drivers, unique hardware components, etc.) are outside of the scope of ServiceNow support.

2.3.1 Server Platform

App --- Dell R410 / 1U, 2---socket motherboard

DB --- Dell R510 / 2U, 2---socket motherboard

2.3.2 Processors

Intel X5650, 2.66Ghz, 12M, HT, 1333MHz, 95W (Qty. 2)

2.3.3 Memory

1333MHz, DR, LV, RDIMMs

APP – 64GB (8x8GB)

DB – 128GB (8x16GB)

2.3.4 Hard Disk Drives (HDDs)

APP (R410): 300GB 10K SAS 6Gbps 2.5" FlexBay (Qty. 2)

DB (R510):

System: 300GB 10K SAS 6Gbps 2.5" in 3.5" hybrid carrier (Qty. 2)

Storage: 600GB 15K SAS 6Gbps 3.5" hotplug (Qty. 9)

2.3.5 RAID Controller

PERC H700i, 512MB NV Cache

2.3.6 NIC

2---port, Embedded Broadcom 5716 GbE

2.3.7 Management

iDrac6

2.4 Load Balancer

A load balancer is required. This environment can be shared with other functions, however the SSL sessions from inbound user or integration requests should be terminating on this tier. This tier will be directing the inbound user or integration requests to the appropriate application node(s). An F5 BigIP load balancer, for example, would be configured to communicate directly with a pool of application nodes. Configuration and management of this environment is the responsibility of the customer. The configuration details will be provided by ServiceNow.

The URL that is used for accessing the ServiceNow platform will be within the customer's domain, and the customer will be responsible for the registration of any necessary domain names as well as any necessary SSL certifications.

2.5 Application Server

The application can be installed on either CentOS 5 or Red Hat Enterprise Linux 5. During installation, other configuration settings may be required (such as drive partitioning or supporting software installation). ServiceNow will discuss the details of these configurations with the customer prior to installation.

2.6 Database Server

MySQL version 5.5.12, configured to use the InnoDB storage engine, is the preferred database management system. In addition, the following Oracle versions (either Standard or Enterprise) are also supported:

10.2.0.4
11.1.0.6.0 and greater
11.2*

2.7 Virtualization

ServiceNow requires that both the application nodes and the database server be run on physical hosts, rather than on virtual machines.

3 Customer Maintenance Responsibilities

3.1 Application Server

The customer installs and maintains the operating system on the application server.

ServiceNow provides installation instructions and configuration details for the ServiceNow application software on the application server. The installation includes appropriate versions of Tomcat and Java, and all required configuration settings, as defined by ServiceNow.

3.2 Database Server

The customer installs and maintains the operating system on the database server.

ServiceNow provides installation instructions and configuration details for the database.

3.3 Maintenance, Security, Backup, and Disaster Recovery

The customer:

- Provides and maintains all hardware necessary for this deployment. This includes all vendor maintenance contracts and future upgrades.

- Is responsible for logical and physical security for all server and network components.

- Is responsible for designing and maintaining data backup, restore, and disaster recovery processes. ServiceNow can provide details about the database architecture, and the details of what is appropriate for backup of the ServiceNow platform.

- Is responsible for maintaining the database and operating system, including vulnerability and maintenance patching.

- Is responsible for all monitoring, updating, and patching of their ServiceNow instance(s).

- Is responsible for any failover activities and/or processes that may be necessary to execute a failover in a DR scenario.

3.4 ServiceNow Application Upgrades

ServiceNow application upgrades and patches will be made available via a secure website. It will be the customer's responsibility to download and install any updates into their environment.

4 Customer Access

In order for ServiceNow to provide the best support possible, it is highly recommended that the customer allow ServiceNow to access their instance as described below. Where this is not possible, readers can skip to section 4.3.

4.1 Remote Access

Ideally, the customer can provide ServiceNow with reliable remote access via VPN tunnel, via a single shared account for all of ServiceNow Support. This access allows ServiceNow support personnel to provide more rapid troubleshooting and remediation for incidents as they arise.

- ServiceNow recommends secure command-line access to log on to the application and database servers.

- ServiceNow recommends HTTP or HTTPS access to the application or web server that is serving the application.

- ServiceNow recommends opening the application port ranges (16000-16999) to allow direct access to the application by ServiceNow personnel (bypassing load balancers, proxy servers, or other customer-managed devices).

The customer should provide ServiceNow with a service account on the application and database servers that can start and stop the application.

- Certain support functions require greater access. For example, restarting a web server requires root or sudo root level access. Customers are encouraged to discuss support requirements and limitations with ServiceNow during troubleshooting.

All remote access must be facilitated in a method that is not dependent on a specific operating system.

The customer's firewall must be configured to accept and pass SSH requests from ServiceNow management IP addresses to the application and database servers.

Customer may monitor ServiceNow access through the application transaction logs.

4.2 Application (Outbound) Access

Ideally, all instances of the application server can also provide outbound HTTPS and HTTP access to the ServiceNow internal management system. This communication allows the application server to report performance status and other KPIs that can expedite certain support engagements.

This communication can be passed through the customer's internal proxy environment.

4.3 Technical Contacts

The customer must assign a responsible individual or group for support of the application server and supporting network hardware. The customer must provide the ServiceNow Technical Support department with contact information for these parties.

The customer must assign a database administrator and provide contact information to the ServiceNow Technical Support department.

The customer must provide ServiceNow Technical Support department with the contact information for the network and data center points of contact.

Customer-assigned technical contacts must be available during troubleshooting sessions with the ServiceNow Technical Support department.

The customer must provide ServiceNow with updates to all technical contact information on a regular basis and prior to receiving technical support.

5 Scope of ServiceNow Technical Support

ServiceNow provides general technical support and guidance for ServiceNow software. If an issue cannot be replicated when accessing the application server directly (bypassing load-balancers, proxy servers, or other customer-managed devices) – or when such access is not possible/permitted, then the customer is responsible for troubleshooting and maintenance.

For information on contacting Technical Support, refer to the ServiceNow Wiki (http://wiki.service-now.com/index.php?title=Technical_Support).

5.1 Technical Support Responsibility

Activity	Hosted	Non-Hosted	Non-Hosted
	Standard	Standard Config, VPN Access	Non-STD Config and/or No VPN
Planning			
Capacity Sizing	SNC	STD	LTD
Deployment Design	SNC	STD	LTD
Hardware Acquisition	SNC	Customer	Customer

Activity	Hosted	Non-Hosted	Non-Hosted
	Standard	Standard Config, VPN Access	Non-STD Config and/or No VPN
Deployment			
Hardware & OS Deployment	SNC	Customer	Customer
Load Balancer	SNC	Customer	Customer
DB Setup	SNC	STD	LTD
Instances Deployment	SNC	STD	LTD
Integration with SSO, Email, etc.	SNC	STD	LTD
HA Build-out	SNC	STD	LTD
DR Build-out	SNC	STD	LTD
Operations			
Cloning	SNC	STD	LTD
Backup / Restore	SNC	STD	LTD
Adding Worker/UI Nodes	SNC	STD	LTD
Deleting Nodes	SNC	STD	LTD
App upgrades	SNC	STD	LTD
OS upgrade	SNC	LTD	LTD
Database Upgrade	SNC	LTD	LTD
Non-hosted to SaaS	N/A	SNC	SNC Pro Services
Monitoring			
Infrastructure Monitoring	SNC	Customer	Customer
App Monitoring	SNC	Customer	Customer
Troubleshooting			
Application Troubleshooting			
Review JVM memory & config	SNC	STD	LTD
Review application properties	SNC	STD	LTD
Semaphores, connections settings	SNC	STD	LTD
Worker nodes	SNC	STD	LTD
Custom Application	Customer	Customer	Customer
Custom Integration	Customer	Customer	Customer

Activity	Hosted Standard	Non-Hosted Standard Config, VPN Access	Non-Hosted Non-STD Config and/or No VPN
Infrastructure Troubleshooting			
Review server resources	SNC	STD	LTD
Review network environment	SNC	STD	LTD
Review OS configuration	SNC	STD	LTD
DB Troubleshooting			
Review database config	SNC	STD	LTD
Review memory settings	SNC	STD	LTD

Table 1. Technical Support Responsibility

Legend:

Customer = activity is the sole responsibility of the customer. In most cases, ServiceNow can also provide assistance via Professional Services on a for-pay basis.

SNC = activity is the sole responsibility of ServiceNow

LTD = Customer Responsibility w/ Limited* (L1) Support. No SLAs.

STD = Customer Responsibility w/ STD (L2/L3) Support. Standard SLAs apply.

* Limited Support is confined to incident creation, addressing high-level questions / providing pointer for resources, data collection & log analysis (if feasible)

** Any activities not specifically called out above should be considered the primary responsibility of the customer.

NOTE: Per contract, SNC Support does not include: implementation services; configuration services; integration services; custom software development; support for Customer or third-party modifications to the Product; training or "how-to"; or assistance with administrative functions or other professional services. In most cases, these services are available on a for-pay basis by ServiceNow Professional Services.

6 Definitions and Terms

Term	Definition
Non-hosted software	A customer-maintained implementation of the ServiceNow application.
JDBC	Java Database Connectivity
VPN	Virtual Private Network
InnoDB	MySQL database engine required for ServiceNow installation.
SSL	Secure Socket Layer
HTTP	Hypertext transfer protocol
HTTPS	Hypertext transfer protocol secure
Apache	Open source web server software

Term	Definition
SSH	Secure shell, the protocol used for command-line access
Pinning	Temporarily designating an instance to not automatically receive a new release. Pinning is the supported method for opting out of an automatic update.

Table 2. Definitions and Terms

7 Document Control

Role	Name	Title	Date	Signature
Author	Michael Nappi	VP, Application Development	(On file)	(On file)
Owner	Michael Nappi	VP, Application Development	(On file)	(On file)
QC Reviewer	Chris Gregg	Technical Writer	(On file)	(On file)
Approver	Dan McGee	SVP, Development & Support	(On file)	(On file)

Table 3. Document Control

8 Revision History

Revision	Date	Written/Updated by	Section(s)	Summary
1.0	December 2, 2011	Aaron Burruss	All	Initial version of document.
2.0	May 1, 2012	Michael Nappi, Chris Gregg	All	Revised guidelines, added HW reqs, and inserted into new template.
3.0	May 31, 2012	Michael Nappi, Chris Gregg	All	Revised support wording. Changed Approver.
4.0	June 19, 2012	Michael Nappi, Chris Gregg	All	Revised title and defined terms.
5.0	September 6, 2012	Danny Kibel	5.1	Added Section 5.1; Technical Support Responsibilities

Table 4. Revision History

END OF DOCUMENT

SUBSCRIPTION SERVICE AGREEMENT

IMPORTANT: PLEASE READ BEFORE INSTALLATION OR USE OF THE SERVICENOW, INC. ("**SERVICENOW**") SUBSCRIPTION SERVICE. BY INSTALLING OR IN ANY WAY USING THE SUBSCRIPTION SERVICE, THE ENTITY OR COMPANY THAT YOU REPRESENT ("**CUSTOMER**") IS UNCONDITIONALLY CONSENTING TO BE BOUND BY AND IS BECOMING A PARTY TO THIS SUBSCRIPTION SERVICE AGREEMENT ("**AGREEMENT**") WITH SERVICENOW. IF CUSTOMER DOES NOT UNCONDITIONALLY AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, INSTALLATION OR USE OF THE SUBSCRIPTION SERVICE IS STRICTLY PROHIBITED. IF THE TERMS OF THIS AGREEMENT ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO THESE TERMS.

1. PROVISION OF SERVICES

ServiceNow will make the following services available to Customer, subject to the terms and conditions of this Agreement and each use certificate provided by ServiceNow's authorized reseller ("**Reseller**") to Customer (each, a "**Use Certificate**"):

(a) use of the ServiceNow subscription service(s) as specified in a Use Certificate and described in ServiceNow's Operations Guide, attached as Schedule A, and the Service Level Agreement, attached as Schedule B, which are incorporated herein by this reference ("**Subscription Service**"); and

(b) professional services from ServiceNow as indicated on a Use Certificate ("**Professional Services**").

2. ORDERING

2.1. RESELLER ORDERS. Customer shall order and purchase the Subscription Service and/or Professional Services directly from Reseller pursuant to a separate agreement specifying price, payment and other commercial terms. ServiceNow is not a party to that separate agreement but will provide the purchased services pursuant to this Agreement. Reseller is not authorized to make any changes to this Agreement (including any Use Certificate issued hereunder) or bind ServiceNow to any additional or different terms and conditions.

2.2. USE CERTIFICATE. For each order, Reseller will provide Customer with a Use Certificate issued by ServiceNow that specifies the Subscription Service and/or Professional Services that Customer has purchased from Reseller. Each Use Certificate is hereby incorporated into and made a part of this Agreement.

2.3. SUBSCRIPTION SERVICE. When Customer has ordered the Subscription Service, the Use Certificate associated with that order shall specify the term of authorized use of the Subscription Service ("**Subscription Term**") and the numbers, types and identifiers of permitted users, servers, capacity and locations at or through which Customer is permitted to use the Subscription Service. Customer may not use or otherwise access the Subscription Service in a manner that exceeds Customer's authorized use. Unless otherwise expressly provided in the applicable Use Certificate, the Subscription Service is for Customer's internal IT service management use only.

2.4. PROFESSIONAL SERVICES. When Customer has ordered Professional Services, the Use Certificate associated with that order shall specify either or both of: (a) ServiceNow packaged professional services (each offering, a "**Packaged Service**") and are as described under the name of such Professional Service offering at www.service-now.com/schedules.do ("**Service Description**"), or (b) other Professional Services described in one or more written statements of work ("**SOW**").

2.5. PAYMENT; CUSTOMER CLAIMS. Customer shall pay Reseller for the services provided hereunder at such prices and upon such terms which Customer and Reseller have agreed. Any warranty claim or claim for partial or total refund of fees paid hereunder, or for service credits or service extensions under the service level agreement, must be made to the Reseller, not ServiceNow.

3. GRANT OF USE RIGHTS; OWNERSHIP; CUSTOMER RESTRICTIONS

3.1. GRANT OF USE RIGHTS. Solely as contemplated by this Agreement and the applicable Use Certificate: (a) ServiceNow hereby grants to Customer a non-exclusive, non-transferable, worldwide right during the Subscription Term to access and use the Subscription Service and the user documentation relating to the operation and use of the Subscription Service that is provided by ServiceNow to Customer under the Agreement, as reasonably updated by ServiceNow from time to time (the "**Documentation**"); and (b) Customer hereby agrees that ServiceNow may use the electronic data specifically pertaining to Customer and/or its users that is processed using the Subscription Service (collectively "**Customer Data**") strictly for the limited purpose of providing the Subscription Service to Customer.

3.2. SOFTWARE. ServiceNow may provide ServiceNow software products ("**Software**") for use in connection with the Subscription Service. Any Software is licensed and not sold, and ServiceNow grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable, non-exclusive license to install and execute the Software on machines operated by or for Customer solely to permit Customer to use the Subscription Service during the Subscription Term in accordance with the terms and conditions of this Agreement. The Software or Deliverables (as defined below) may include independent code that is licensed under third party license agreements, including open source, made available or provided with the Software or Deliverables as applicable.

3.3. OWNERSHIP. As between ServiceNow and Customer, all rights, title, and interest in and to all intellectual property rights in the Subscription Service, Software, Documentation and/or ServiceNow Core Technology (as defined below) are owned exclusively by ServiceNow. Except as expressly provided in this Agreement, ServiceNow does not grant Customer (and expressly reserves) any rights, express or implied, or ownership in the Subscription Service, Software, Documentation, and/or ServiceNow Core Technology. ServiceNow shall have a royalty-free, worldwide, non-exclusive, transferable, sub-licensable, irrevocable, perpetual right to make, use, sell, offer for sale, import, or otherwise incorporate into the Subscription Service, Software, Documentation, and/or ServiceNow Core Technology, any

suggestions, enhancements, recommendations or other feedback provided by Customer relating to the Subscription Service, Software, Documentation, and/or ServiceNow Core Technology.

3.4. RESTRICTIONS. Customer shall not (and shall not permit others to): (i) license, sub-license, sell, re-sell, rent, lease, transfer, distribute, or time share the Subscription Service, Software or Documentation or make any of them available for access by third parties, such as for example in the manner of a service bureau or hosted application; (ii) create derivative works based on or otherwise modify the Subscription Service, Software or Documentation; (iii) disassemble, reverse engineer or decompile the Subscription Service or Software; (iv) access the Subscription Service, Software or Documentation in order to develop a competing product or service; (v) use the Subscription Service as a service for others; (vi) use or send viruses or other harmful computer code; (vii) interfere with the integrity of the Subscription Service or its data; or (viii) remove or modify a copyright or other proprietary rights notice on or in the Subscription Service, Software or Documentation; or (ix) use or distribute to ServiceNow material protected by copyright or other intellectual property right (including the right of publicity and/or privacy) without first obtaining the permission of the owner.

3.5. DELIVERABLES. Subject to the provisions of this Section 3.5, ServiceNow shall assign to Customer any Newly Created IP (defined below) in Deliverables upon payment in full by Customer of all amounts due for the Professional Service under which the Deliverable was created. A "**Deliverable**" is a deliverable that is identified in the applicable SOW or Service Description and that is created by ServiceNow for Customer in the performance of the Professional Services. "**Newly Created IP**" means intellectual property in any inventions or works of authorship that are made by ServiceNow for Customer in the course of performing Professional Services for Customer, other than ServiceNow Core Technology. "**ServiceNow Core Technology**" means: (a) ServiceNow technology, methodologies and intellectual property (including, without limitation, product(s), software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation (both printed and electronic)) existing at the Effective Date of this Agreement or otherwise arising in whole or in part outside of work under a Professional Service for Customer; (b) any derivatives, improvements, enhancements or extensions of the foregoing, whether or not conceived, reduced to practice, or developed during the term of this Agreement or in performance of Professional Service, as applicable; and (c) any intellectual property anywhere in the world relating to any of the foregoing. To the extent (if at all) any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the ServiceNow Core Technology solely to use the Deliverable in connection with the Subscription Service as contemplated under this Agreement during the Subscription Term. Nothing in this Agreement shall be deemed to restrict or limit ServiceNow's right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party.

4. WARRANTIES

4.1. LIMITED SUBSCRIPTION SERVICE WARRANTY. ServiceNow warrants that during the Subscription Term the Subscription Service will operate without a Defect, as defined in the Operations Guide, that causes a material failure of Customer's production instances of the Subscription Service to perform in accordance with the functional specifications for the Subscription Service ("**Specifications**"). Customer's exclusive remedy for breach of this warranty is to request Reseller and ServiceNow to correct or work around the Defect, subject to and in accordance with the procedures and limitations for receiving Support, as defined in the Operations Guide. If the Defect persists in causing a material failure in Customer's production instances of the Subscription Service to conform to the Specifications without correction or work around forty-five (45) days after written notice to ServiceNow of a warranty claim under this Section 4.1, then Customer may terminate the affected Subscription Service and Reseller shall refund to Customer any prepaid subscription fees covering the remainder of the Subscription Term of the affected Subscription Service after the date of termination. This Section 4.1 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with any Defect or other failure of the Subscription Service to perform in accordance with the Specifications or any other manner.

4.2. LIMITED PROFESSIONAL SERVICES WARRANTY. ServiceNow warrants that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements set forth in the Service Description or SOW, as applicable. Customer's exclusive remedy for breach of this warranty is to notify ServiceNow in writing of the breach within forty-five (45) days after performance of the non-conforming Professional Services. Upon receipt of such notice, ServiceNow, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services, whereupon the Reseller shall refund to Customer any prepaid amounts for unperformed Professional Services. This Section 4.2 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with the performance of Professional Services.

4.3. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, THE SERVICES PROVIDED HEREUNDER AND ANY ACCOMPANYING SOFTWARE OR DELIVERABLE ARE PROVIDED "AS-IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND AND, TO THE MAXIMUM EXTENT ALLOWED BY LAW, SERVICENOW DISCLAIMS ALL WARRANTIES OF ANY KIND INCLUDING WARRANTIES ARISING UNDER STATUTE, WARRANTIES OF MERCHANTABILITY, ACCURACY, QUIET ENJOYMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SERVICENOW SPECIFICALLY DOES NOT WARRANT THAT THE SERVICES OR DELIVERABLES WILL MEET THE REQUIREMENTS OF CUSTOMER OR OTHERS OR THAT THEY WILL BE ACCURATE OR OPERATE WITHOUT INTERRUPTION OR ERROR.

5. CONFIDENTIALITY AND NON-USE RESTRICTIONS

5.1. CONFIDENTIAL INFORMATION. "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure: including of the foregoing, without limitation, each party's respective business plans and processes; financial and employee data; proprietary technology and product information

and designs; the Subscription Service and Software; Customer Data; and the terms of this Agreement, Use Certificate(s) and pricing. Confidential Information excludes information that: (i) is or becomes generally known to the public; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation to the Disclosing Party; (iii) is received from a third party without breach of any obligation to the Disclosing Party; or (iv) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information.

      5.2.   PROTECTION. The Receiving Party shall: (i) at all times protect the confidentiality of the Disclosing Party's Confidential Information using no less than reasonable care; and (ii) not use Confidential Information of the Disclosing Party except to the extent necessary to exercise its rights or fulfill its obligations under this Agreement. To the extent necessary under this Agreement, the Receiving Party may disclose the Confidential Information of the Disclosing Party to the Receiving Party's employees or subcontractors who are bound by written obligations of confidentiality and non-use restrictions at least as protective as those set forth herein. In the event of a court order or government regulation compelling disclosure of any Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt written notice thereof, and shall reasonably cooperate with the Disclosing Party to seek confidential or other protective treatment. Each party's obligations set forth in this Section 5 shall remain in effect during the term and three (3) years after termination of this Agreement. The Receiving Party shall promptly return to the Disclosing Party or destroy (with certification of such destruction provided by the Receiving Party upon request) all Confidential Information of the Disclosing Party in its possession or control upon request from the Disclosing Party. The Confidential Information is exempt from disclosure under the Freedom of Information Act, 5 U.S.C. §552 ("FOIA") and is trade secret information as that term is used in the Trade Secrets Act, 18 U.S.C. §1905 and the Economic Espionage Act, 18 U.S.C. §§1831 and 1832; provided that such is properly marked in accordance to the FOIA and the Trade Secrets Act and Economic Espionage Act. Provisions for the return of Customer Data are set forth in the Operations Guide.

6.   INDEMNIFICATION

      6.1.   SERVICENOW OBLIGATION. ServiceNow shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand (**"Claim"**) alleging that Customer's use of the Subscription Service in accordance with this Agreement infringes any valid patent, copyright, or trademark of a third party that is issued or registered in the United States; and (ii) pay any court-ordered award of damages or settlement amount, and reasonable attorney fees, to the extent caused by such Claim. If any portion of the Subscription Service becomes the subject of a Claim, ServiceNow may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in ServiceNow's judgment, then (d) terminate Customer's use of the affected Subscription Service upon forty-five (45) days' written notice, whereupon the Reseller shall pay to Customer a refund of any prepaid subscription fees covering the remaining portion of the applicable Subscription Term for the affected Subscription Service after the date of termination. Notwithstanding the above, ServiceNow shall have no liability for any Claim arising in whole or in part from: (i) any use of the Subscription Service which exceeds the authorized use in the Use Certificate; (ii) the Customer Data; (iii) use of the Subscription Service by Customer in violation of applicable law; (iv) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 6.1; (v) modifications to the Subscription Service by any person other than ServiceNow or a person acting at ServiceNow's direction; or (vi) use of the Subscription Service in combination with any hardware, software, application or service made or provided other than by ServiceNow.

      6.2.   PROCESS. All of the foregoing indemnity obligations of ServiceNow are conditioned on Customer notifying ServiceNow promptly in writing of any actual or threatened Claim, Customer giving ServiceNow sole control of the defense thereof and any related settlement negotiations, and Customer cooperating and, at ServiceNow's request and expense, assisting in such defense. SECTION 6 STATES SERVICENOW'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR THIRD PARTY INFRINGEMENT CLAIMS AND ACTIONS.

7.   LIMITATIONS OF LIABILITY AND DAMAGES

      7.1.   LIMITATIONS OF LIABILITY. SERVICENOW SHALL HAVE NO LIABILITY FOR ANY REFUND THAT, IN ACCORDANCE WITH THE TERMS HEREOF, IS TO BE PAID BY THE RESELLER. TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE SERVICE GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) BODILY INJURY OR DEATH; (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED TO RESELLER FOR SERVICES PROVIDED HEREUNDER.

      7.2.   EXCLUSION OF DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COSTS OF SUBSTITUTE GOODS, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) BODILY INJURY OR DEATH; AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

SUBSCRIPTION SERVICE AGREEMENT

8. TERM AND TERMINATION

8.1. TERM AND TERMINATION. This Agreement continues until terminated. Each party may terminate this Agreement in its entirety either: (i) upon thirty (30) days prior written notice to the other party, if at the time such notice is served there are no Use Certificates in effect; or (ii) upon written notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership, liquidation in any jurisdiction that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Either party may terminate a Subscription Service or Professional Services effective immediately upon written notice if the other party materially breaches a material obligation under this Agreement or the applicable Use Certificate for the affected service and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party. Professional Services are separately ordered from the Subscription Service, and are not required for the Subscription Service. A breach by a party of its obligations with respect to Professional Services shall not by itself constitute a breach by that party of its obligations with respect to the Subscription Service even if the services are enumerated in the same Use Certificate.

8.2. EFFECT OF TERMINATION OF SERVICE. Upon expiration or other termination of the Subscription Service for any reason, Customer shall immediately stop using, and ServiceNow shall immediately stop providing, the terminated Subscription Service. (a) If the Subscription Service is terminated by Customer due to ServiceNow's breach, then Reseller shall refund to Customer, within thirty (30) days after the effective date of termination, all prepaid fees for the remaining portion of the Subscription Term for the terminated Subscription Service after the effective date of termination. (b) If Professional Services are terminated due to ServiceNow's breach, Customer may terminate the affected Professional Services whereupon Reseller shall refund to Customer of any prepaid amounts for unperformed Professional Services. (c) If the Subscription Service is terminated by ServiceNow for cause, then Customer shall pay to Reseller, within thirty (30) days after the effective date of termination, fees for the terminated Subscription Service that would have been payable for the remainder of the Subscription Term after the effective date of termination. (d) Upon expiration or other termination of the Subscription Service for any reason, Customer shall request the return of Customer Data in accordance to the Operations Guide.

8.3. SURVIVAL. Upon termination of this Agreement for any reason, Customer shall pay to Reseller all amounts owed by it in connection with the services provided hereunder. Sections 3.3, 3.4, and 5 through 9 of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

9. GENERAL PROVISIONS

9.1. ASSIGNMENT. Neither party may assign its rights or obligations, whether by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may upon notice without the other party's consent: (i) in connection with a merger, reorganization, or sale of all or substantially all of the assets or equity of such party, assign this Agreement in its entirety to such party's successor; and (ii) assign this Agreement in its entirety to any company, partnership or other legal entity which from time to time directly or indirectly Controls, is Controlled by or is under the common Control with such party, where "**Control**" means the legal power to direct or cause the direction of, the general management of the company, partnership or other legal entity. Any attempted or purported assignment in violation of this Section 9.1 will be null and void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

9.2. NOTICE. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by confirmed email; provided that e-mail shall not be sufficient for notices of termination or a Claim.

9.3. EXPORT COMPLIANCE. Each party shall comply with United States and foreign export control laws and regulations. Customer acknowledges that the Subscription Service is subject to the U.S. Export Administration Regulations (the "**EAR**") and that Customer shall comply with the EAR. Without limiting the foregoing, Customer represents and warrants that: (i) Customer is not located in any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan, and Syria); (ii) Customer shall not use the Subscription Service in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, and sounding rockets, or unmanned air vehicle systems; and (iii) Customer is not prohibited from participating in the U.S. export transactions by any federal agency of the U.S. government. Notwithstanding the provisions of Section 8, this Agreement shall automatically and immediately terminate for cause upon breach of any of these representations and warranties by Customer.

9.4. FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including but not limited to strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, theft or other criminal acts, failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions (a "**Force Majeure Event**") . The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event. .

9.5. US GOVERNMENT RIGHTS. All ServiceNow software is commercial computer software and all services are commercial items. "**Commercial computer software**" has the meaning set forth in Federal Acquisition Regulation ("**FAR**") 2.101 for civilian agency purchases and the Department of Defense ("**DOD**") FAR Supplement ("**DFARS**") 252.227-7014(a)(1) for defense agency purchases. If the software is licensed or the services are acquired by or on behalf of a civilian agency, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the services are acquired

by or on behalf of any agency within the DOD, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software or technical data.

9.6.   ENTIRETY. This Agreement, together with the referenced and/or attached documents, is the final and entire agreement of the parties regarding the subject matter of this Agreement, and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings, and negotiations. In the event of any conflict between this Agreement and any referenced and/or attached documents or Use Certificate(s), this Agreement shall govern unless such referenced and/or attached document, is signed by both parties and manifests a clear intent to override the terms of this Agreement. The terms of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any purchase order submitted by Customer is for Customer's internal purposes only and its terms and conditions are superseded and replaced by this Agreement, and the purchase order terms and conditions have no force or effect. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ServiceNow which is not set out in this Agreement, or the applicable Use Certificate or SOW or Service Description. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any verbal or written communication about ServiceNow's future plans. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

9.7.   WAIVER AND AMENDMENT. A waiver of any right is only effective if it is in writing and only against the party who signed and for the circumstances given. Any modification of this Agreement, or an Use Certificate or SOW or Service Description must be in writing and signed by authorized representatives of the parties; provided that the Operations Guide and the Service Level Agreement in effect at the time of a Use Certificate under this Agreement shall be applicable to the services purchased or renewed under the Use Certificate and are incorporated herein by this reference.

9.8.   RELATIONSHIP OF THE PARTIES. The parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship. Neither party shall have any right or authority to assume or create any obligation of any kind expressed or implied in the name of or on behalf of the other party. ServiceNow may at any time subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

9.9.   GOVERNING LAW; VENUE; TIME FOR BRINGING ACTION. This Agreement shall be governed by, subject to, and interpreted in accordance with the laws of the state of California, without regard to conflict of laws principles. The parties hereby irrevocably consent to the nonexclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in San Diego, California or New York, New York, for the purposes of adjudicating any action or proceeding to enforce the terms of this Agreement. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply. No cause of action arising hereunder or relating hereto may be brought more than one (1) year after it first accrues. The prevailing party in an action to enforce this Agreement shall be entitled to costs of bringing the claim and reasonable attorneys' and experts' fees and expenses. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding either party's intellectual property rights.

9.10.   CONSTRUCTION. The Subscription Service and Professional Services shall be provided in the English language unless agreed otherwise. The parties confirm that they have requested that this Agreement and all related documents be drafted in English at the express wishes of the parties. Capitalized terms not defined herein shall have the meaning set forth in the Operations Guide or the Service Level Agreement. Section headings are for convenience only and are not to be used in interpreting this Agreement.

SCHEDULE A

OPERATIONS GUIDE FOR SUBSCRIPTION SERVICE

1. AUTHORIZED USE

1.1. USERS. Customer authorizes **"Users"** to access the Subscription Service, each with a unique username and password that may not be shared or transferred. Customer designates to some Users a named level of access or functionality defined by Customer (a **"Role"**). Unless stated otherwise on the Use Certificate, any User with a Role is a **"Process User"**, and a User without a Role is an **"End User."** A Role is not required for Users to: (i) create a task; (ii) check on the status of a task the User created; (iii) shop a service catalog; or (iv) view knowledge articles, reports and other general published information. Customer shall limit the number of Process Users or any other fee-based user type to the number specified in the applicable Use Certificate.

1.2. SERVERS. A **"Discovery Server"** is a non-virtual machine configured as a server. An **"RBA Server"** is a physical or virtual machine configured as a server upon which a task is performed as a step in a process or procedure automated by ServiceNow Runbook Automation. Customer shall limit the number of Discovery Servers and RBA Servers managed through ServiceNow Discovery and Runbook Automation to the number specified in the applicable Use Certificate.

1.3. CUSTOMER RESPONSIBILITIES. Without limitation, Customer is responsible for: (a) Customer's implementation of the Subscription Service; (b) protecting Customer designated User names and passwords and preventing and notifying ServiceNow of unauthorized use; (c) the lawfulness of, and results obtained from, all Customer Data submitted by Users to the Subscription Service and each User's acts and omissions; (d) using the Subscription Services' column level encryption feature for all Customer-created columns and attachments containing sensitive Customer Data, including for personally identifiable information and other sensitive information; (e) using the Subscription Service only in accordance with the numbers, types and identifiers of permitted users, servers and locations at or through which Customer is permitted to use the Subscription Service as specified in this Agreement and the Use Certificate; and (f) using the Subscription Service only in accordance with the Documentation. If Customer exceeds its permitted use of the Subscription Service, it will regain compliance within thirty (30) days by: (i) disabling un-permitted use; (ii) purchasing additional subscriptions; or (iii) taking other steps reasonably requested by ServiceNow. ServiceNow may review Customer's use of the Subscription Service, and Customer shall provide any reasonable assistance, to verify Customer's compliance with this Agreement. ServiceNow may suspend Customer's use of the Subscription Service after giving thirty (30) days written notice of non-compliance.

2. SUPPORT

2.1. PROCESS. Customer may, through its designated representatives as agreed by the parties, request, via the online portal https://hi.service-now.com/ or any successor site, at no additional charge, that ServiceNow correct a problem causing Customer's instances of the Subscription Service to not conform to the Specifications (**"Defect"**). Support (**"Support"**) is offered for the current release of the Subscription Service and the two (2) prior releases (**"Supported Versions"**) except for: Defects known to be resolved by Upgrading; immaterial Defects; or corrections that will degrade the Subscription Service. Support does not include: implementation services; configuration services; integration services; custom software development; support for Customer or third-party modifications to the Subscription Service; training or "how-to"; or assistance with administrative functions or other professional services. Prior to submission of any Support request, Customer is encouraged to consult the Documentation to determine if the Support issue has been addressed. ServiceNow will use reasonable efforts to initially respond to a Support request in the following target time frames based on ServiceNow priority classifications:

Nature of Defect	Production Instance Target Initial Response Time	Non-Production Instance Target Initial Response Time
Availability Defect	Classified as P1 Defect Within 30 minutes at all times	Classified as P2 Defect Within 2 hours at all times
Critical Defect	Classified as P2 Defect Within 2 hours at all times	Classified as P3 Defect Within 12 hours on ServiceNow business days, excluding holidays
Non-Critical Defect	Classified as P3 Defect Within 12 hours on ServiceNow business days, excluding holidays	Classified as P4 Defect Within 24 hours on ServiceNow business days, excluding holidays
Other	No target initial response time	No target initial response time

2.2. UPGRADES AND PLANNED DOWNTIME. **"Upgrades"** are repairs or enhancements to the Subscription Service provided by ServiceNow as part of Support from time to time at no additional fee during the Subscription Term. ServiceNow determines how

and when to develop, release and apply any Upgrade. ServiceNow reserves the right to exclude new functionality from Upgrades, and to make new functionality commercially available for a separate fee. ServiceNow may perform maintenance, including applying Upgrades at its sole discretion, during which the Subscription Service will be unavailable for up to two (2) hours per month **("Planned Downtime")** upon prior notice to Customer.

3.   **RETURN OF CUSTOMER DATA**

Following the end of the Subscription Term, where Customer has not renewed, Customer shall have forty-five (45) days to request a copy of its Customer Data and, if requested, ServiceNow shall use commercially reasonable efforts to provide a copy of that data within fifteen (15) days in a mutually agreed upon, commercially standard format at no cost to Customer unless it is determined that the data output is not routine in which case the parties shall mutually agree on an SOW for Professional Services. After such forty-five (45) day period, ServiceNow shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, retain the right to delete all Customer Data in its systems or otherwise in its possession or under its control.

4.   **CAPITALIZED TERMS**

Capitalized terms not defined herein shall have the meaning set forth in the Agreement, including the General Terms and Conditions and the Service Level Agreement, of which this Schedule is a part.

SCHEDULE B

SERVICE LEVEL AGREEMENT FOR SUBSCRIPTION SERVICE

1. SERVICE LEVEL AGREEMENT

If Customer's production instances of the Subscription Service running on a Supported Version and implemented in accordance with the Documentation are not Available (as defined below) ninety-nine and eight-tenths percent (99.8%) of the time or more in any calendar month (**"SLA"**), then Customer's exclusive remedy for failure of the Subscription Service to meet the SLA is for Customer to request Reseller to either: (1) extend the affected Subscription Term for the number of minutes the Subscription Service was not Available in the month in excess of the SLA; or (2) issue a service credit to Customer for the dollar value of the number of minutes the Subscription Service was not Available in the month in excess of the SLA (determined at the deemed per minute rate Reseller charged to Customer for Customer's use of the affected Subscription Service) which Customer may request Reseller apply to Reseller's next invoice for subscription fees. **"Available"** means that the Subscription Service can be accessed by Customer via a secure password protected site(s) hosted by ServiceNow on the world wide web except for: (i) Planned Downtime; and (ii) downtime caused by circumstances beyond ServiceNow's control, including without limitation, Customer or third-party modifications to the Subscription Service, a Force Majeure Event such as, for example, general Internet outages, failure of Customer's infrastructure or connectivity, computer and telecommunications failures and delays not within ServiceNow's control, and network intrusions or denial-of-service or other criminal attacks.

2. PROCESS

Customer must request all service credits or service extensions in writing to Reseller within thirty (30) days of the end of the month in which the SLA was not met, identifying the Support requests relating to the unavailability. The total amount of service extension or credits for any month may not exceed the subscription fee for the affected Subscription Service for the month, and has no cash value. Customer agrees that ServiceNow may delay issuing service credits until such amounts reach a minimum threshold of $1,000 U.S. dollars.

3. CAPITALIZED TERMS

Capitalized terms not defined herein shall have the meaning set forth in the Agreement, including the General Terms and Conditions and the Operations Guide, of which this Schedule is a part.

SUBSCRIPTION SERVICE AGREEMENT

This Subscription Service Agreement (including the Subscription Service Guide, attached hereto) ("*Agreement*") between ServiceNow, Inc. ("*ServiceNow*") and the customer set forth below ("*Customer*") is made as of the effective date or purchase ("*Effective Date*").

The Subscription Service Guide includes: (1) the Customer Support Policy; (2) the Upgrade Policy; and (3) the Data Security Guide. Pursuant to a separate transaction between Customer and ServiceNow's authorized reseller ("*Reseller*"), Customer has purchased from Reseller certain services to be delivered by ServiceNow. This Agreement specifies the terms and conditions under which those services will be provided, apart from price, payment and other terms specified in the separate agreement between Customer and Reseller.

1. DEFINITIONS

1.1. "*Confidential Information*" means, to the extent permitted by law: (a) ServiceNow Core Technology (which is Confidential Information of ServiceNow); (b) Customer Data and Customer Technology (which are Confidential Information of Customer); and (c) any other information of a party that is disclosed in writing or orally and is designated as *Confidential* or *Proprietary* at the time of disclosure (and, in the case of oral disclosures, summarized in writing within thirty (30) days of the initial disclosure and delivered to the receiving party), or that due to the nature of the information the receiving party would clearly understand it to be confidential information of the disclosing party. Confidential Information shall not include any information that: (i) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving party; (ii) was rightfully in the receiving party's possession at the time of disclosure without restriction on use or disclosure; (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (iv) was or is rightfully obtained by the receiving party from a third party not under a duty of confidentiality and without restriction on use or disclosure.

1.2. "*Customer Data*" means electronic data uploaded by or for Customer and Customer's agents, employees and contractors, and processed in the Subscription Service, excluding the ServiceNow Core Technology.

1.3. "*Customer Technology*" means software, methodologies, templates, business processes, documentation or other material authored, invented or otherwise created or licensed (other than by or from ServiceNow) by Customer using or for use with the Subscription Service, excluding the ServiceNow Core Technology.

1.4. "*Development Tools*" means source code, application programming interfaces (APIs), executable software and tools in human readable format made available by ServiceNow for the implementation, customization, configuration, and use of the Subscription Service, such as scripts, code snippets, sample code, and development tools published by ServiceNow.

1.5. "*Documentation*" means the ServiceNow product documentation relating to the operation and use of the Subscription Service, Software and Development Tools, including technical program or interface documentation, user manuals, operating instructions and release notes, as updated from time to time by ServiceNow.

1.6. "*Product Overview*" means the description of the ordered products and their functionalities attached to a Use Authorization or referenced therein.

1.7. "*Professional Services*" means any services provided by ServiceNow pursuant to an agreed SOW or Service Description.

1.8. "*Service Description*" means the written description for a packaged Professional Service, attached to a Use Authorization or referenced therein.

1.9. "*ServiceNow Core Technology*" means: (a) the Subscription Service; Software; Development Tools, Documentation; and ServiceNow technology and methodologies (including, without limitation, products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation) existing as of the Effective Date or otherwise arising outside of work under a Professional Service; (b) updates, upgrades, improvements, configurations, extensions, and derivative works of the

foregoing and related technical or end user documentation or manuals; and (c) intellectual property anywhere in the world relating to the foregoing.

1.10. "*Software*" means software provided by ServiceNow to Customer that operates on Customer-provided machines solely to facilitate the use of the Subscription Service.

1.11. "*SOW*" means a statement of work for Professional Services.

1.12. "*Subscription Service*" means the ServiceNow software as a service (SaaS) offering identified in a Use Authorization.

1.13. "*Subscription Term*" means the term of authorized use of the Subscription Service as set forth in the Use Authorization.

1.14. "*Use Authorization*" means a written document provided to Customer specifying the services that Customer has purchased, along with the term and scope of the authorized use thereof.

2.   GRANT OF USE RIGHTS

2.1.   SUBSCRIPTION SERVICE.   Subject to the terms of this Agreement, ServiceNow authorizes Customer to access and use the purchased Subscription Service during the Subscription Term as set forth in an applicable Use Authorization for its internal business purposes in accordance with the Documentation. Customer shall not use or otherwise access the Subscription Service in a manner that exceeds Customer's authorized use as set forth in this Agreement and the applicable Use Authorization.

2.2.   SOFTWARE. ServiceNow grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license during the Subscription Term to install and execute Software on machines operated by or for Customer solely to facilitate Customer's authorized access to and use of the purchased Subscription Service. The Software may include code that is licensed under third party license agreements, including open source made available or provided with the Software. Software is licensed and not sold even if for convenience ServiceNow makes reference to words such as *sale* or *purchase*.

2.3.   DEVELOPMENT TOOLS.   In support of Customer's authorized internal business use of the Subscription Service during the Subscription Term, ServiceNow grants to Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license to download and make a reasonable number of copies of the Development Tools, and to use, copy, modify and create derivative works of the Development Tools, in: (a) using, implementing and integrating the ServiceNow applications with other software and systems; and (b) creating applications on the ServiceNow platform (to the extent Customer has purchased authorized use of the Subscription Service to create applications on the ServiceNow platform). Customer shall not use the Development Tools in a manner that causes it to exceed the limits of its authorized use of the Subscription Service as set forth in this Agreement and the Use Authorization. From time to time, ServiceNow may provide Development Tools subject to the terms and conditions of separate agreements which will be provided to Customer for review and to which Customer will be required to agree prior to use of such Development Tools; provided that ServiceNow shall not require Customer to agree to separate terms and conditions for any Development Tool that is necessary for Customer's use of its ordered Subscription Service in conformance with the Product Overview unless set forth on the Use Authorization.

2.4.   RESTRICTIONS. Customer shall not (and shall not permit others to) do the following with respect to the ServiceNow Core Technology: (i) use the Subscription Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in a Use Authorization; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with the Subscription Service; (iv) disassemble, reverse engineer or decompile it; (v) copy, create derivative works based on or otherwise modify it except as permitted in this Agreement; (vi) remove or modify a copyright or other proprietary rights notice in it; (vii) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including the rights of publicity or privacy) without first obtaining the permission of the owner; (viii) use it to create, use, send, store or run viruses or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation; or (ix) access or disable any ServiceNow or third party data, software or network (other than Customer's instance of the Subscription Service in accordance with this Agreement). Before Customer exercises any of the foregoing actions that Customer believes it is entitled to,

Customer shall provide ServiceNow with thirty (30) days' prior written notice to legalnotices@servicenow.com (or, if applicable law or the relevant court order does not allow for such notice, then the maximum amount of notice allowable), and provide reasonably requested information to allow ServiceNow to assess Customer's claim and, at ServiceNow's sole discretion, provide alternatives that reduce adverse impacts on ServiceNow's intellectual property and other rights.

3. ORDERING

3.1. <u>RESELLER ORDERS</u>. Customer shall order and purchase the Subscription Service and Professional Services directly from Reseller pursuant to a separate agreement specifying price, payment and other commercial terms. ServiceNow is not a party to such separate agreement but will provide the purchased services pursuant to this Agreement. For each order, Reseller or ServiceNow will provide Customer with a Use Authorization for Customer to sign and return to ServiceNow. Reseller is not authorized to make any changes to this Agreement (including any Use Authorizations issued hereunder) or bind ServiceNow to any additional or different terms or conditions. Additional orders for ServiceNow products or services may be placed either through Reseller or ServiceNow, provided that if Customer places an order directly through ServiceNow, Customer shall sign an addendum to this Agreement setting forth pricing, payment and other commercial terms between Customer and ServiceNow.

3.2. <u>USE VERIFICATION</u>. ServiceNow or Reseller may remotely review Customer's use of the Subscription Service, and upon ServiceNow or Reseller's written request Customer shall provide any reasonable assistance, to verify Customer's compliance with the Agreement. If ServiceNow determines that Customer has exceeded its permitted use of the Subscription Service then ServiceNow will notify Customer and within thirty (30) days thereafter Customer shall disable any unpermitted use or may purchase additional subscriptions commensurate with Customer's actual use. If Customer fails to regain compliance within such thirty (30) day period or fails to make payment as provided in its agreement with Reseller, ServiceNow may suspend Customer's use of the Subscription Service or terminate this Agreement for cause in accordance with Section 9 (Term and Termination), in addition to any other rights or remedies ServiceNow may have.

4. INTELLECTUAL PROPERTY

4.1. <u>SERVICENOW OWNERSHIP</u>. As between ServiceNow and Customer, all rights, title, and interest in and to all intellectual property rights in the ServiceNow Core Technology are owned exclusively by ServiceNow notwithstanding any other provision in this Agreement. Except as expressly provided in this Agreement, ServiceNow reserves all rights in the ServiceNow Core Technology and does not grant Customer any rights, express or implied or by estoppel.

4.2. <u>CUSTOMER OWNERSHIP</u>. As between Customer and ServiceNow, Customer shall retain all of its rights, title, and interest in and to its intellectual property rights in Customer Data and Customer Technology. Customer hereby grants to ServiceNow a royalty-free, fully-paid, non-exclusive, non-transferable (except as set forth in Section 10.1 (Assignment)), sub-licensable, worldwide right to use Customer Data and Customer Technology solely for the purpose of providing the Subscription Service and Professional Services to Customer.

4.3. <u>FEEDBACK</u>. ServiceNow encourages Customer to provide suggestions, proposals, ideas, recommendations or other feedback regarding improvements to ServiceNow's services and related resources. To the extent Customer provides such feedback, Customer grants to ServiceNow a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 10.1 (Assignment)), non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import and otherwise exploit feedback (including by incorporation of such feedback into the ServiceNow Core Technology) without restriction.

4.4. <u>PROFESSIONAL SERVICES</u>. Subject to the provisions of this Section 4.4, ServiceNow shall assign to Customer any Newly Created IP (as defined below) in Deliverables upon payment in full by Customer of all amounts due for the Professional Service under which the Deliverable was created. A "***Deliverable***" is a deliverable that is identified in the applicable SOW or Service Description and that is created by ServiceNow for Customer in the performance of the Professional Services. "***Newly Created IP***" means intellectual property in any inventions or works of authorship that are made by ServiceNow specifically for Customer in the course of performing Professional Services for Customer that is identified as "Newly Created IP" in an SOW, excluding the ServiceNow Core Technology. To the extent (if at all) any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the ServiceNow Core Technology solely to use the Deliverable in connection with the Subscription Service as

contemplated under this Agreement during the Subscription Term. Nothing in this Agreement shall be deemed to restrict or limit ServiceNow's right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Professional Services.

5. WARRANTIES

5.1. <u>LIMITED SUBSCRIPTION SERVICE WARRANTY</u>. ServiceNow warrants that during the Subscription Term Customer's production instances of the Subscription Service shall materially conform to the Product Overview. To submit a warranty claim under this Section, Customer shall (1) reference this Section; and (2) submit a support request to resolve the non-conformity as provided in the Subscription Service Guide. If the non-conformity persists without relief more than thirty (30) days after written notice of a warranty claim provided to ServiceNow under this Section 5.1, then Customer may terminate the affected Subscription Service and submit to Reseller a claim for refund of any prepaid subscription fees covering the remainder of the Subscription Term of the affected Subscription Service after the date of termination. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than ServiceNow or a person acting at ServiceNow's direction. THIS SECTION 5.1 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

5.2. <u>LIMITED PROFESSIONAL SERVICES WARRANTY</u>. ServiceNow warrants that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements set forth in the SOW or Service Description. Customer shall notify ServiceNow in writing of any breach within thirty (30) days after performance of the non-conforming Professional Services. Upon receipt of such notice, ServiceNow, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services, in which case Customer may submit to Reseller a claim for a refund of any amounts paid for the nonconforming Professional Services. THIS SECTION 5.2 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

5.3. <u>CUSTOMER WARRANTY</u>. Customer warrants that (A) Customer Data, (B) Customer Technology or (C) a modification to the Subscription Service made to Customer's specifications or otherwise made by or on behalf of Customer by any person other than ServiceNow or a person acting at ServiceNow's direction (but only if the infringement would have been avoided by use of the unmodified Subscription Service), does not infringe any patent, copyright or trademark, or misappropriate any third party trade secret, or violate any third party privacy rights

5.4. <u>DISCLAIMER OF WARRANTIES</u>. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, SERVICENOW DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WARRANTIES ARISING UNDER STATUTE, WARRANTIES OF MERCHANTABILITY, ACCURACY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SERVICENOW SPECIFICALLY DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE, SOFTWARE, PROFESSIONAL SERVICES, DEVELOPMENT TOOLS, DOCUMENTATION OR DELIVERABLES WILL MEET THE REQUIREMENTS OF CUSTOMER OR OTHERS OR THAT THEY WILL BE ACCURATE OR OPERATE WITHOUT INTERRUPTION OR ERROR. CUSTOMER ACKNOWLEDGES THAT IN ENTERING THIS AGREEMENT IT HAS NOT RELIED ON ANY PROMISE, WARRANTY OR REPRESENTATION NOT EXPRESSLY SET FORTH HEREIN.

6. CONFIDENTIAL INFORMATION

6.1. <u>CONFIDENTIALITY OBLIGATIONS</u>. The recipient of Confidential Information shall: (i) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event using less than reasonable care; and (ii) not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party shall limit the disclosure of the other party's Confidential Information to those of its employees and contractors with a need to access such Confidential Information for a party's exercise of its rights and obligations under this Agreement, provided that all such employees and contractors are subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each party's obligations set forth in this Section 6 shall remain in effect during the term and three (3) years after termination of this Agreement. The receiving party shall, at the disclosing party's request or upon

termination of this Agreement, return all originals, copies, reproductions and summaries of Confidential Information and other tangible materials and devices provided to the receiving party as Confidential Information, or at the disclosing party's option, certify destruction of the same. Provisions for the return of Customer Data are set forth in Section 9.3 (Return of Customer Data).

6.2. REQUIRED DISCLOSURES. A party may disclose the disclosing party's Confidential Information to a court or governmental body pursuant to a valid court order, law, subpoena or regulation, provided that the receiving party: (a) promptly notifies the disclosing party of such requirement as far in advance as possible to the extent advanced notice is lawful; and (b) provides reasonable assistance to the disclosing party in any lawful efforts by the disclosing party to resist or limit the disclosure of such Confidential Information.

6.3. EQUITABLE REMEDIES. The parties agree that the receiving party's disclosure of Confidential Information except as provided herein may result in irreparable injury for which a remedy in money damages may be inadequate. The parties further agree that in the event of such disclosure or threatened disclosure, the disclosing party may be entitled to seek an injunction to prevent the breach or threatened breach without the necessity of proving irreparable injury or the inadequacy of money damages, in addition to remedies otherwise available to the disclosing party at law or in equity.

7. INDEMNIFICATION

7.1. SERVICENOW OBLIGATION. Subject to the exclusions set forth below, ServiceNow shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand (each a *"Claim"*) to the extent alleging: (A) that the Subscription Service used in accordance with this Agreement infringes any third party patent, copyright or trademark, or misappropriates any third party trade secret; or (B) that ServiceNow's personnel when onsite at Customer's premises caused death, bodily harm or damage to tangible personal property due to their negligence or willful misconduct; and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from any such Claims. If any portion of the Subscription Service becomes the subject of a Claim under Section 7.1(i)(A), ServiceNow may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in ServiceNow's judgment, then (d) terminate Customer's use of the affected Subscription Service upon sixty (60) days' written notice, whereupon Customer may submit to Reseller a claim for a refund of any prepaid subscription fees covering the remaining portion of the applicable Subscription Term for the affected Subscription Service after the date of termination. Notwithstanding the above, ServiceNow shall have no obligation or liability for any Claim under Section 7.1(i)(A) arising in whole or in part from: (1) any use of the Subscription Service which exceeds the authorized use permitted under this Agreement or not in accordance with the Documentation; (2) Customer Data or Customer Technology; (3) use of the Subscription Service by Customer in violation of applicable law; (4) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 7.1; (5) modifications to the Subscription Service made to Customer's specifications or otherwise made by any person other than ServiceNow or a person acting at ServiceNow's direction if the Claim would have been avoided by use of the unmodified Subscription Service; or (6) use of the Subscription Service in combination with any hardware, software, application or service that was not provided by ServiceNow, if the Claim would have been avoided by the non-combined or independent use of the Subscription Service.

7.2. PROCESS. The foregoing indemnity obligations of ServiceNow are conditioned on the indemnified party notifying the indemnifying party promptly in writing of any actual or threatened Claim, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense; provided however, that the indemnified party shall have the right (i) to participate in the defense and/or settlement with counsel of its own choosing at its own expense, provided that its participation does not interfere with the Indemnifying party's defense and the Indemnifying party continues to control the defense, and (ii) any settlement of Claims that requires an admission of guilt by Indemnified party or imposes any burden on Indemnified party other than to cease using the Subscription Service in accordance with subpart (d) of Section 7.1 above, will require Indemnified party's prior written consent, such consent not to be unreasonably withheld).

7.3. FOR THE AVOIDANCE OF DOUBT, SECTION 7 IS NOT INTENDED TO COVER ANY FIRST PARTY CLAIMS BETWEEN CUSTOMER AND SERVICENOW. SECTION 7 STATES EACH PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR THIRD PARTY CLAIMS AND ACTIONS.

8. LIMITATIONS OF LIABILITY

8.1. <u>LIMITATIONS OF LIABILITY</u>. SERVICENOW SHALL HAVE NO LIABILITY FOR ANY REFUND THAT, IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, IS TO BE PAID BY RESELLER. TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) CUSTOMER'S OBLIGATION TO PAY FOR PRODUCTS, SERVICES OR TAXES; (2) A PARTY'S OBLIGATIONS IN SECTION 7 (INDEMNIFICATION); AND (3) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

8.2. <u>EXCLUSION OF DAMAGES</u>. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COVER, SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) PAYMENTS TO A THIRD PARTY ARISING FROM A PARTY'S OBLIGATIONS UNDER SECTION 7 (INDEMNIFICATION); AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

8.3. <u>GROSS NEGLIGENCE; WILFUL MISCONDUCT</u>. AS PROVIDED BY LAW, NOTHING HEREIN SHALL BE INTENDED TO LIMIT A PARTY'S LIABILITY IN AN ACTION IN TORT (SEPARATE AND DISTINCT FROM A CAUSE OF ACTION FOR BREACH OF THIS AGREEMENT) FOR THE PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT.

9. TERM AND TERMINATION

9.1. <u>TERM AND TERMINATION</u>. This Agreement continues until terminated under the terms of this Agreement. Each party may terminate this Agreement in its entirety either: (i) upon thirty (30) days' prior written notice to the other party, if at the time of notice there are no Use Authorizations in effect; or (ii) upon written notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership or liquidation, in any jurisdiction, that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Either party may terminate a Subscription Service or Professional Services upon written notice if the other party materially breaches this Agreement or the applicable Use Authorization for the affected service and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party. Professional Services are separately ordered from the Subscription Service, and are not required for the Subscription Service. A breach by a party of its obligations with respect to Professional Services shall not by itself constitute a breach by that party of its obligations with respect to the Subscription Service even if the services are enumerated in the same Use Authorization.

9.2. <u>EFFECT OF TERMINATION OF SUBSCRIPTION SERVICE</u>. Upon termination of the Subscription Service for any reason, Customer shall stop using, and ServiceNow shall stop providing, the Subscription Service and all rights granted to Customer in this Agreement shall terminate. If the Subscription Service is terminated by Customer due to ServiceNow's breach, then Customer may submit to Reseller a claim for refund of all prepaid fees for the remaining portion of the Subscription Term for the terminated Subscription Service after the effective date of termination. Within thirty (30) days following the effective date of a termination by ServiceNow for Customer's breach, Customer shall pay all remaining amounts for the Subscription Term applicable to the Subscription Service covering the remainder of the Subscription Term regardless of the due dates specified in Reseller's order form to Customer.

9.3. <u>TRANSITION SERVICES</u>. At least thirty (30) days prior to either the expiration of the Subscription Term (where Customer elects not to renew) or in connection with the termination by Customer of the Subscription Service in accordance with Section 9.1, provided that Customer signs an addendum to this Agreement setting forth payment and other commercial terms between Customer and ServiceNow, Customer may purchase the following

services from ServiceNow: (i) one (1) extension of the Subscription Service for up to six (6) months ("**Transition Subscription Service**"); and (ii) Professional Services. Prior to the commencement of any Transition Subscription Service or Professional Services, Customer and Reseller or ServiceNow shall negotiate and sign a mutually agreed upon ordering document setting for the fees for the Transition Subscription Service and any Professional Services. Reseller or ServiceNow shall invoice and Customer will make payment in accordance with the Prompt Payment Act (31 USC 3903).

9.4. RETURN OF CUSTOMER DATA. ServiceNow shall provide Customer Data in its standard database export format, excluding the ServiceNow Core Technology, to Customer upon Customer's written request and at no additional cost to Customer, provided that ServiceNow receives such request from Customer within forty-five (45) days following the expiration or termination of this Agreement for the Subscription Service (including any Transition Subscription Service term, if applicable).If ServiceNow has not received a request within the foregoing time frame, ServiceNow shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, have the right to delete all Customer Data in its systems or otherwise in its possession or under its control and delete Customer's instances of the Subscription Service.

9.5. SURVIVAL. Sections 2.4 (Restrictions), 4.1 (ServiceNow Ownership), 4.2 (Customer Ownership), 4.3 (Feedback) and 6 (Confidential Information) through 10 (General Provisions) of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

10. GENERAL PROVISIONS

10.1. ASSIGNMENT. Neither party may assign its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may, upon notice and without the other party's consent: (i) in connection with a merger, reorganization or sale of all or substantially all of the assets or equity of such party, assign this Agreement in its entirety to such party's successor; and (ii) assign this Agreement in its entirety to any Affiliate. "**Affiliates**" shall mean any person or entity directly or indirectly Controlling, Controlled by or under common Control with a party to the Agreement, where "**Control**" means the legal power to direct or cause the direction of the general management of the company, partnership or other legal entity. Any attempted or purported assignment in violation of this Section 10.1 will be null and void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

10.2. COMPLIANCE WITH LAWS. ServiceNow shall comply with any statutes and regulations that apply to its provision of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to the privacy and security of personal information, including trans-border data transfers and data breach notification requirements as required of ServiceNow by law. Customer shall comply with all laws that apply to its use of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to collection and processing of Customer Data in ServiceNow systems through the Subscription Service. Customer agrees to provide any required disclosures to and obtain any required consents for the transfer of Customer Data to ServiceNow. ServiceNow shall not be responsible for compliance with any laws applicable to Customer and its industry that are not generally applicable to information technology service providers.

10.3. EXPORT COMPLIANCE. Each party shall comply with United States and foreign export control laws and regulations. Customer acknowledges that the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables are subject to the U.S. Export Administration Regulations (the "**EAR**") and that Customer shall comply with the EAR. Without limiting the foregoing, Customer represents and warrants that: (i) Customer is not located in, and shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables from, any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan and Syria); (ii) Customer shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, sounding rockets or unmanned air vehicle systems; and (iii) Customer is not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. In addition, Customer is responsible for complying with any local laws which may impact Customer's right to import, export or

use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables.

10.4. <u>US GOVERNMENT RIGHTS</u>. All ServiceNow software (including Software) is commercial computer software and all services are commercial items. "***Commercial computer software***" has the meaning set forth in Federal Acquisition Regulation ("***FAR***") 2.101 for civilian agency purchases and the Department of Defense ("***DOD***") FAR Supplement ("***DFARS***") 252.227-7014(a)(1) for defense agency purchases. If the software is licensed or the services are acquired by or on behalf of a civilian agency, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the services are acquired by or on behalf of any agency within the DOD, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS or other clause or provision that addresses Government rights in computer software or technical data.

10.5. <u>NOTICE</u>. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by a recognized overnight courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by email with confirmation of receipt, except that email shall not be sufficient for notices regarding a Claim. Notices shall be sent to the parties as set forth on the signature page of this Agreement or as subsequently updated in writing.

10.6. <u>FORCE MAJEURE</u>. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (excluding Customer's failure to pay amounts owed when due), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including without limitation: strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, sabotage, theft or other criminal acts, failure of energy sources or transport network, acts of God, export bans, sanctions and other government actions, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, explosions, collapse of building structures, fires, floods, storms, earthquakes, epidemics or similar events, natural disasters or extreme adverse weather conditions (each a "***Force Majeure Event***"). The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.

10.7. <u>HIGH RISK ACTIVITIES</u>. Customer shall use the ServiceNow Core Technology within the intended business purposes described in the Documentation, and not for any purpose that requires fail-safe performance including, but not limited to, stock trading, financial transaction processing, management of hazardous facilities or applications for which failure could result in death, personal injury, or severe physical or environmental damage ("***High Risk Activity***"). ServiceNow, its licensors and suppliers expressly disclaim all warranties of fitness for any such use and Customer shall release and hold ServiceNow, its licensors and suppliers harmless from liability arising out of the use of the ServiceNow Core Technology for High Risk Activity.

10.8. <u>USE OF AGGREGATE DATA</u>. Customer agrees that ServiceNow may collect, use and disclose quantitative data derived from the use of the Subscription Service for industry analysis, benchmarking, analytics, marketing, and other business purposes. All data collected, used, and disclosed will be in aggregate form only and will not identify Customer or its users.

10.9. <u>ENTIRETY</u>. This Agreement, together with the Use Authorizations, Product Overviews, SOWs, Service Descriptions, and the Subscription Service Guide (including the Customer Support Policy, the Upgrade Policy and the Data Security Guide), is the final and entire agreement between the parties regarding the products and services provided hereunder and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings and negotiations with respect to the subject matter hereof. The terms of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ServiceNow that is not set out in this Agreement. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future

functionality regardless of any verbal or written communication about ServiceNow's future plans. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

10.10. WAIVER AND AMENDMENT.   A waiver of any right is only effective if it is in writing and only against the party who signed such writing and for the circumstances given. Any modification of this Agreement must be in writing and signed by authorized representatives of both parties.

10.11. RELATIONSHIP OF THE PARTIES.   The parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship. Neither party shall have any right or authority to assume or create any obligation of any kind expressed or implied in the name of or on behalf of the other party.

10.12. GOVERNING LAW; JURISDICTION AND VENUE.   This Agreement shall be governed by the laws of the state of California, without regard to its conflict of laws principles. The parties hereby irrevocably consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Santa Clara County, California, for the purposes of adjudicating any dispute arising out of this Agreement. Each party hereto expressly consents to service of process by registered mail. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party's intellectual property rights.

10.13. CONSTRUCTION.   Products and services shall be provided in the English language unless agreed otherwise. The parties confirm that they have requested that this Agreement and all related documents be drafted in English at the express wishes of the parties. Section headings are for convenience only and are not to be used in interpreting this Agreement.

SUBSCRIPTION SERVICE GUIDE

1.   SUPPORT

During the Subscription Term, ServiceNow or its authorized reseller, as applicable, shall provide support for the Subscription Service as set forth in the ***Customer Support Policy*** attached hereto, and incorporated herein by reference.

2.   UPGRADES

ServiceNow determines whether and when to develop, release and apply any Upgrade (as defined in the ***Upgrade Policy*** attached hereto, and incorporated herein by reference) to Customer's instances of the Subscription Service.

3.   DATA SECURITY

ServiceNow shall implement and maintain security procedures and practices appropriate to information technology service providers to protect Customer Data from unauthorized access, destruction, use, modification, or disclosure, as described in the ***Data Security Guide*** attached hereto, and incorporated herein by reference.

4.   INSURANCE

ServiceNow agrees to maintain in effect during the Subscription Term, at ServiceNow's expense, the following minimum insurance coverage:

(i)   (a) Workers' Compensation Insurance, in accordance with applicable statutory, federal, and other legal requirements and (b) Employers' Liability Insurance covering ServiceNow's employees in an amount of not less than $1,000,000 for bodily injury by accident, $1,000,000 policy limit for bodily injury by disease, and $1,000,000 each employee for bodily injury by disease;

(ii)   Commercial General Liability Insurance written on an occurrence form and including coverage for bodily injury, property damage, products and completed operations, personal injury, advertising injury arising out of the services and/or products provided by ServiceNow under this Agreement with minimum limits of $1,000,000 per occurrence/$2,000,000 aggregate;

(iii)   Commercial Automobile Liability Insurance providing coverage for hired and non-owned automobiles used in connection with this Agreement in an amount of not less than $1,000,000 per accident combined single limit for bodily injury and property damage;

(iv)   Combined Technology Errors' & Omission Policy with a $5,000,000 per Claim limit, including: (a) Professional Liability Insurance providing coverage for the services and software in this Agreement. Such coverage to be maintained for at least two (2) years after the termination of this Agreement; and (b) Privacy, Security, and Media Liability Insurance providing liability coverage for unauthorized access or disclosure, security breaches or system attacks, as well as infringements of copyright and trademark that might result from this Agreement; and

(v)   Excess Liability over Employers' Liability, Commercial General Liability and Commercial Automobile Liability with a $5,000,000 aggregate limit.

For the purpose of this Section, a "***Claim***" means a written demand for money or a civil proceeding which is commenced by service of a complaint or similar pleading.

5.   AVAILABILITY SERVICE LEVEL

5.1.   DEFINITIONS

(a)   "***Available***" means that the Subscription Service can be accessed by authorized users.

(b)   "*Excused Downtime*" means: (i) Maintenance Time of up to two (2) hours per month; and (ii) any time the Subscription Service is not Available due to circumstances beyond ServiceNow's control, including without limitation modifications of the Subscription Service by any person other than ServiceNow or a person acting at ServiceNow's direction, a Force Majeure Event, general Internet outages, failure of Customer's infrastructure or connectivity (including without limitation, direct connectivity and virtual private network (VPN) connectivity to the Subscription Service), computer and telecommunications failures and delays, and network intrusions or denial-of-service or other criminal attacks.

(c)   "*Maintenance Time*" means the time the Subscription Service is not Available due to service maintenance.

(d)   "*Availability SLA*" means the percentage of total time during which Customer's production instances of the Subscription Service are Available during a calendar month, excluding Excused Downtime.

5.2.   AVAILABLITY

If Customer's production instances of the Subscription Service fall below the Availability SLA of ninety-nine and eight-tenths percent (99.8%) during a calendar month, Customer's exclusive remedy for failure of the Subscription Service to meet the Availability SLAs is either: (1) to request that the affected Subscription Term be extended for the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA; or (2) to request that ServiceNow issue a service credit to Customer for the dollar value of the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA (determined at the deemed per minute rate ServiceNow charges to Customer for Customer's use of the affected Subscription Service), which Customer may request ServiceNow apply to the next invoice for subscription fees.

5.3.   REQUESTS

Customer must request all service credits or extensions in writing to ServiceNow within thirty (30) days of the end of the month in which the Availability SLA was not met, identifying the support requests relating to the period Customer's production instances of the Subscription Service was not Available. The total amount of service credits for any month may not exceed the subscription fee for the affected Subscription Service for the month, and has no cash value. ServiceNow may delay issuing service credits until such amounts reach one thousand U.S. dollars ($1,000) or equivalent currency specified in the applicable Order Form.

CUSTOMER SUPPORT POLICY

This Customer Support Policy governs the support that ServiceNow or its authorized reseller, as applicable, will provide for the Subscription Service. This Policy may be updated from time to time.

SCOPE

The purpose of Customer Support is to resolve defects that cause the Subscription Service to perform not in substantial conformance to the Product Overview. A resolution to a defect may consist of a fix, workaround or other relief ServiceNow deems reasonable.

Customer Support does not include:

- implementation services
- configuration services
- integration services
- customization services or other custom software development
- training
- assistance with administrative functions

Customer Support is not required to provide resolutions for immaterial defects or defects due to modifications of the Subscription Service made by any person other than ServiceNow or a person acting at ServiceNow's direction.

BUSINESS HOURS

Customer Support is available 24 hours a day, 7 days a week, including all holidays.

ACCESS CONTACTS

Customer may contact ServiceNow using one of the following means:

- Support Portal at https://hi.service-now.com/. Customer may get login access to this self-service portal by contacting its ServiceNow administrator.
- Phone using one of the numbers at http://servicenow.com/support/contact-support.html.

Customer shall contact ServiceNow's authorized reseller in accordance with its agreement with the reseller.

Incident Priority

Incident priority for a defect is determined using the guidelines below:

Priority	Definition
P1	Any defect that causes an instance to be unavailable.
P2	Any defect that causes a critical function to fail.
P3	Any defect that significantly impedes work or progress.
P4	Any defect that does not significantly impede work or progress.

RESPONSE TIMES AND LEVEL OF EFFORT

Customer submits an incident with ServiceNow via phone or web and with ServiceNow's authorized reseller as directed by reseller. All support requests are tracked online and can be viewed by Customer's authorized contacts. Response times do not vary if the incident was filed via phone or web.

ServiceNow or its authorized reseller, as applicable, will use reasonable efforts to meet the target response times and target level of effort stated in the table below. Support from the reseller may be limited to business hours only.

Priority	Target Response Times	Target Level of Effort
P1	30 minutes	Continuously, 24 hours per day, 7 days per week
P2	2 hours	Continuously, but not necessarily 24 hours per day, 7 days per week
P3	1 business day	As appropriate during normal business hours
P4	N/A	Varies

CUSTOMER RESPONSIBILITIES

Customer's obligations are as follows:

(a) Customer agrees to receive from ServiceNow or its authorized reseller, as applicable, communications via email, phone or through the Support Portal regarding the Subscription Service.

(b) Customer shall appoint no more than five (5) contacts ("***Customer Authorized Contacts***") to engage Customer Support for questions and/or technical issues.

(i) Only Customer Authorized Contacts are authorized to contact Customer Support.

(ii) Customer must ensure the information for these contacts is current in the Support Portal at https://hi.service-now.com/.

(iii) Customer Authorized Contacts are trained on the use and administration of the Subscription Service.

(c) Customer shall cooperate to enable ServiceNow to deliver the Subscription Service and support for the service.

(d) Customer is solely responsible for the use of the Subscription Service by its authorized users.

SUPPORT RESOURCES

- ServiceNow Website (http://www.servicenow.com/services/overview.html)
- ServiceNow Community (https://community.servicenow.com/welcome)
- Release Notes (http://wiki.service-now.com/index.php?title=Main_Page)
- Product Documentation (http://wiki.service-now.com/index.php?title=Main_Page)
- Knowledge Base (https://hi.service-now.com/nav_to.do?uri=kb_home.do)
- Support Community (https://community.servicenow.com/community/support)

UPGRADE POLICY

1.   UPGRADES

"***Upgrades***" are ServiceNow's releases of the Subscription Service for repairs, enhancements or new features applied by ServiceNow to Customer's instances of the Subscription Service at no additional fee during the Subscription Term. ServiceNow has the discretion to provide new functionality as an Upgrade or as different software or service for a separate fee. ServiceNow determines whether and when to develop, release and apply any Upgrade to Customer's instances of the Subscription Service.

2.   NOTICE; MAINTENANCE DOWNTIME

ServiceNow shall use reasonable efforts to give Customer thirty (30) days prior notice of any Upgrade to the Subscription Service. ServiceNow shall use reasonable efforts to give Customer ten (10) days prior notice of any Upgrade to the cloud infrastructure network, hardware, or software used by ServiceNow to operate and deliver the Subscription Service if ServiceNow in its reasonable judgment believes that the infrastructure Upgrade will impact Customer's use of its production instances of the Subscription Service. ServiceNow will use commercially reasonable efforts to limit the period of time during which the Subscription Service is unavailable due to the application of Upgrades to no more than two (2) hours per month. Notwithstanding the foregoing, ServiceNow may provide Customer with a shorter or no notice period of an Upgrade if necessary, in the reasonable judgment of ServiceNow, to maintain the availability, security or performance of the Subscription Service or the ability of ServiceNow to efficiently provide the Subscription Service.

3.   NOMENCLATURE

A pending Upgrade may be a "Feature Release", "Patch" or "Hotfix." A "***Feature Release***" is an Upgrade that includes new features or enhancements. A "***Patch***" or a "***Hotfix***" is an Upgrade to a Feature Release that maintains the functionality of the Feature Release and does not include new functionality. ServiceNow refers to each Feature Release and its associated Patches and Hotfixes as a "***Release Family***." For example, ServiceNow's Feature Release "Aspen" established the "Aspen" Release Family, and ServiceNow's subsequent Feature Release "Berlin" established the "Berlin" Release Family.

4.   PINNING REQUESTS

Customer may submit a support request for "no Upgrade" not fewer than five (5) business days' prior to a pending Upgrade of the Subscription Service. Subject to the terms and conditions of this Upgrade Policy, Customer's "no Upgrade" request shall be granted, and the Upgrade shall not be applied to Customer's instances   of the Subscription Service.

5.   SUPPORTED AND NON-SUPPORTED RELEASE FAMILIES

ServiceNow offers support for the then current Release Family and the prior two (2) Release Families ("***Supported Release Families***") as set forth in the Customer Support Policy. A Customer using a Supported Release Family may be required to Upgrade to a Patch or Hotfix within the Supported Release Family to correct a defect. At its discretion, ServiceNow may offer limited support for additional Release Families ("***Non-Supported   Release Families***"). Without limiting ServiceNow's discretion to determine the availability of support for Non- Supported Release Families, a Customer using a Non-Supported Release Family may be required to Upgrade to a Supported Release Family to correct a defect. Any service level agreements, recovery time objectives or recovery point objectives are not applicable to Non-Supported Release Families. Details of ServiceNow support are further set forth in the Customer Support Policy.

Customer acknowledges that the current Release Family is the most current feature, availability, performance and security version of the Subscription Service. Within a Supported Release Family, the most recent Patch contains the most current feature, availability, performance and security version of the Subscription Service for that Release Family. A Customer that has submitted a "no Upgrade" request may experience defects, for which Customer hereby agrees that ServiceNow is not responsible, including without limitation those that affect the features, availability, performance and security of the Subscription Service, that are fixed in the most

current version of the Subscription Service.

6. REQUIRED UPGRADES

If Customer has requested "no Upgrade" it may nevertheless be required to Upgrade if in the reasonable judgment of ServiceNow the Upgrade is necessary to maintain the availability, security or performance of the Subscription Service or the ability of ServiceNow to efficiently provide the Subscription Service, as follows:

6.1. <u>SUPPORTED RELEASE FAMILY</u>. If Customer is using a Supported Release Family, it may be required to Upgrade to a Patch or Hotfix within the Supported Release Family.

6.2. <u>NON-SUPPORTED RELEASE FAMILY</u>. If Customer is using a Non-Supported Release Family, it may be required to Upgrade to a Supported Release Family.

7. EXCEPTIONS

Notwithstanding the other provisions of this Upgrade Policy, Customer may not submit a support request for "no Upgrade" for any Upgrade to, or that is essential for, the infrastructure network, hardware, or software used by ServiceNow to operate and deliver the Subscription Service.

DATA SECURITY GUIDE

Security Statement of an Enterprise IT Cloud Company

The ServiceNow cloud is built for the enterprise customer with every aspect aimed towards meeting the customer's demand for reliability, availability and security. ServiceNow's comprehensive approach to address this demand is enabled by the following: (a) ServiceNow's robust cloud infrastructure runs on its own applications and utilizes industry best-of-breed technology to automate mission critical functionalities in the cloud service with around-the-clock and around-the-world delivery; (b) ServiceNow achieves flexibility and control in its ability to deliver a stable user experience to the customer by having a logical single tenant architecture; (c) ServiceNow's application development which has a paramount focus on quality, security, and the user experience is closely connected to the operations of delivering those applications in a reliable and secure cloud environment; (d) ServiceNow invests in a comprehensive compliance strategy that allows its customers to attain their own compliance to applicable laws by obtaining attestations and certifications and running its subscription service from paired data centers situated close to where its customers are located; and (e) ServiceNow's homogeneous environment where all applications are on a single platform offers ServiceNow a competitive advantage in being able to concentrate its efforts to make the customer's user experience the best possible.

This Data Security Guide describes the measures ServiceNow takes to protect Customer Data when it resides in the ServiceNow cloud. This Data Security Guide forms a part of any legal agreement into which this Data Security Guide is explicitly incorporated by reference (the "*Agreement*") and is subject to the terms and conditions of the Agreement. Capitalized terms that are not otherwise defined herein shall have the meaning given to them in the Agreement.

1. SECURITY PROGRAM

While providing the Subscription Service, ServiceNow shall maintain a written information security program of policies, procedures and controls ("*Security Program*") governing the processing, storage, transmission and security of Customer Data. The Security Program includes industry standard practices designed to protect Customer Data from unauthorized access, acquisition, use, disclosure, or destruction. ServiceNow may periodically review and update the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, provided that any such update does not materially reduce the commitments, protections or overall level of service provided to Customer as described herein.

2. CERTIFICATIONS AND ATTESTATIONS

2.1. Certifications and Attestations. ServiceNow shall establish and maintain sufficient controls to meet the objectives stated in ISO 27001 and SSAE 16 / SOC 1 and SOC 2 Type 2 (or equivalent standards) (collectively, the "*Standards*") for the information security management system supporting the Subscription Service. At least once per calendar year, ServiceNow shall perform an assessment against such Standards ("*Assessment*"). Upon Customer's written request, which shall be no more than once per calendar year, ServiceNow shall provide a summary of the Assessment(s) to Customer. Assessments shall be Confidential Information of ServiceNow.

2.2. Safe Harbor. ServiceNow shall maintain self-certified compliance under the U.S.-EU and U.S.-Swiss Safe Harbor Frameworks developed by the U.S. Department of Commerce regarding the collection, use and retention of Personal Data (defined in Section 6 below) from European Union member countries and Switzerland.

3. PHYSICAL, TECHNICAL AND ADMINISTRATIVE SECURITY MEASURES

The Security Program shall include the following physical, technical and administrative measures designed to protect Customer Data from unauthorized access, acquisition, use, disclosure, or destruction:

3.1. PHYSICAL SECURITY MEASURES

(a) <u>Data Center Facilities</u>: (i) Physical access restrictions and monitoring that may include a combination of any of the following: multi-zone security, man-traps, appropriate perimeter deterrents (for example,

fencing, berms, guarded gates), on-site guards, biometric controls, CCTV, and secure cages; and (ii) fire detection and fire suppression systems both localized and throughout the data center floor.

(b)   Systems, Machines and Devices: (i) Physical protection mechanisms; and (ii) entry controls to limit physical access.

(c)   Media: (i) Industry standard destruction of sensitive materials before disposition of media; (ii) secure safe for storing damaged hard disks prior to physical destruction; and (iii) physical destruction of all decommissioned hard disks storing Customer Data.

3.2.   TECHNICAL SECURITY MEASURES

(a)   Access Administration. Access to the Subscription Service by ServiceNow employees and contractors is protected by authentication and authorization mechanisms. User authentication is required to gain access to production and sub-production systems. Access privileges are based on job requirements and are revoked upon termination of employment or consulting relationship. Production infrastructure includes appropriate user account and password controls (for example, the required use of virtual private network connections, complex passwords with expiration dates, and a two-factored authenticated connection) and is accessible for administration.

(b)   Logging and Monitoring. The production infrastructure log activities are centrally collected and are secured in an effort to prevent tampering and are monitored for anomalies by a trained security team.

(c)   Firewall System. An industry-standard firewall is installed and managed to protect ServiceNow systems by residing on the network to inspect all ingress connections routed to the ServiceNow environment.

(d)   Vulnerability Management. ServiceNow conducts periodic independent security risk evaluations to identify critical information assets, assess threats to such assets, determine potential vulnerabilities, and provide for remediation. When software vulnerabilities are revealed and addressed by a vendor patch, ServiceNow will obtain the patch from the applicable vendor and apply it within an appropriate timeframe in accordance with ServiceNow's then current vulnerability management and security patch management standard operating procedure and only after such patch is tested and determined to be safe for installation in all production systems.

(e)   Antivirus. ServiceNow updates anti-virus, anti-malware, and anti-spyware software on regular intervals and centrally logs events for effectiveness of such software.

(f)   Change Control. ServiceNow ensures that changes to platform, applications and production infrastructure are evaluated to minimize risk and are implemented following ServiceNow's standard operating procedure.

3.3.   ADMINISTRATIVE SECURITY MEASURES

(a)   Data Center Inspections. ServiceNow performs routine reviews at each data center to ensure that it continues to maintain the security controls necessary to comply with the Security Program.

(b)   Personnel Security. ServiceNow performs background and drug screening on all employees and all contractors who have access to Customer Data in accordance with ServiceNow's then current applicable standard operating procedure and subject to applicable law.

(c)   Security Awareness and Training. ServiceNow maintains a security awareness program that includes appropriate training of ServiceNow personnel on the Security Program. Training is conducted at time of hire and periodically throughout employment at ServiceNow.

(d)   Vendor Risk Management. ServiceNow maintains a vendor risk management program that assesses all vendors that access, store, process or transmit Customer Data for appropriate security controls and business disciplines.

4. DATA PROTECTION AND SERVICE CONTINUITY

4.1. Data Centers; Data Backup. ServiceNow shall host Customer's instances in primary and secondary SSAE 16 Type II or ISO 27001 certified (or equivalent) data centers in the geographic regions specified on the Order Form for the Subscription Term. Each data center includes full redundancy (N+1) and fault tolerant infrastructure for electrical, cooling and network systems. The deployed servers are enterprise scale servers with redundant power to ensure maximum uptime and service availability. The production database servers are replicated in near real time to a mirrored data center in a different geographic region. Each customer instance is supported by a network configuration with multiple connections to the Internet. ServiceNow backs up all Customer Data in accordance with ServiceNow's standard operating procedure.

4.2. Personnel. In the event of an emergency that renders the customer support telephone system unavailable, all calls are routed to an answering service that will transfer to a ServiceNow telephone support representative, geographically located to ensure business continuity for support operations.

5. INCIDENT MANAGEMENT AND BREACH NOTIFICATION

5.1. Incident Monitoring and Management. ServiceNow shall monitor, analyze and respond to security incidents in a timely manner in accordance with ServiceNow's standard operating procedure. Depending on the nature of the incident, ServiceNow security group will escalate and engage response teams necessary to address an incident.

5.2. Breach Notification. Unless notification is delayed by the actions or demands of a law enforcement agency, ServiceNow shall report to Customer the unauthorized acquisition, access, use, disclosure or destruction of Customer Data (a "Breach") promptly following determination by ServiceNow that a Breach occurred. The initial report shall be made to Customer security contact(s) designated in ServiceNow's customer support portal. ServiceNow shall take reasonable measures to promptly mitigate the cause of the Breach and shall take reasonable corrective measures to prevent future Breaches. As information is collected or otherwise becomes available to ServiceNow and unless prohibited by law, ServiceNow shall provide information regarding the nature and consequences of the Breach that are reasonably requested to allow Customer to notify affected individuals, government agencies and/or credit bureaus. Customer is solely responsible for determining whether to notify impacted Data Subjects (defined in 6.1 below) and for providing such notice, and for determining if regulatory bodies or enforcement commissions applicable to Customer or Customer Data need to be notified of a Breach.

5.3. Customer Cooperation. Customer agrees to cooperate with ServiceNow in maintaining accurate contact information in the customer support portal and by providing any information that is reasonably requested to resolve any security incident, identify its root cause(s) and prevent a recurrence.

6. DATA PROCESSING GUIDELINES; COMPLIANCE WITH LAWS

6.1. Customer as Data Controller. Customer acknowledges that in relation to Personal Data supplied and/or processed under the Agreement it acts as Controller and it warrants that it will duly observe all of its obligations under all applicable laws and regulations of the European Union, the European Economic Area and their member states regarding the processing of Personal Data (collectively referred to as "Data Protection Laws") including, without limitation, obtaining and maintaining all necessary notifications and obtaining and maintaining all necessary Data Subject Consents. Customer shall (i) have sole responsibility for the accuracy, quality, integrity, legality and reliability of Personal Data and of the means by which it acquired Personal Data, (ii) ensure that data processing instructions given to ServiceNow comply with applicable Data Protection Laws, and (iii) comply with all applicable Data Protection Laws in collecting, compiling, storing, accessing and using Personal Data in connection with the Subscription Service. For the purposes of this Data Security Guide, "Personal Data", "Controller", "Data Subject" and "Data Subject Consent" shall have the meaning given to these terms in Directive 95/46/EC. For clarity, "process" or "processing" means any operation or set of operations performed upon Customer Data.

6.2. ServiceNow as Data Processor. ServiceNow shall process or otherwise use Personal Data (including possible onward transfers) on behalf of Customer solely for the purpose of providing the services

described in the Agreement and only in accordance with Customer's lawful instructions (limited to those instructions which ServiceNow can reasonably carry out in the provision of the Subscription Service), the terms of the Agreement, and this Data Security Guide. ServiceNow shall ensure that those employees to whom it grants access to such Personal Data are directed to keep such Personal Data confidential and are informed of any additional data protection obligations applicable to such Personal Data. ServiceNow shall, to the extent legally permitted, promptly notify Customer with respect to any request or communication ServiceNow receives from any regulatory authority in relation to any data processing activities ServiceNow conducts on behalf of Customer. In addition, ServiceNow will cooperate and assist Customer, at Customer's cost, in relation to any such request and to any response to any such communication. ServiceNow will pass on to the Customer any requests of a Data Subject to access, delete, correct, or block Personal Data processed under the Agreement. If ServiceNow is compelled by law to disclose Customer's information as part of a civil proceeding to which Customer is a party, and Customer is not contesting the disclosure, Customer will reimburse ServiceNow for its reasonable cost of compiling and providing secure access to that information.

6.3. **Subcontractors**. ServiceNow may engage subcontractors for processing Customer Data under the Agreement, provided ServiceNow shall ensure compliance by such subcontractor(s) with the requirements of this Section 6 by entering into written agreements with such subcontractors which provide that the subcontractor will apply the Safe Harbor principles to the processing of Personal Data. ServiceNow's use of any subcontractor will not relieve, waive or diminish any obligation ServiceNow has under the Agreement or this Data Security Guide.

7. PENETRATION TESTS

7.1. **By a Third Party**. ServiceNow contracts with third party vendors to perform an annual penetration test on the ServiceNow platform to identify risks and remediation that help increase security.

7.2. **By Customer**. No more than once per calendar year Customer may request to perform, at its own expense, an application penetration test of its instances of the Subscription Service. Customer shall notify ServiceNow in advance of any test by submitting a request using ServiceNow's online support portal and completing a penetration testing agreement. ServiceNow and Customer must agree upon a mutually acceptable time for the test; and Customer shall not perform a penetration test without ServiceNow's express written authorization. The test must be of reasonable duration, and must not interfere with ServiceNow's day-to-day operations. Promptly upon completion of the penetration test, Customer shall provide ServiceNow with the test results including any detected vulnerability. Upon such notice, ServiceNow shall, consistent with industry standard practices, use all commercially reasonable efforts to promptly make any necessary changes to improve the security of the Subscription Service. Customer shall treat the test results as Confidential Information of ServiceNow.

8. SHARING THE SECURITY RESPONSIBILITY

8.1. **Product Capabilities**. The Subscription Service has the capabilities to: (i) authenticate users before access; (ii) encrypt passwords; (iii) allow users to manage passwords; and (iv) prevent access by users with an inactive account. Customer manages each user's access to and use of the Subscription Service by assigning to each user a credential and user type that controls the level of access to the Subscription Service.

8.2. **Customer Responsibilities**. ServiceNow provides the cloud environment that permits Customer to use and process Customer Data in the Subscription Service. The architecture in the Subscription Service includes, without limitation, column level encryption functionality and the access control list engine. Customer shall be responsible for using the column level encryption functionality and access control list engine for protecting all Customer Data containing sensitive data, including without limitation, credit card numbers, social security numbers, financial and health information, and sensitive personal data. Customer is solely responsible for the results of its decision not to encrypt such sensitive data. ServiceNow protects all Customer Data in the ServiceNow cloud infrastructure equally in accordance with this Data Security Guide, regardless of the classification of the type of Customer Data. Customer shall be responsible for protecting the confidentiality of each user's login and password and shall manage each user's access to the Subscription Service.

8.3. **Customer Cooperation**. Customer shall promptly apply any application upgrade that ServiceNow determines is necessary to maintain the security, performance or availability of the Subscription Service.

8.4. **Limitations**. Notwithstanding anything to the contrary in the Agreement or this Data Security Guide, ServiceNow's obligations extend only to those systems, networks, network devices, facilities and components over which ServiceNow exercises control. This Data Security Guide does not apply to: (i) information shared with ServiceNow that is not data stored in its systems using the Subscription Service; (ii) data in Customer's virtual private network (VPN) or a third party network; or (iii) any data processed by Customer or its users in violation of the Agreement or this Data Security Guide.

MASTER ORDERING AGREEMENT

This Master Ordering Agreement (including the Subscription Service Guide, attached hereto) ("***Agreement***") between ServiceNow, Inc. ("***ServiceNow***") and the U.S. Customer, under GSA Schedule Contract GS-35F-0119Y, is the "Ordering Activity," defined as an "entity authorized to order under GSA Schedule Contracts" as defined in GSA Order ADM 4800.2I, as may be revised from time to time and set forth below ("***Customer***") is made as of the effective date of purchase ("***Effective Date***").

The Subscription Service Guide includes: (1) the Customer Support Policy; (2) the Upgrade Policy; and (3) the Data Security Guide. The Subscription Service Guide is attached hereto and incorporated herein by reference.

THE PARTIES HEREBY EXECUTE THIS AGREEMENT AS OF THE EFFECTIVE DATE.

1. DEFINITIONS

1.1. "***Confidential Information***" means: (a) ServiceNow Core Technology (which is Confidential Information of ServiceNow); (b) Customer Data and Customer Technology (which are Confidential Information of Customer); (c) any other information of a party that is disclosed in writing or orally and is designated as *Confidential* or *Proprietary* at the time of disclosure (and, in the case of oral disclosures, summarized in writing within thirty (30) days of the initial disclosure and delivered to the receiving party), or that due to the nature of the information the receiving party would clearly understand it to be confidential information of the disclosing party; and (d) the specific terms and conditions of this Agreement, any Use Authorization, any SOW, and any amendment and attachment thereof, between the parties. Confidential Information shall not include any information that: (i) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving party; (ii) was rightfully in the receiving party's possession at the time of disclosure without restriction on use or disclosure; (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (iv) was or is rightfully obtained by the receiving party from a third party not under a duty of confidentiality and without restriction on use or disclosure.

1.2. "***Customer Data***" means electronic data uploaded by or for Customer and Customer's agents, employees and contractors, and processed in the Subscription Service, excluding the ServiceNow Core Technology.

1.3. "***Customer Technology***" means software, methodologies, templates, business processes, documentation or other material authored, invented or otherwise created or licensed (other than by or from ServiceNow) by Customer using or for use with the Subscription Service, excluding the ServiceNow Core Technology.

1.4. "***Development Tools***" means source code, application programming interfaces (APIs), executable software and tools in human readable format made available by ServiceNow for the implementation, customization, configuration, and use of the Subscription Service, such as scripts, code snippets, sample code, and development tools published by ServiceNow.

1.5. "***Documentation***" means the ServiceNow product documentation relating to the operation and use of the Subscription Service, Software and Development Tools, including technical program or interface documentation, user manuals, operating instructions and release notes, as updated from time to time by ServiceNow.

1.6. "***Order Form***" means a written ordering document signed by Customer and Reseller.

1.7. "***Product Overview***" means the description of the ordered products and their functionalities attached to an Order Form or referenced therein.

1.8. "***Professional Services***" means any services provided by ServiceNow pursuant to an agreed SOW or Service Description.

1.9. "***Service Description***" means the written description for a packaged Professional Service, attached to an Order Form or referenced therein.

1.10.   "*ServiceNow Core Technology*" means: (a) the Subscription Service; Software; Development Tools, Documentation; and ServiceNow technology and methodologies (including, without limitation, products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation) existing as of the Effective Date or otherwise arising outside of work under a Professional Service; (b) updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related technical or end user documentation or manuals; and (c) intellectual property anywhere in the world relating to the foregoing.

1.11.   "*Software*" means software provided by ServiceNow to Customer that operates on Customer-provided machines solely to facilitate the use of the Subscription Service.

1.12.   "*SOW*" means a statement of work for Professional Services.

1.13.   "*Subscription Service*" means the ServiceNow software as a service (SaaS) offering ordered by Customer under an Order Form.

1.14.   "*Subscription Term*" means the term of authorized use of the Subscription Service as set forth in the Order Form.

1.15.   "*Use Authorization*" means a written document provided to Customer specifying the services that Customer has purchased, along with the term and scope of the authorized use thereof.

2.   GRANT OF USE RIGHTS

2.1.   SUBSCRIPTION SERVICE.   Subject to the terms of this Agreement, ServiceNow authorizes Customer to access and use the purchased Subscription Service during the Subscription Term as set forth in an applicable Use Authorization for its internal business purposes in accordance with the Documentation. Customer shall not use or otherwise access the Subscription Service in a manner that exceeds Customer's authorized use as set forth in this Agreement and the applicable Use Authorization.

2.2.   SOFTWARE.   ServiceNow grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license during the Subscription Term to install and execute Software on machines operated by or for Customer solely to facilitate Customer's authorized access to and use of the purchased Subscription Service. The Software may include code that is licensed under third party license agreements, including open source made available or provided with the Software. Software is licensed and not sold even if for convenience ServiceNow makes reference to words such as *sale* or *purchase*.

2.3.   DEVELOPMENT TOOLS.   In support of Customer's authorized internal business use of the Subscription Service during the Subscription Term, ServiceNow grants to Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license to download and make a reasonable number of copies of the Development Tools, and to use, copy, modify and create derivative works of the Development Tools, in: (a) using, implementing and integrating the ServiceNow applications with other software and systems; and (b) creating applications on the ServiceNow platform (to the extent Customer has purchased authorized use of the Subscription Service to create applications on the ServiceNow platform). Customer shall not use the Development Tools in a manner that causes it to exceed the limits of its authorized use of the Subscription Service as set forth in this Agreement and the Use Authorization. From time to time, ServiceNow may provide Development Tools subject to the terms and conditions of separate agreements which will be provided to Customer for review and to which Customer will be required to agree prior to use of such Development Tools; provided that ServiceNow shall not require Customer to agree to separate terms and conditions for any Development Tool that is necessary for Customer's use of its ordered Subscription Service in conformance with the Product Overview unless set forth on the Use Authorization.

2.4.   RESTRICTIONS.   Customer shall not (and shall not permit others to) do the following with respect to the ServiceNow Core Technology: (i) use the Subscription Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sub-license, sell, re-sell, rent, lease,

transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in an Use Authorization; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with the Subscription Service; (iv) disassemble, reverse engineer or decompile it; (v) copy, create derivative works based on or otherwise modify it except as permitted in this Agreement; (vi) remove or modify a copyright or other proprietary rights notice in it; (vii) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including the rights of publicity or privacy) without first obtaining the permission of the owner; (viii) use it to create, use, send, store or run viruses or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation; or (ix) access or disable any ServiceNow or third party data, software or network (other than Customer's instance of the Subscription Service in accordance with this Agreement). Before Customer exercises any of the foregoing actions that Customer believes it is entitled to, Customer shall provide ServiceNow with thirty (30) days' prior written notice to legalnotices@servicenow.com (or, if applicable law or the relevant court order does not allow for such notice, then the maximum amount of notice allowable), and provide reasonably requested information to allow ServiceNow to assess Customer's claim and, at ServiceNow's sole discretion, provide alternatives that reduce adverse impacts on ServiceNow's intellectual property and other rights.

3. ORDERING

3.1. ORDERS AND PAYMENT. Customer shall order and purchase the Subscription Service and Professional Services directly from ServiceNow's authorized reseller ("Reseller") pursuant to a separate agreement specifying price, payment and other commercial terms. ServiceNow is not a party to such separate agreement but will provide the purchased services pursuant to this Agreement. For each order, Reseller or ServiceNow will provide Customer with a Use Authorization for Customer to sign and return to ServiceNow. ServiceNow will have no obligation to provide services unless and until it has received a Use Authorization signed by Customer. Reseller is not authorized to make any changes to this Agreement (including any Use Authorizations issued hereunder) or bind ServiceNow to any additional or different terms or conditions.

3.2. USE VERIFICATION. ServiceNow may remotely review Customer's use of the Subscription Service, and upon ServiceNow's written request Customer shall provide any reasonable assistance, to verify Customer's compliance with the Agreement. If ServiceNow determines that Customer has exceeded its permitted use of the Subscription Service then ServiceNow will notify Customer and within thirty (30) days thereafter Customer (i) shall disable any unpermitted use or (ii) may purchase additional subscriptions commensurate with Customer's actual use.

3.3. AFFILIATE ORDERING. "*Affiliates*" shall mean any person or entity directly or indirectly Controlling, Controlled by or under common Control with a party to the Agreement, where "*Control*" means the legal power to direct or cause the direction of the general management of the company, partnership or other legal entity. If a Customer Affiliate desires to purchase the Subscription Service outside of North America, the Customer Affiliate must place its order with ServiceNow's applicable regional Affiliate ("*ServiceNow Affiliate*"), which will establish a new and separate agreement between the Customer Affiliate and the ServiceNow Affiliate, the terms and conditions of which shall be the same as the terms and conditions contained in this Agreement, except for the following without limitation: (i) a different tax rate or assessment may govern the Customer Affiliate order; (ii) any pricing commitments shall not apply; (iii) governing law and notice may be different; and (iv) Customer Affiliate will purchase ServiceNow's then current service offering.

3.4. TAXES. All payments required by this Agreement are stated exclusive of all taxes, duties, levies, imposts, fines or similar governmental assessments including sales and use taxes, value-added taxes ("*VAT*"), goods and services taxes ("*GST*"), excise, business, service, and similar transactional taxes imposed by any jurisdiction and the interest and penalties thereon (collectively, "*Taxes*"). Customer shall be responsible for and bear Taxes associated with its purchase of, payment for, access to or use of the Subscription Service and Professional Services. Taxes shall not be deducted from the payments to ServiceNow, except as required by law, in which case Customer shall increase the amount payable as necessary so that after making all required deductions and withholdings, ServiceNow receives and retains (free from any Tax liability) an amount equal to the amount it would have received had no such deductions or withholdings been made. Each party is responsible for

and shall bear taxes imposed on its net income. If Customer is a tax-exempt entity or claims exemption from any Taxes under this Agreement, Customer shall provide a tax exemption number on the Order Form and a certificate upon execution of the Order Form and, after receipt of valid evidence of exemption, ServiceNow shall not charge Customer any Taxes from which it is exempt. If ServiceNow is required to invoice or collect Taxes associated with Customer's purchase of, payment for, access to or use of the Subscription Service or Professional Services, ServiceNow will issue an invoice to Customer including the amount of those Taxes, itemized where required by law. Customer shall provide to ServiceNow its VAT or GST identification number(s) on the Order Form for (i) the country where Customer has established its business and/or (ii) any other country where Customer has a fixed establishment. Customer shall use the ordered Subscription Service and Professional Services for Customer's business use in the foregoing location(s) in accordance with the provided VAT or GST identification number(s). The parties' obligations under this Section shall survive the termination or expiration of this Agreement.

4. INTELLECTUAL PROPERTY

4.1. SERVICENOW OWNERSHIP. As between ServiceNow and Customer, all rights, title, and interest in and to all intellectual property rights in the ServiceNow Core Technology are owned exclusively by ServiceNow notwithstanding any other provision in this Agreement. Except as expressly provided in this Agreement, ServiceNow reserves all rights in the ServiceNow Core Technology and does not grant Customer any rights, express or implied or by estoppel.

4.2. CUSTOMER OWNERSHIP. As between Customer and ServiceNow, Customer shall retain all of its rights, title, and interest in and to its intellectual property rights in Customer Data and Customer Technology. Customer hereby grants to ServiceNow a royalty-free, fully-paid, non-exclusive, non-transferable (except as set forth in Section 10.1 (Assignment)), sub-licensable, worldwide right to use Customer Data and Customer Technology solely for the purpose of providing the Subscription Service and Professional Services to Customer.

4.3. FEEDBACK. ServiceNow encourages Customer to provide suggestions, proposals, ideas, recommendations or other feedback regarding improvements to ServiceNow's services and related resources. To the extent Customer provides such feedback, Customer grants to ServiceNow a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 10.1 (Assignment)), non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import and otherwise exploit feedback (including by incorporation of such feedback into the ServiceNow Core Technology) without restriction.

4.4. PROFESSIONAL SERVICES. Subject to the provisions of this Section 4.4, ServiceNow shall assign to Customer any Newly Created IP (as defined below) in Deliverables upon payment in full by Customer of all amounts due for the Professional Service under which the Deliverable was created. A "***Deliverable***" is a deliverable that is identified in the applicable SOW or Service Description and that is created by ServiceNow for Customer in the performance of the Professional Services. "***Newly Created IP***" means intellectual property in any inventions or works of authorship that are made by ServiceNow specifically for Customer in the course of performing Professional Services for Customer that is identified as "Newly Created IP" in an SOW, excluding the ServiceNow Core Technology. To the extent (if at all) any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the ServiceNow Core Technology solely to use the Deliverable in connection with the Subscription Service as contemplated under this Agreement during the Subscription Term. Nothing in this Agreement shall be deemed to restrict or limit ServiceNow's right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Professional Services.

5. WARRANTIES

5.1. LIMITED SUBSCRIPTION SERVICE WARRANTY. ServiceNow warrants that during the Subscription Term Customer's production instances of the Subscription Service shall materially conform to the Product Overview. To submit a warranty claim under this Section, Customer shall (1) reference this Section; and (2) submit a support request to resolve the non-conformity as provided in the Subscription Service Guide. If the non-conformity persists without relief more than thirty (30) days after written notice of a warranty claim provided to

ServiceNow under this Section 5.1, then Customer may terminate the affected Subscription Service and submit to Reseller a claim for refund of any prepaid subscription fees covering the remainder of the Subscription Term of the affected Subscription Service after the date of termination. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than ServiceNow or a person acting at ServiceNow's direction. THIS SECTION 5.1 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

5.2. <u>LIMITED PROFESSIONAL SERVICES WARRANTY</u>. ServiceNow warrants that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements set forth in the SOW or Service Description. Customer shall notify ServiceNow in writing of any breach within thirty (30) days after performance of the non-conforming Professional Services. Upon receipt of such notice, ServiceNow, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services, in which case Customer may submit to Reseller a claim for a refund of any amounts paid for the nonconforming Professional Services. THIS SECTION 5.2 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

5.3. <u>CUSTOMER WARRANTY</u>. Customer warrants that (A) Customer Data, (B) Customer Technology or (C) a modification to the Subscription Service made to Customer's specifications or otherwise made by or on behalf of Customer by any person other than ServiceNow or a person acting at ServiceNow's direction (but only if the infringement would have been avoided by use of the unmodified Subscription Service), does not infringe any patent, copyright or trademark, or misappropriate any third party trade secret, or violate any third party privacy rights.

5.4. <u>DISCLAIMER OF WARRANTIES</u>. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, SERVICENOW DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WARRANTIES ARISING UNDER STATUTE, WARRANTIES OF MERCHANTABILITY, ACCURACY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SERVICENOW SPECIFICALLY DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE, SOFTWARE, PROFESSIONAL SERVICES, DEVELOPMENT TOOLS, DOCUMENTATION OR DELIVERABLES WILL MEET THE REQUIREMENTS OF CUSTOMER OR OTHERS OR THAT THEY WILL BE ACCURATE OR OPERATE WITHOUT INTERRUPTION OR ERROR. CUSTOMER ACKNOWLEDGES THAT IN ENTERING THIS AGREEMENT IT HAS NOT RELIED ON ANY PROMISE, WARRANTY OR REPRESENTATION NOT EXPRESSLY SET FORTH HEREIN.

6. CONFIDENTIAL INFORMATION

6.1. <u>CONFIDENTIALITY OBLIGATIONS</u>. The recipient of Confidential Information shall: (i) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event using less than reasonable care; and (ii) not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party shall limit the disclosure of the other party's Confidential Information to those of its employees and contractors with a need to access such Confidential Information for a party's exercise of its rights and obligations under this Agreement, provided that all such employees and contractors are subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each party's obligations set forth in this Section 6 shall remain in effect during the term and three (3) years after termination of this Agreement. The receiving party shall, at the disclosing party's request or upon termination of this Agreement, return all originals, copies, reproductions and summaries of Confidential Information and other tangible materials and devices provided to the receiving party as Confidential Information, or at the disclosing party's option, certify destruction of the same. Provisions for the return of Customer Data are set forth in Section 9.4 (Return of Customer Data).

6.2. REQUIRED DISCLOSURES. A party may disclose the disclosing party's Confidential Information to a court or governmental body pursuant to a valid court order, law, subpoena or regulation, provided that the receiving party: (a) promptly notifies the disclosing party of such requirement as far in advance as possible to the extent advanced notice is lawful; and (b) provides reasonable assistance to the disclosing party in any lawful efforts by the disclosing party to resist or limit the disclosure of such Confidential Information.

6.3. EQUITABLE REMEDIES. The parties agree that the receiving party's disclosure of Confidential Information except as provided herein may result in irreparable injury for which a remedy in money damages may be inadequate. The parties further agree that in the event of such disclosure or threatened disclosure, the disclosing party may be entitled to seek an injunction to prevent the breach or threatened breach without the necessity of proving irreparable injury or the inadequacy of money damages, in addition to remedies otherwise available to the disclosing party at law or in equity.

7. INDEMNIFICATION

7.1. SERVICENOW OBLIGATION. Subject to the exclusions set forth below, ServiceNow shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand (each a *"Claim"*) to the extent alleging: (A) that the Subscription Service used in accordance with this Agreement infringes any third party patent, copyright or trademark, or misappropriates any third party trade secret; or (B) that ServiceNow's personnel when onsite at Customer's premises caused death, bodily harm or damage to tangible personal property due to their negligence or willful misconduct; and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from any such Claims. If any portion of the Subscription Service becomes the subject of a Claim under Section 7.1(i)(A), ServiceNow may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in ServiceNow's judgment, then (d) terminate Customer's use of the affected Subscription Service upon sixty (60) days' written notice and pay to Customer a refund of any prepaid subscription fees covering the remaining portion of the applicable Subscription Term for the affected Subscription Service after the date of termination. Notwithstanding the above, ServiceNow shall have no obligation or liability for any Claim under Section 7.1(i)(A) arising in whole or in part from: (1) any use of the Subscription Service which exceeds the authorized use permitted under this Agreement or not in accordance with the Documentation; (2) Customer Data or Customer Technology; (3) use of the Subscription Service by Customer in violation of applicable law; (4) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 7.1; (5) modifications to the Subscription Service made to Customer's specifications or otherwise made by any person other than ServiceNow or a person acting at ServiceNow's direction if the Claim would have been avoided by use of the unmodified Subscription Service; or (6) use of the Subscription Service in combination with any hardware, software, application or service that was not provided by ServiceNow, if the Claim would have been avoided by the non-combined or independent use of the Subscription Service.

7.2. PROCESS. The foregoing indemnity obligations of ServiceNow are conditioned on the indemnified party notifying the indemnifying party promptly in writing of any actual or threatened Claim, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense; provided however, that the indemnified party shall have the right (i) to participate in the defense and/or settlement with counsel of its own choosing at its own expense, provided that its participation does not interfere with the Indemnifying party's defense and the Indemnifying party continues to control the defense, and (ii) any settlement of Claims that requires an admission of guilt by Indemnified party or imposes any burden on Indemnified party other than to cease using the Subscription Service in accordance with subpart (d) of Section 7.1 above, will require Indemnified party's prior written consent, such consent not to be unreasonably withheld).

7.3. FOR THE AVOIDANCE OF DOUBT, SECTION 7 IS NOT INTENDED TO COVER ANY FIRST PARTY CLAIMS BETWEEN CUSTOMER AND SERVICENOW. SECTION 7 STATES EACH PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR THIRD PARTY CLAIMS AND ACTIONS.

8. LIMITATIONS OF LIABILITY

8.1. LIMITATIONS OF LIABILITY. TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) CUSTOMER'S OBLIGATION TO PAY FOR PRODUCTS, SERVICES OR TAXES; (2) A PARTY'S OBLIGATIONS IN SECTION 7 (INDEMNIFICATION); AND (3) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

8.2. EXCLUSION OF DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COVER, SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) PAYMENTS TO A THIRD PARTY ARISING FROM A PARTY'S OBLIGATIONS UNDER SECTION 7 (INDEMNIFICATION); AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

8.3. GROSS NEGLIGENCE; WILFUL MISCONDUCT. AS PROVIDED BY LAW, NOTHING HEREIN SHALL BE INTENDED TO LIMIT A PARTY'S LIABILITY IN AN ACTION IN TORT (SEPARATE AND DISTINCT FROM A CAUSE OF ACTION FOR BREACH OF THIS AGREEMENT) FOR THE PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT.

9. TERM AND TERMINATION

9.1. TERM AND TERMINATION. This Agreement continues until terminated under the terms of this Agreement and/or the Contract Disputes Act. To the extent permitted by applicable law, each party may terminate this Agreement in its entirety either: (i) upon thirty (30) days' prior written notice to the other party, if at the time of notice there are no Use Authorizations in effect; or (ii) upon written notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership or liquidation, in any jurisdiction, that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Either party may terminate a Subscription Service or Professional Services upon written notice if the other party materially breaches this Agreement or the applicable Use Authorization for the affected service and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party. Professional Services are separately ordered from the Subscription Service, and are not required for the Subscription Service. A breach by a party of its obligations with respect to Professional Services shall not by itself constitute a breach by that party of its obligations with respect to the Subscription Service even if the services are enumerated in the same Use Authorization.

9.2. EFFECT OF TERMINATION OF SUBSCRIPTION SERVICE. Upon termination of the Subscription Service for any reason, Customer shall stop using, and ServiceNow shall stop providing, the Subscription Service and all rights granted to Customer in this Agreement shall terminate. If the Subscription Service is terminated by Customer due to ServiceNow's breach, then Customer may submit to Reseller a claim for refund of all prepaid fees for the remaining portion of the Subscription Term for the terminated Subscription Service after the effective date of termination. If the Subscription Service is terminated due to Customer's breach, Customer's payment of remaining amounts for the Subscription Term applicable to the Subscription Service covering the remainder of the Subscription Term regardless of the due dates specified in Reseller's order form to Customer shall be determined in accordance with the Contract Dispute Act.

9.3. <u>TRANSITION SERVICES</u>. At least thirty (30) days prior to either the expiration of the Subscription Term (where Customer elects not to renew) or in connection with the termination by Customer of the Subscription Service in accordance with Section 9.1, Customer may purchase the following services: (i) one (1) extension of the Subscription Service for up to six (6) months ("***Transition Subscription Service***"); and (ii) Professional Services. Customer shall negotiate and sign a mutually agreed upon Order Form with Reseller setting forth the fees and purchased Subscription Service and Professional Services prior to the commencement of any Transition Subscription Service or Professional Services.

9.4. <u>RETURN OF CUSTOMER DATA.</u> ServiceNow shall provide Customer Data in its standard database export format, excluding the ServiceNow Core Technology, to Customer upon Customer's written request and at no additional cost to Customer. After forty-five (45) days following the expiration or termination of this Agreement for the Subscription Service (including any Transition Subscription Service term, if applicable), if Customer has not requested the return of its Customer Data, ServiceNow shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, have the right to delete all Customer Data in its systems or otherwise in its possession or under its control and delete Customer's instances of the Subscription Service.

9.5. <u>SURVIVAL</u>. Sections 2.4 (Restrictions), 3.4 (Taxes), 4.1 (ServiceNow Ownership), 4.2 (Customer Ownership), 4.3 (Feedback) and 6 (Confidential Information) through 10 (General Provisions) of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

10.   GENERAL PROVISIONS

10.1. <u>ASSIGNMENT</u>. Neither party may assign its rights or obligations under this Agreement, whether by operation of law or otherwise. Notwithstanding the above a party may enter a novation agreement per FAR 42.1204.

10.2. <u>COMPLIANCE WITH LAWS</u>. ServiceNow shall comply with any statutes and regulations that apply to its provision of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to the privacy and security of personal information, including trans-border data transfers and data breach notification requirements as required of ServiceNow by law. Customer shall comply with all laws that apply to its use of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to collection and processing of Customer Data in ServiceNow systems through the Subscription Service. Customer agrees to provide any required disclosures to and obtain any required consents for the transfer of Customer Data to ServiceNow. ServiceNow shall not be responsible for compliance with any laws applicable to Customer and its industry that are not generally applicable to information technology service providers.

10.3. <u>EXPORT COMPLIANCE</u>. Each party shall comply with United States and foreign export control laws and regulations. Customer acknowledges that the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables are subject to the U.S. Export Administration Regulations (the "***EAR***") and that Customer shall comply with the EAR. Without limiting the foregoing, Customer represents and warrants that: (i) Customer is not located in, and shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables from, any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan and Syria); (ii) Customer shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, sounding rockets or unmanned air vehicle systems; and (iii) Customer is not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. In addition, Customer is responsible for complying with any local laws which may impact Customer's right to import, export or use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables.

10.4. US GOVERNMENT RIGHTS. All ServiceNow software (including Software) is commercial computer software and all services are commercial items. "**Commercial computer software**" has the meaning set forth in Federal Acquisition Regulation ("**FAR**") 2.101 for civilian agency purchases and the Department of Defense ("**DOD**") FAR Supplement ("**DFARS**") 252.227-7014(a)(1) for defense agency purchases. If the software is licensed or the services are acquired by or on behalf of a civilian agency, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the services are acquired by or on behalf of any agency within the DOD, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS or other clause or provision that addresses Government rights in computer software or technical data.

10.5. NOTICE. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by a recognized overnight courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by email with confirmation of receipt, except that email shall not be sufficient for notices regarding a Claim. Notices shall be sent to the parties as set forth on the signature page of this Agreement or as subsequently updated in writing.

10.6. FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (excluding Customer's failure to pay amounts owed when due), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including without limitation: strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, sabotage, theft or other criminal acts, failure of energy sources or transport network, acts of God, export bans, sanctions and other government actions, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, explosions, collapse of building structures, fires, floods, storms, earthquakes, epidemics or similar events, natural disasters or extreme adverse weather conditions (each a "**Force Majeure Event**"). The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.

10.7. HIGH RISK ACTIVITIES. Customer shall use the ServiceNow Core Technology within the intended business purposes described in the Documentation, and not for any purpose that requires fail-safe performance including, but not limited to, stock trading, financial transaction processing, management of hazardous facilities or applications for which failure could result in death, personal injury, or severe physical or environmental damage ("**High Risk Activity**"). ServiceNow, its licensors and suppliers expressly disclaim all warranties of fitness for any such use and ServiceNow, its licensors and suppliers will have no liability arising out of the use of the ServiceNow Core Technology for High Risk Activity.

10.8. USE OF AGGREGATE DATA. Customer agrees that ServiceNow may collect, use and disclose quantitative data derived from the use of the Subscription Service for industry analysis, benchmarking, analytics, marketing, and other business purposes. All data collected, used, and disclosed will be in aggregate form only and will not identify Customer or its users.

10.9. ENTIRETY. This Agreement, together with the Use Authorizations, Product Overviews, SOWs, Service Descriptions, and the Subscription Service Guide (including the Customer Support Policy, the Upgrade Policy and the Data Security Guide), are the final and entire agreement between the parties regarding the products and services provided hereunder and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings and negotiations with respect to the subject matter hereof. The terms of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any purchase order submitted by Customer is for Customer's internal purposes only and its terms and conditions are superseded and replaced

by this Agreement, and the purchase order terms and conditions have no force or effect. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ServiceNow that is not set out in this Agreement. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any verbal or written communication about ServiceNow's future plans. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

10.10. WAIVER AND AMENDMENT. A waiver of any right is only effective if it is in writing and only against the party who signed such writing and for the circumstances given. Any modification of this Agreement must be in writing and signed by authorized representatives of both parties.

10.11. RELATIONSHIP OF THE PARTIES. The parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship. Neither party shall have any right or authority to assume or create any obligation of any kind expressed or implied in the name of or on behalf of the other party.

10.12. GOVERNING LAW; JURISDICTION AND VENUE. This Agreement shall be governed by the laws of the United States. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

10.13. CONSTRUCTION. Products and services shall be provided in the English language unless agreed otherwise. The parties confirm that they have requested that this Agreement and all related documents be drafted in English at the express wishes of the parties. Section headings are for convenience only and are not to be used in interpreting this Agreement.

SUBSCRIPTION SERVICE GUIDE

1.   SUPPORT

During the Subscription Term, ServiceNow shall provide support for the Subscription Service as set forth in the ***Customer Support Policy*** attached hereto, and incorporated herein by reference.

2.   UPGRADES

ServiceNow determines whether and when to develop, release and apply any Upgrade (as defined in the ***Upgrade Policy*** attached hereto, and incorporated herein by reference) to Customer's instances of the Subscription Service.

3.   DATA SECURITY

ServiceNow shall implement and maintain security procedures and practices appropriate to information technology service providers to protect Customer Data from unauthorized access, destruction, use, modification, or disclosure, as described in the ***Data Security Guide*** attached hereto, and incorporated herein by reference.

4.   INSURANCE

ServiceNow agrees to maintain in effect during the Subscription Term, at ServiceNow's expense, the following minimum insurance coverage:

(i)   (a) Workers' Compensation Insurance, in accordance with applicable statutory, federal, and other legal requirements and (b) Employers' Liability Insurance covering ServiceNow's employees in an amount of not less than $1,000,000 for bodily injury by accident, $1,000,000 policy limit for bodily injury by disease, and $1,000,000 each employee for bodily injury by disease;

(ii)   Commercial General Liability Insurance written on an occurrence form and including coverage for bodily injury, property damage, products and completed operations, personal injury, advertising injury arising out of the services and/or products provided by ServiceNow under this Agreement with minimum limits of $1,000,000 per occurrence/$2,000,000 aggregate;

(iii)   Commercial Automobile Liability Insurance providing coverage for hired and non-owned automobiles used in connection with this Agreement in an amount of not less than $1,000,000 per accident combined single limit for bodily injury and property damage;

(iv)   Combined Technology Errors' & Omission Policy with a $5,000,000 per Claim limit, including: (a) Professional Liability Insurance providing coverage for the services and software in this Agreement. Such coverage to be maintained for at least two (2) years after the termination of this Agreement; and (b) Privacy, Security, and Media Liability Insurance providing liability coverage for unauthorized access or disclosure, security breaches or system attacks, as well as infringements of copyright and trademark that might result from this Agreement; and

(v)   Excess Liability over Employers' Liability, Commercial General Liability and Commercial Automobile Liability with a $5,000,000 aggregate limit.

For the purpose of this Section, a "***Claim***" means a written demand for money or a civil proceeding which is commenced by service of a complaint or similar pleading.

5.   AVAILABILITY SERVICE LEVEL

5.1.   DEFINITIONS

(a)   "***Available***" means that the Subscription Service can be accessed by authorized users.

(b)   "***Excused Downtime***" means: (i) Maintenance Time of up to two (2) hours per month; and (ii) any time the Subscription Service is not Available due to circumstances beyond ServiceNow's control, including without limitation modifications of the Subscription Service by any person other than ServiceNow or a person acting at ServiceNow's direction, a Force Majeure Event, general Internet outages, failure of Customer's

infrastructure or connectivity (including without limitation, direct connectivity and virtual private network (VPN) connectivity to the Subscription Service), computer and telecommunications failures and delays, and network intrusions or denial-of-service or other criminal attacks.

(c) "***Maintenance Time***" means the time the Subscription Service is not Available due to service maintenance.

(d) "***Availability SLA***" means the percentage of total time during which Customer's production instances of the Subscription Service are Available during a calendar month, excluding Excused Downtime.

5.2. AVAILABLITY

If Customer's production instances of the Subscription Service fall below the Availability SLA of ninety-nine and eight-tenths percent (99.8%) during a calendar month, Customer's exclusive remedy for failure of the Subscription Service to meet the Availability SLAs is either: (1) to request that the affected Subscription Term be extended for the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA; or (2) to request that ServiceNow issue a service credit to Customer for the dollar value of the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA (determined at the deemed per minute rate ServiceNow charges to Customer for Customer's use of the affected Subscription Service), which Customer may request ServiceNow apply to the next invoice for subscription fees.

5.3. REQUESTS

Customer must request all service credits or extensions in writing to ServiceNow within thirty (30) days of the end of the month in which the Availability SLA was not met, identifying the support requests relating to the period Customer's production instances of the Subscription Service was not Available. The total amount of service credits for any month may not exceed the subscription fee for the affected Subscription Service for the month, and has no cash value. ServiceNow may delay issuing service credits until such amounts reach one thousand U.S. dollars ($1,000) or equivalent currency specified in the applicable Order Form.

CUSTOMER SUPPORT POLICY

This Customer Support Policy governs the support that ServiceNow will provide for its Subscription Service. This Policy may be updated from time to time.

Scope

The purpose of Customer Support is to resolve defects that cause the Subscription Service to perform not in substantial conformance to the Product Overview. A resolution to a defect may consist of a fix, workaround or other relief ServiceNow deems reasonable.

Customer Support does not include:

- implementation services
- configuration services
- integration services
- customization services or other custom software development
- training
- assistance with administrative functions

Customer Support is not required to provide resolutions for immaterial defects or defects due to modifications of the Subscription Service made by any person other than ServiceNow or a person acting at ServiceNow's direction.

Business Hours

Customer Support is available 24 hours a day, 7 days a week, including all holidays.

Access Contacts

- Support Portal at https://hi.service-now.com/. Customer may get login access to this self-service portal by contacting its ServiceNow administrator.
- Phone using one of the numbers at http://servicenow.com/support/contact-support.html.

Incident Priority

Incident priority for a defect is determined using the guidelines below:

Priority	Definition
P1	Any defect that causes an instance to be unavailable.
P2	Any defect that causes a critical function to fail.
P3	Any defect that significantly impedes work or progress.
P4	Any defect that does not significantly impede work or progress.

Response Times and Level of Effort

Customer submits an incident with ServiceNow via phone or web. All support requests are tracked online and can be viewed by Customer's authorized contacts. Response times do not vary if the incident was filed via phone or web.

SerivceNow will use reasonable efforts to meet the target response times and target level of effort stated in the table below.

Priority	Target Response Times	Target Level of Effort
P1	30 minutes	Continuously, 24 hours per day, 7 days per week
P2	2 hours	Continuously, but not necessarily 24 hours per day, 7 days per week
P3	1 business day	As appropriate during normal business hours
P4	N/A	Varies

Customer Responsibilities

Customer's obligations are as follows:

(a)   Customer agrees to receive from ServiceNow communications via email, phone or through the Support Portal regarding the Subscription Service.

(b)   Customer shall appoint no more than five (5) contacts ("***Customer Authorized Contacts***") to engage Customer Support for questions and/or technical issues.

      (i)   Only Customer Authorized Contacts are authorized to contact Customer Support.

      (ii)   Customer must ensure the information for these contacts is current in the Support Portal at https://hi.service-now.com/.

      (iii)   Customer Authorized Contacts are trained on the use and administration of the Subscription Service.

(c)   Customer shall cooperate to enable ServiceNow to deliver the Subscription Service and support for the service.

(d)   Customer is solely responsible for the use of the Subscription Service by its authorized users.

Support Resources

- ServiceNow Website (http://www.servicenow.com/services/overview.html)
- ServiceNow Community (https://community.servicenow.com/welcome)
- Release Notes (http://wiki.service-now.com/index.php?title=Main_Page)
- Product Documentation (http://wiki.service-now.com/index.php?title=Main_Page)
- Knowledge Base (https://hi.service-now.com/nav_to.do?uri=kb_home.do)
- Support Community (https://community.servicenow.com/community/support)

UPGRADE POLICY

1.   UPGRADES

"***Upgrades***" are ServiceNow's releases of the Subscription Service for repairs, enhancements or new features applied by ServiceNow to Customer's instances of the Subscription Service at no additional fee during the Subscription Term. ServiceNow has the discretion to provide new functionality as an Upgrade or as different software or service for a separate fee. ServiceNow determines whether and when to develop, release and apply any Upgrade to Customer's instances of the Subscription Service.

2.   NOTICE; MAINTENANCE DOWNTIME

ServiceNow shall use reasonable efforts to give Customer thirty (30) days prior notice of any Upgrade to the Subscription Service. ServiceNow shall use reasonable efforts to give Customer ten (10) days prior notice of any Upgrade to the cloud infrastructure network, hardware, or software used by ServiceNow to operate and deliver the Subscription Service if ServiceNow in its reasonable judgment believes that the infrastructure Upgrade will impact Customer's use of its production instances of the Subscription Service. ServiceNow will use commercially reasonable efforts to limit the period of time during which the Subscription Service is unavailable due to the application of Upgrades to no more than two (2) hours per month. Notwithstanding the foregoing, ServiceNow may provide Customer with a shorter or no notice period of an Upgrade if necessary, in the reasonable judgment of ServiceNow, to maintain the availability, security or performance of the Subscription Service or the ability of ServiceNow to efficiently provide the Subscription Service.

3.   NOMENCLATURE

A pending Upgrade may be a "Feature Release", "Patch" or "Hotfix." A "***Feature Release***" is an Upgrade that includes new features or enhancements. A "***Patch***" or a "***Hotfix***" is an Upgrade to a Feature Release that maintains the functionality of the Feature Release and does not include new functionality. ServiceNow refers to each Feature Release and its associated Patches and Hotfixes as a "***Release Family***." For example, ServiceNow's Feature Release "Aspen" established the "Aspen" Release Family, and ServiceNow's subsequent Feature Release "Berlin" established the "Berlin" Release Family.

4.   PINNING REQUESTS

Customer may submit a support request for "no Upgrade" not fewer than five (5) business days' prior to a pending Upgrade of the Subscription Service. Subject to the terms and conditions of this Upgrade Policy, Customer's "no Upgrade" request shall be granted, and the Upgrade shall not be applied to Customer's instances of the Subscription Service.

5.   SUPPORTED AND NON-SUPPORTED RELEASE FAMILIES

ServiceNow offers support for the then current Release Family and the prior two (2) Release Families ("***Supported Release Families***") as set forth in the Customer Support Policy. A Customer using a Supported Release Family may be required to Upgrade to a Patch or Hotfix within the Supported Release Family to correct a defect. At its discretion, ServiceNow may offer limited support for additional Release Families ("***Non-Supported Release Families***"). Without limiting ServiceNow's discretion to determine the availability of support for Non-Supported Release Families, a Customer using a Non-Supported Release Family may be required to Upgrade to a Supported Release Family to correct a defect. Any service level agreements, recovery time objectives or recovery point objectives are not applicable to Non-Supported Release Families. Details of ServiceNow support are further set forth in the Customer Support Policy.

Customer acknowledges that the current Release Family is the most current feature, availability, performance and security version of the Subscription Service. Within a Supported Release Family, the most recent Patch contains the most current feature, availability, performance and security version of the Subscription Service for that Release Family. A Customer that has submitted a "no Upgrade" request may experience defects, for which Customer hereby agrees that ServiceNow is not responsible, including without limitation those that affect the features, availability, performance and security of the Subscription Service, that are fixed in the most

current version of the Subscription Service.

6.   REQUIRED UPGRADES

If Customer has requested "no Upgrade" it may nevertheless be required to Upgrade if in the reasonable judgment of ServiceNow the Upgrade is necessary to maintain the availability, security or performance of the Subscription Service or the ability of ServiceNow to efficiently provide the Subscription Service, as follows:

6.1.   SUPPORTED RELEASE FAMILY. If Customer is using a Supported Release Family, it may be required to Upgrade to a Patch or Hotfix within the Supported Release Family.

6.2.   NON-SUPPORTED RELEASE FAMILY. If Customer is using a Non-Supported Release Family, it may be required to Upgrade to a Supported Release Family.

7.   EXCEPTIONS

Notwithstanding the other provisions of this Upgrade Policy, Customer may not submit a support request for "no Upgrade" for any Upgrade to, or that is essential for, the infrastructure network, hardware, or software used by ServiceNow to operate and deliver the Subscription Service.

DATA SECURITY GUIDE

Security Statement of an Enterprise IT Cloud Company

The ServiceNow cloud is built for the enterprise customer with every aspect aimed towards meeting the customer's demand for reliability, availability and security. ServiceNow's comprehensive approach to address this demand is enabled by the following: (a) ServiceNow's robust cloud infrastructure runs on its own applications and utilizes industry best-of-breed technology to automate mission critical functionalities in the cloud service with around-the-clock and around-the-world delivery; (b) ServiceNow achieves flexibility and control in its ability to deliver a stable user experience to the customer by having a logical single tenant architecture; (c) ServiceNow's application development which has a paramount focus on quality, security, and the user experience is closely connected to the operations of delivering those applications in a reliable and secure cloud environment; (d) ServiceNow invests in a comprehensive compliance strategy that allows its customers to attain their own compliance to applicable laws by obtaining attestations and certifications and running its subscription service from paired data centers situated close to where its customers are located; and (e) ServiceNow's homogeneous environment where all applications are on a single platform offers ServiceNow a competitive advantage in being able to concentrate its efforts to make the customer's user experience the best possible.

This Data Security Guide describes the measures ServiceNow takes to protect Customer Data when it resides in the ServiceNow cloud. This Data Security Guide forms a part of any legal agreement into which this Data Security Guide is explicitly incorporated by reference (the "***Agreement***") and is subject to the terms and conditions of the Agreement. Capitalized terms that are not otherwise defined herein shall have the meaning given to them in the Agreement.

1.   SECURITY PROGRAM

While providing the Subscription Service, ServiceNow shall maintain a written information security program of policies, procedures and controls ("***Security Program***") governing the processing, storage, transmission and security of Customer Data. The Security Program includes industry standard practices designed to protect Customer Data from unauthorized access, acquisition, use, disclosure, or destruction. ServiceNow may periodically review and update the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, provided that any such update does not materially reduce the commitments, protections or overall level of service provided to Customer as described herein.

2.   CERTIFICATIONS AND ATTESTATIONS

2.1.   Certifications and Attestations. ServiceNow shall establish and maintain sufficient controls to meet the objectives stated in ISO 27001 and SSAE 16 / SOC 1 and SOC 2 Type 2 (or equivalent standards) (collectively, the "***Standards***") for the information security management system supporting the Subscription Service. At least once per calendar year, ServiceNow shall perform an assessment against such Standards ("***Assessment***"). Upon Customer's written request, which shall be no more than once per calendar year, ServiceNow shall provide a summary of the Assessment(s) to Customer. Assessments shall be Confidential Information of ServiceNow.

2.2.   Safe Harbor. ServiceNow shall maintain self-certified compliance under the U.S.-EU and U.S.-Swiss Safe Harbor Frameworks developed by the U.S. Department of Commerce regarding the collection, use and retention of Personal Data (defined in Section 6 below) from European Union member countries and Switzerland.

3.   PHYSICAL, TECHNICAL AND ADMINISTRATIVE SECURITY MEASURES

The Security Program shall include the following physical, technical and administrative measures designed to protect Customer Data from unauthorized access, acquisition, use, disclosure, or destruction:

3.1.   Physical Security Measures

(a)   Data Center Facilities: (i) Physical access restrictions and monitoring that may include a combination of any of the following: multi-zone security, man-traps, appropriate perimeter deterrents (for example,

fencing, berms, guarded gates), on-site guards, biometric controls, CCTV, and secure cages; and (ii) fire detection and fire suppression systems both localized and throughout the data center floor.

(b) <u>Systems, Machines and Devices</u>: (i) Physical protection mechanisms; and (ii) entry controls to limit physical access.

(c) <u>Media</u>: (i) Industry standard destruction of sensitive materials before disposition of media; (ii) secure safe for storing damaged hard disks prior to physical destruction; and (iii) physical destruction of all decommissioned hard disks storing Customer Data.

3.2. Technical Security Measures

(a) <u>Access Administration</u>. Access to the Subscription Service by ServiceNow employees and contractors is protected by authentication and authorization mechanisms. User authentication is required to gain access to production and sub-production systems. Access privileges are based on job requirements and are revoked upon termination of employment or consulting relationship. Production infrastructure includes appropriate user account and password controls (for example, the required use of virtual private network connections, complex passwords with expiration dates, and a two-factored authenticated connection) and is accessible for administration.

(b) <u>Logging and Monitoring</u>. The production infrastructure log activities are centrally collected and are secured in an effort to prevent tampering and are monitored for anomalies by a trained security team.

(c) <u>Firewall System</u>. An industry-standard firewall is installed and managed to protect ServiceNow systems by residing on the network to inspect all ingress connections routed to the ServiceNow environment.

(d) <u>Vulnerability Management</u>. ServiceNow conducts periodic independent security risk evaluations to identify critical information assets, assess threats to such assets, determine potential vulnerabilities, and provide for remediation. When software vulnerabilities are revealed and addressed by a vendor patch, ServiceNow will obtain the patch from the applicable vendor and apply it within an appropriate timeframe in accordance with ServiceNow's then current vulnerability management and security patch management standard operating procedure and only after such patch is tested and determined to be safe for installation in all production systems.

(e) <u>Antivirus</u>. ServiceNow updates anti-virus, anti-malware, and anti-spyware software on regular intervals and centrally logs events for effectiveness of such software.

(f) <u>Change Control</u>. ServiceNow ensures that changes to platform, applications and production infrastructure are evaluated to minimize risk and are implemented following ServiceNow's standard operating procedure.

3.3. Administrative Security Measures

(a) <u>Data Center Inspections</u>. ServiceNow performs routine reviews at each data center to ensure that it continues to maintain the security controls necessary to comply with the Security Program.

(b) <u>Personnel Security</u>. ServiceNow performs background and drug screening on all employees and all contractors who have access to Customer Data in accordance with ServiceNow's then current applicable standard operating procedure and subject to applicable law.

(c) <u>Security Awareness and Training</u>. ServiceNow maintains a security awareness program that includes appropriate training of ServiceNow personnel on the Security Program. Training is conducted at time of hire and periodically throughout employment at ServiceNow.

(d) <u>Vendor Risk Management</u>. ServiceNow maintains a vendor risk management program that assesses all vendors that access, store, process or transmit Customer Data for appropriate security controls and business disciplines.

4. DATA PROTECTION AND SERVICE CONTINUITY

4.1. Data Centers; Data Backup. ServiceNow shall host Customer's instances in primary and secondary SSAE 16 Type II or ISO 27001 certified (or equivalent) data centers in the geographic regions specified on the Order Form for the Subscription Term. Each data center includes full redundancy (N+1) and fault tolerant infrastructure for electrical, cooling and network systems. The deployed servers are enterprise scale servers with redundant power to ensure maximum uptime and service availability. The production database servers are replicated in near real time to a mirrored data center in a different geographic region. Each customer instance is supported by a network configuration with multiple connections to the Internet. ServiceNow backs up all Customer Data in accordance with ServiceNow's standard operating procedure.

4.2. Personnel. In the event of an emergency that renders the customer support telephone system unavailable, all calls are routed to an answering service that will transfer to a ServiceNow telephone support representative, geographically located to ensure business continuity for support operations.

5. INCIDENT MANAGEMENT AND BREACH NOTIFICATION

5.1. Incident Monitoring and Management. ServiceNow shall monitor, analyze and respond to security incidents in a timely manner in accordance with ServiceNow's standard operating procedure. Depending on the nature of the incident, ServiceNow security group will escalate and engage response teams necessary to address an incident.

5.2. Breach Notification. Unless notification is delayed by the actions or demands of a law enforcement agency, ServiceNow shall report to Customer the unauthorized acquisition, access, use, disclosure or destruction of Customer Data (a "Breach") promptly following determination by ServiceNow that a Breach occurred. The initial report shall be made to Customer security contact(s) designated in ServiceNow's customer support portal. ServiceNow shall take reasonable measures to promptly mitigate the cause of the Breach and shall take reasonable corrective measures to prevent future Breaches. As information is collected or otherwise becomes available to ServiceNow and unless prohibited by law, ServiceNow shall provide information regarding the nature and consequences of the Breach that are reasonably requested to allow Customer to notify affected individuals, government agencies and/or credit bureaus. Customer is solely responsible for determining whether to notify impacted Data Subjects (defined in 6.1 below) and for providing such notice, and for determining if regulatory bodies or enforcement commissions applicable to Customer or Customer Data need to be notified of a Breach.

5.3. Customer Cooperation. Customer agrees to cooperate with ServiceNow in maintaining accurate contact information in the customer support portal and by providing any information that is reasonably requested to resolve any security incident, identify its root cause(s) and prevent a recurrence.

6. DATA PROCESSING GUIDELINES; COMPLIANCE WITH LAWS

6.1. Customer as Data Controller. Customer acknowledges that in relation to Personal Data supplied and/or processed under the Agreement it acts as Controller and it warrants that it will duly observe all of its obligations under all applicable laws and regulations of the European Union, the European Economic Area and their member states regarding the processing of Personal Data (collectively referred to as "Data Protection Laws") including, without limitation, obtaining and maintaining all necessary notifications and obtaining and maintaining all necessary Data Subject Consents. Customer shall (i) have sole responsibility for the accuracy, quality, integrity, legality and reliability of Personal Data and of the means by which it acquired Personal Data, (ii) ensure that data processing instructions given to ServiceNow comply with applicable Data Protection Laws, and (iii) comply with all applicable Data Protection Laws in collecting, compiling, storing, accessing and using Personal Data in connection with the Subscription Service. For the purposes of this Data Security Guide, "Personal Data", "Controller", "Data Subject" and "Data Subject Consent" shall have the meaning given to these terms in Directive 95/46/EC. For clarity, "process" or "processing" means any operation or set of operations performed upon Customer Data.

6.2. ServiceNow as Data Processor. ServiceNow shall process or otherwise use Personal Data (including possible onward transfers) on behalf of Customer solely for the purpose of providing the services

described in the Agreement and only in accordance with Customer's lawful instructions (limited to those instructions which ServiceNow can reasonably carry out in the provision of the Subscription Service), the terms of the Agreement, and this Data Security Guide. ServiceNow shall ensure that those employees to whom it grants access to such Personal Data are directed to keep such Personal Data confidential and are informed of any additional data protection obligations applicable to such Personal Data. ServiceNow shall, to the extent legally permitted, promptly notify Customer with respect to any request or communication ServiceNow receives from any regulatory authority in relation to any data processing activities ServiceNow conducts on behalf of Customer. In addition, ServiceNow will cooperate and assist Customer, at Customer's cost, in relation to any such request and to any response to any such communication. ServiceNow will pass on to the Customer any requests of a Data Subject to access, delete, correct, or block Personal Data processed under the Agreement. If ServiceNow is compelled by law to disclose Customer's information as part of a civil proceeding to which Customer is a party, and Customer is not contesting the disclosure, Customer will reimburse ServiceNow for its reasonable cost of compiling and providing secure access to that information.

6.3. **Subcontractors**. ServiceNow may engage subcontractors for processing Customer Data under the Agreement, provided ServiceNow shall ensure compliance by such subcontractor(s) with the requirements of this Section 6 by entering into written agreements with such subcontractors which provide that the subcontractor will apply the Safe Harbor principles to the processing of Personal Data. ServiceNow's use of any subcontractor will not relieve, waive or diminish any obligation ServiceNow has under the Agreement or this Data Security Guide.

7.   PENETRATION TESTS

7.1. **By a Third Party**. ServiceNow contracts with third party vendors to perform an annual penetration test on the ServiceNow platform to identify risks and remediation that help increase security.

7.2. **By Customer**. No more than once per calendar year Customer may request to perform, at its own expense, an application penetration test of its instances of the Subscription Service. Customer shall notify ServiceNow in advance of any test by submitting a request using ServiceNow's online support portal and completing a penetration testing agreement. ServiceNow and Customer must agree upon a mutually acceptable time for the test; and Customer shall not perform a penetration test without ServiceNow's express written authorization. The test must be of reasonable duration, and must not interfere with ServiceNow's day-to-day operations. Promptly upon completion of the penetration test, Customer shall provide ServiceNow with the test results including any detected vulnerability. Upon such notice, ServiceNow shall, consistent with industry standard practices, use all commercially reasonable efforts to promptly make any necessary changes to improve the security of the Subscription Service. Customer shall treat the test results as Confidential Information of ServiceNow.

8.   SHARING THE SECURITY RESPONSIBILITY

8.1. **Product Capabilities**. The Subscription Service has the capabilities to: (i) authenticate users before access; (ii) encrypt passwords; (iii) allow users to manage passwords; and (iv) prevent access by users with an inactive account. Customer manages each user's access to and use of the Subscription Service by assigning to each user a credential and user type that controls the level of access to the Subscription Service.

8.2. **Customer Responsibilities**. ServiceNow provides the cloud environment that permits Customer to use and process Customer Data in the Subscription Service. The architecture in the Subscription Service includes, without limitation, column level encryption functionality and the access control list engine. Customer shall be responsible for using the column level encryption functionality and access control list engine for protecting all Customer Data containing sensitive data, including without limitation, credit card numbers, social security numbers, financial and health information, and sensitive personal data. Customer is solely responsible for the results of its decision not to encrypt such sensitive data. ServiceNow protects all Customer Data in the ServiceNow cloud infrastructure equally in accordance with this Data Security Guide, regardless of the classification of the type of Customer Data. Customer shall be responsible for protecting the confidentiality of each user's login and password and shall manage each user's access to the Subscription Service.

8.3. **Customer Cooperation**. Customer shall promptly apply any application upgrade that ServiceNow determines is necessary to maintain the security, performance or availability of the Subscription Service.

8.4. **Limitations**. Notwithstanding anything to the contrary in the Agreement or this Data Security Guide, ServiceNow's obligations extend only to those systems, networks, network devices, facilities and components over which ServiceNow exercises control. This Data Security Guide does not apply to: (i) information shared with ServiceNow that is not data stored in its systems using the Subscription Service; (ii) data in Customer's virtual private network (VPN) or a third party network; or (iii) any data processed by Customer or its users in violation of the Agreement or this Data Security Guide.

SUBSCRIPTION SERVICE AGREEMENT

This Subscription Service Agreement (including the Subscription Service Guide, attached hereto) ("**Agreement**") between ServiceNow, Inc. ("**ServiceNow**") and the customer set forth below ("**Customer**") is made as of the effective date or purchase ("**Effective Date**").

The Subscription Service Guide includes: (1) the Customer Support Policy; (2) the Upgrade Policy; and (3) the Data Security Guide. Pursuant to a separate transaction between Customer and ServiceNow's authorized reseller ("**Reseller**"), Customer has purchased from Reseller certain services to be delivered by ServiceNow. This Agreement specifies the terms and conditions under which those services will be provided, apart from price, payment and other terms specified in the separate agreement between Customer and Reseller.

1.   DEFINITIONS

1.1.   "**Confidential Information**" means, to the extent permitted by law: (a) ServiceNow Core Technology (which is Confidential Information of ServiceNow); (b) Customer Data and Customer Technology (which are Confidential Information of Customer); and (c) any other information of a party that is disclosed in writing or orally and is designated as *Confidential* or *Proprietary* at the time of disclosure (and, in the case of oral disclosures, summarized in writing within thirty (30) days of the initial disclosure and delivered to the receiving party), or that due to the nature of the information the receiving party would clearly understand it to be confidential information of the disclosing party. Confidential Information shall not include any information that: (i) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving party; (ii) was rightfully in the receiving party's possession at the time of disclosure without restriction on use or disclosure; (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (iv) was or is rightfully obtained by the receiving party from a third party not under a duty of confidentiality and without restriction on use or disclosure.

1.2.   "**Customer Data**" means electronic data uploaded by or for Customer and Customer's agents, employees and contractors, and processed in the Subscription Service, excluding the ServiceNow Core Technology.

1.3.   "**Customer Technology**" means software, methodologies, templates, business processes, documentation or other material authored, invented or otherwise created or licensed (other than by or from ServiceNow) by Customer using or for use with the Subscription Service, excluding the ServiceNow Core Technology.

1.4.   "**Development Tools**" means source code, application programming interfaces (APIs), executable software and tools in human readable format made available by ServiceNow for the implementation, customization, configuration, and use of the Subscription Service, such as scripts, code snippets, sample code, and development tools published by ServiceNow.

1.5.   "**Documentation**" means the ServiceNow product documentation relating to the operation and use of the Subscription Service, Software and Development Tools, including technical program or interface documentation, user manuals, operating instructions and release notes, as updated from time to time by ServiceNow.

1.6.   "**Product Overview**" means the description of the ordered products and their functionalities attached to a Use Authorization or referenced therein.

1.7.   "**Professional Services**" means any services provided by ServiceNow pursuant to an agreed SOW or Service Description.

1.8.   "**Service Description**" means the written description for a packaged Professional Service, attached to a Use Authorization or referenced therein.

1.9.   "**ServiceNow Core Technology**" means: (a) the Subscription Service; Software; Development Tools, Documentation; and ServiceNow technology and methodologies (including, without limitation, products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation) existing as of the Effective Date or otherwise arising outside of work under a Professional Service; (b) updates, upgrades, improvements, configurations, extensions, and derivative works of the

foregoing and related technical or end user documentation or manuals; and (c) intellectual property anywhere in the world relating to the foregoing.

1.10. "*Software*" means software provided by ServiceNow to Customer that operates on Customer-provided machines solely to facilitate the use of the Subscription Service.

1.11. "*SOW*" means a statement of work for Professional Services.

1.12. "*Subscription Service*" means the ServiceNow software as a service (SaaS) offering identified in a Use Authorization.

1.13. "*Subscription Term*" means the term of authorized use of the Subscription Service as set forth in the Use Authorization.

1.14. "*Use Authorization*" means a written document provided to Customer specifying the services that Customer has purchased, along with the term and scope of the authorized use thereof.

2. GRANT OF USE RIGHTS

2.1. SUBSCRIPTION SERVICE. Subject to the terms of this Agreement, ServiceNow authorizes Customer to access and use the purchased Subscription Service during the Subscription Term as set forth in an applicable Use Authorization for its internal business purposes in accordance with the Documentation. Customer shall not use or otherwise access the Subscription Service in a manner that exceeds Customer's authorized use as set forth in this Agreement and the applicable Use Authorization.

2.2. SOFTWARE. ServiceNow grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license during the Subscription Term to install and execute Software on machines operated by or for Customer solely to facilitate Customer's authorized access to and use of the purchased Subscription Service. The Software may include code that is licensed under third party license agreements, including open source made available or provided with the Software. Software is licensed and not sold even if for convenience ServiceNow makes reference to words such as *sale* or *purchase*.

2.3. DEVELOPMENT TOOLS. In support of Customer's authorized internal business use of the Subscription Service during the Subscription Term, ServiceNow grants to Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license to download and make a reasonable number of copies of the Development Tools, and to use, copy, modify and create derivative works of the Development Tools, in: (a) using, implementing and integrating the ServiceNow applications with other software and systems; and (b) creating applications on the ServiceNow platform (to the extent Customer has purchased authorized use of the Subscription Service to create applications on the ServiceNow platform). Customer shall not use the Development Tools in a manner that causes it to exceed the limits of its authorized use of the Subscription Service as set forth in this Agreement and the Use Authorization. From time to time, ServiceNow may provide Development Tools subject to the terms and conditions of separate agreements which will be provided to Customer for review and to which Customer will be required to agree prior to use of such Development Tools; provided that ServiceNow shall not require Customer to agree to separate terms and conditions for any Development Tool that is necessary for Customer's use of its ordered Subscription Service in conformance with the Product Overview unless set forth on the Use Authorization.

2.4. RESTRICTIONS. Customer shall not (and shall not permit others to) do the following with respect to the ServiceNow Core Technology: (i) use the Subscription Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in a Use Authorization; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with the Subscription Service; (iv) disassemble, reverse engineer or decompile it; (v) copy, create derivative works based on or otherwise modify it except as permitted in this Agreement; (vi) remove or modify a copyright or other proprietary rights notice in it; (vii) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including the rights of publicity or privacy) without first obtaining the permission of the owner; (viii) use it to create, use, send, store or run viruses or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation; or (ix) access or disable any ServiceNow or third party data, software or network (other than Customer's instance of the Subscription Service in accordance with this Agreement). Before Customer exercises any of the foregoing actions that Customer believes it is entitled to,

Customer shall provide ServiceNow with thirty (30) days' prior written notice to legalnotices@servicenow.com (or, if applicable law or the relevant court order does not allow for such notice, then the maximum amount of notice allowable), and provide reasonably requested information to allow ServiceNow to assess Customer's claim and, at ServiceNow's sole discretion, provide alternatives that reduce adverse impacts on ServiceNow's intellectual property and other rights.

3. ORDERING

3.1. <u>RESELLER ORDERS</u>. Customer shall order and purchase the Subscription Service and Professional Services directly from Reseller pursuant to a separate agreement specifying price, payment and other commercial terms. ServiceNow is not a party to such separate agreement but will provide the purchased services pursuant to this Agreement. For each order, Reseller or ServiceNow will provide Customer with a Use Authorization for Customer to sign and return to ServiceNow. Reseller is not authorized to make any changes to this Agreement (including any Use Authorizations issued hereunder) or bind ServiceNow to any additional or different terms or conditions. Additional orders for ServiceNow products or services may be placed either through Reseller or ServiceNow, provided that if Customer places an order directly through ServiceNow, Customer shall sign an addendum to this Agreement setting forth pricing, payment and other commercial terms between Customer and ServiceNow.

3.2. <u>USE VERIFICATION</u>. ServiceNow or Reseller may remotely review Customer's use of the Subscription Service, and upon ServiceNow or Reseller's written request Customer shall provide any reasonable assistance, to verify Customer's compliance with the Agreement. If ServiceNow determines that Customer has exceeded its permitted use of the Subscription Service then ServiceNow will notify Customer and within thirty (30) days thereafter Customer shall disable any unpermitted use or may purchase additional subscriptions commensurate with Customer's actual use. If Customer fails to regain compliance within such thirty (30) day period or fails to make payment as provided in its agreement with Reseller, ServiceNow may suspend Customer's use of the Subscription Service or terminate this Agreement for cause in accordance with Section 9 (Term and Termination), in addition to any other rights or remedies ServiceNow may have.

4. INTELLECTUAL PROPERTY

4.1. <u>SERVICENOW OWNERSHIP</u>. As between ServiceNow and Customer, all rights, title, and interest in and to all intellectual property rights in the ServiceNow Core Technology are owned exclusively by ServiceNow notwithstanding any other provision in this Agreement. Except as expressly provided in this Agreement, ServiceNow reserves all rights in the ServiceNow Core Technology and does not grant Customer any rights, express or implied or by estoppel.

4.2. <u>CUSTOMER OWNERSHIP</u>. As between Customer and ServiceNow, Customer shall retain all of its rights, title, and interest in and to its intellectual property rights in Customer Data and Customer Technology. Customer hereby grants to ServiceNow a royalty-free, fully-paid, non-exclusive, non-transferable (except as set forth in Section 10.1 (Assignment)), sub-licensable, worldwide right to use Customer Data and Customer Technology solely for the purpose of providing the Subscription Service and Professional Services to Customer.

4.3. <u>FEEDBACK</u>. ServiceNow encourages Customer to provide suggestions, proposals, ideas, recommendations or other feedback regarding improvements to ServiceNow's services and related resources. To the extent Customer provides such feedback, Customer grants to ServiceNow a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 10.1 (Assignment)), non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import and otherwise exploit feedback (including by incorporation of such feedback into the ServiceNow Core Technology) without restriction.

4.4. <u>PROFESSIONAL SERVICES</u>. Subject to the provisions of this Section 4.4, ServiceNow shall assign to Customer any Newly Created IP (as defined below) in Deliverables upon payment in full by Customer of all amounts due for the Professional Service under which the Deliverable was created. A "***Deliverable***" is a deliverable that is identified in the applicable SOW or Service Description and that is created by ServiceNow for Customer in the performance of the Professional Services. "***Newly Created IP***" means intellectual property in any inventions or works of authorship that are made by ServiceNow specifically for Customer in the course of performing Professional Services for Customer that is identified as "Newly Created IP" in an SOW, excluding the ServiceNow Core Technology. To the extent (if at all) any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the ServiceNow Core Technology solely to use the Deliverable in connection with the Subscription Service as

contemplated under this Agreement during the Subscription Term. Nothing in this Agreement shall be deemed to restrict or limit ServiceNow's right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Professional Services.

5. WARRANTIES

5.1. <u>LIMITED SUBSCRIPTION SERVICE WARRANTY</u>. ServiceNow warrants that during the Subscription Term Customer's production instances of the Subscription Service shall materially conform to the Product Overview. To submit a warranty claim under this Section, Customer shall (1) reference this Section; and (2) submit a support request to resolve the non-conformity as provided in the Subscription Service Guide. If the non-conformity persists without relief more than thirty (30) days after written notice of a warranty claim provided to ServiceNow under this Section 5.1, then Customer may terminate the affected Subscription Service and submit to Reseller a claim for refund of any prepaid subscription fees covering the remainder of the Subscription Term of the affected Subscription Service after the date of termination. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than ServiceNow or a person acting at ServiceNow's direction. THIS SECTION 5.1 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

5.2. <u>LIMITED PROFESSIONAL SERVICES WARRANTY</u>. ServiceNow warrants that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements set forth in the SOW or Service Description. Customer shall notify ServiceNow in writing of any breach within thirty (30) days after performance of the non-conforming Professional Services. Upon receipt of such notice, ServiceNow, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services, in which case Customer may submit to Reseller a claim for a refund of any amounts paid for the nonconforming Professional Services. THIS SECTION 5.2 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

5.3. <u>CUSTOMER WARRANTY</u>. Customer warrants that (A) Customer Data, (B) Customer Technology or (C) a modification to the Subscription Service made to Customer's specifications or otherwise made by or on behalf of Customer by any person other than ServiceNow or a person acting at ServiceNow's direction (but only if the infringement would have been avoided by use of the unmodified Subscription Service), does not infringe any patent, copyright or trademark, or misappropriate any third party trade secret, or violate any third party privacy rights

5.4. <u>DISCLAIMER OF WARRANTIES</u>. EXCEPT FOR THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, SERVICENOW DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING WARRANTIES ARISING UNDER STATUTE, WARRANTIES OF MERCHANTABILITY, ACCURACY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SERVICENOW SPECIFICALLY DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE, SOFTWARE, PROFESSIONAL SERVICES, DEVELOPMENT TOOLS, DOCUMENTATION OR DELIVERABLES WILL MEET THE REQUIREMENTS OF CUSTOMER OR OTHERS OR THAT THEY WILL BE ACCURATE OR OPERATE WITHOUT INTERRUPTION OR ERROR. CUSTOMER ACKNOWLEDGES THAT IN ENTERING THIS AGREEMENT IT HAS NOT RELIED ON ANY PROMISE, WARRANTY OR REPRESENTATION NOT EXPRESSLY SET FORTH HEREIN.

6. CONFIDENTIAL INFORMATION

6.1. <u>CONFIDENTIALITY OBLIGATIONS</u>. The recipient of Confidential Information shall: (i) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event using less than reasonable care; and (ii) not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party shall limit the disclosure of the other party's Confidential Information to those of its employees and contractors with a need to access such Confidential Information for a party's exercise of its rights and obligations under this Agreement, provided that all such employees and contractors are subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each party's obligations set forth in this Section 6 shall remain in effect during the term and three (3) years after termination of this Agreement. The receiving party shall, at the disclosing party's request or upon

termination of this Agreement, return all originals, copies, reproductions and summaries of Confidential Information and other tangible materials and devices provided to the receiving party as Confidential Information, or at the disclosing party's option, certify destruction of the same. Provisions for the return of Customer Data are set forth in Section 9.3 (Return of Customer Data).

6.2. REQUIRED DISCLOSURES. A party may disclose the disclosing party's Confidential Information to a court or governmental body pursuant to a valid court order, law, subpoena or regulation, provided that the receiving party: (a) promptly notifies the disclosing party of such requirement as far in advance as possible to the extent advanced notice is lawful; and (b) provides reasonable assistance to the disclosing party in any lawful efforts by the disclosing party to resist or limit the disclosure of such Confidential Information.

6.3. EQUITABLE REMEDIES. The parties agree that the receiving party's disclosure of Confidential Information except as provided herein may result in irreparable injury for which a remedy in money damages may be inadequate. The parties further agree that in the event of such disclosure or threatened disclosure, the disclosing party may be entitled to seek an injunction to prevent the breach or threatened breach without the necessity of proving irreparable injury or the inadequacy of money damages, in addition to remedies otherwise available to the disclosing party at law or in equity.

7. INDEMNIFICATION

7.1. SERVICENOW OBLIGATION. Subject to the exclusions set forth below, ServiceNow shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand (each a *"Claim"*) to the extent alleging: (A) that the Subscription Service used in accordance with this Agreement infringes any third party patent, copyright or trademark, or misappropriates any third party trade secret; or (B) that ServiceNow's personnel when onsite at Customer's premises caused death, bodily harm or damage to tangible personal property due to their negligence or willful misconduct; and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from any such Claims. If any portion of the Subscription Service becomes the subject of a Claim under Section 7.1(i)(A), ServiceNow may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in ServiceNow's judgment, then (d) terminate Customer's use of the affected Subscription Service upon sixty (60) days' written notice, whereupon Customer may submit to Reseller a claim for a refund of any prepaid subscription fees covering the remaining portion of the applicable Subscription Term for the affected Subscription Service after the date of termination. Notwithstanding the above, ServiceNow shall have no obligation or liability for any Claim under Section 7.1(i)(A) arising in whole or in part from: (1) any use of the Subscription Service which exceeds the authorized use permitted under this Agreement or not in accordance with the Documentation; (2) Customer Data or Customer Technology; (3) use of the Subscription Service by Customer in violation of applicable law; (4) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 7.1; (5) modifications to the Subscription Service made to Customer's specifications or otherwise made by any person other than ServiceNow or a person acting at ServiceNow's direction if the Claim would have been avoided by use of the unmodified Subscription Service; or (6) use of the Subscription Service in combination with any hardware, software, application or service that was not provided by ServiceNow, if the Claim would have been avoided by the non-combined or independent use of the Subscription Service.

7.2. PROCESS. The foregoing indemnity obligations of ServiceNow are conditioned on the indemnified party notifying the indemnifying party promptly in writing of any actual or threatened Claim, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense; provided however, that the indemnified party shall have the right (i) to participate in the defense and/or settlement with counsel of its own choosing at its own expense, provided that its participation does not interfere with the Indemnifying party's defense and the Indemnifying party continues to control the defense, and (ii) any settlement of Claims that requires an admission of guilt by Indemnified party or imposes any burden on Indemnified party other than to cease using the Subscription Service in accordance with subpart (d) of Section 7.1 above, will require Indemnified party's prior written consent, such consent not to be unreasonably withheld).

7.3. FOR THE AVOIDANCE OF DOUBT, SECTION 7 IS NOT INTENDED TO COVER ANY FIRST PARTY CLAIMS BETWEEN CUSTOMER AND SERVICENOW. SECTION 7 STATES EACH PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR THIRD PARTY CLAIMS AND ACTIONS.

8. LIMITATIONS OF LIABILITY

8.1. <u>LIMITATIONS OF LIABILITY</u>. SERVICENOW SHALL HAVE NO LIABILITY FOR ANY REFUND THAT, IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, IS TO BE PAID BY RESELLER. TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) CUSTOMER'S OBLIGATION TO PAY FOR PRODUCTS, SERVICES OR TAXES; (2) A PARTY'S OBLIGATIONS IN SECTION 7 (INDEMNIFICATION); AND (3) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

8.2. <u>EXCLUSION OF DAMAGES</u>. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COVER, SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) PAYMENTS TO A THIRD PARTY ARISING FROM A PARTY'S OBLIGATIONS UNDER SECTION 7 (INDEMNIFICATION); AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

8.3. <u>GROSS NEGLIGENCE; WILFUL MISCONDUCT</u>. AS PROVIDED BY LAW, NOTHING HEREIN SHALL BE INTENDED TO LIMIT A PARTY'S LIABILITY IN AN ACTION IN TORT (SEPARATE AND DISTINCT FROM A CAUSE OF ACTION FOR BREACH OF THIS AGREEMENT) FOR THE PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT.

9. TERM AND TERMINATION

9.1. <u>TERM AND TERMINATION</u>. This Agreement continues until terminated under the terms of this Agreement. Each party may terminate this Agreement in its entirety either: (i) upon thirty (30) days' prior written notice to the other party, if at the time of notice there are no Use Authorizations in effect; or (ii) upon written notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership or liquidation, in any jurisdiction, that is not dismissed within sixty (60) days of its commencement or an assignment for the benefit of creditors. Either party may terminate a Subscription Service or Professional Services upon written notice if the other party materially breaches this Agreement or the applicable Use Authorization for the affected service and does not cure the breach within thirty (30) days after receiving written notice thereof from the non-breaching party. Professional Services are separately ordered from the Subscription Service, and are not required for the Subscription Service. A breach by a party of its obligations with respect to Professional Services shall not by itself constitute a breach by that party of its obligations with respect to the Subscription Service even if the services are enumerated in the same Use Authorization.

9.2. <u>EFFECT OF TERMINATION OF SUBSCRIPTION SERVICE</u>. Upon termination of the Subscription Service for any reason, Customer shall stop using, and ServiceNow shall stop providing, the Subscription Service and all rights granted to Customer in this Agreement shall terminate. If the Subscription Service is terminated by Customer due to ServiceNow's breach, then Customer may submit to Reseller a claim for refund of all prepaid fees for the remaining portion of the Subscription Term for the terminated Subscription Service after the effective date of termination. Within thirty (30) days following the effective date of a termination by ServiceNow for Customer's breach, Customer shall pay all remaining amounts for the Subscription Term applicable to the Subscription Service covering the remainder of the Subscription Term regardless of the due dates specified in Reseller's order form to Customer.

9.3. <u>TRANSITION SERVICES</u>. At least thirty (30) days prior to either the expiration of the Subscription Term (where Customer elects not to renew) or in connection with the termination by Customer of the Subscription Service in accordance with Section 9.1, provided that Customer signs an addendum to this Agreement setting forth payment and other commercial terms between Customer and ServiceNow, Customer may purchase the following

services from ServiceNow: (i) one (1) extension of the Subscription Service for up to six (6) months ("***Transition Subscription Service***"); and (ii) Professional Services. Prior to the commencement of any Transition Subscription Service or Professional Services, Customer and Reseller or ServiceNow shall negotiate and sign a mutually agreed upon ordering document setting for the fees for the Transition Subscription Service and any Professional Services. Reseller or ServiceNow shall invoice and Customer will make payment in accordance with the Prompt Payment Act (31 USC 3903).

9.4. RETURN OF CUSTOMER DATA. ServiceNow shall provide Customer Data in its standard database export format, excluding the ServiceNow Core Technology, to Customer upon Customer's written request and at no additional cost to Customer, provided that ServiceNow receives such request from Customer within forty-five (45) days following the expiration or termination of this Agreement for the Subscription Service (including any Transition Subscription Service term, if applicable).If ServiceNow has not received a request within the foregoing time frame, ServiceNow shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, have the right to delete all Customer Data in its systems or otherwise in its possession or under its control and delete Customer's instances of the Subscription Service.

9.5. SURVIVAL. Sections 2.4 (Restrictions), 4.1 (ServiceNow Ownership), 4.2 (Customer Ownership), 4.3 (Feedback) and 6 (Confidential Information) through 10 (General Provisions) of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

10. GENERAL PROVISIONS

10.1. ASSIGNMENT. Neither party may assign its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may, upon notice and without the other party's consent: (i) in connection with a merger, reorganization or sale of all or substantially all of the assets or equity of such party, assign this Agreement in its entirety to such party's successor; and (ii) assign this Agreement in its entirety to any Affiliate. "***Affiliates***" shall mean any person or entity directly or indirectly Controlling, Controlled by or under common Control with a party to the Agreement, where "***Control***" means the legal power to direct or cause the direction of the general management of the company, partnership or other legal entity. Any attempted or purported assignment in violation of this Section 10.1 will be null and void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

10.2. COMPLIANCE WITH LAWS. ServiceNow shall comply with any statutes and regulations that apply to its provision of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to the privacy and security of personal information, including trans-border data transfers and data breach notification requirements as required of ServiceNow by law. Customer shall comply with all laws that apply to its use of the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables, under the Agreement, including but not limited to those applicable to collection and processing of Customer Data in ServiceNow systems through the Subscription Service. Customer agrees to provide any required disclosures to and obtain any required consents for the transfer of Customer Data to ServiceNow. ServiceNow shall not be responsible for compliance with any laws applicable to Customer and its industry that are not generally applicable to information technology service providers.

10.3. EXPORT COMPLIANCE. Each party shall comply with United States and foreign export control laws and regulations. Customer acknowledges that the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables are subject to the U.S. Export Administration Regulations (the "***EAR***") and that Customer shall comply with the EAR. Without limiting the foregoing, Customer represents and warrants that: (i) Customer is not located in, and shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables from, any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan and Syria); (ii) Customer shall not use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, sounding rockets or unmanned air vehicle systems; and (iii) Customer is not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. In addition, Customer is responsible for complying with any local laws which may impact Customer's right to import, export or

use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables.

10.4. US GOVERNMENT RIGHTS. All ServiceNow software (including Software) is commercial computer software and all services are commercial items. "***Commercial computer software***" has the meaning set forth in Federal Acquisition Regulation ("***FAR***") 2.101 for civilian agency purchases and the Department of Defense ("***DOD***") FAR Supplement ("***DFARS***") 252.227-7014(a)(1) for defense agency purchases. If the software is licensed or the services are acquired by or on behalf of a civilian agency, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as required in FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data) and their successors. If the software is licensed or the services are acquired by or on behalf of any agency within the DOD, ServiceNow provides the commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of this Agreement as specified in DFARS 227.7202-3 and its successors. Only if this is a DOD prime contract or DOD subcontract, the Government acquires additional rights in technical data as set forth in DFARS 252.227-7015. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS or other clause or provision that addresses Government rights in computer software or technical data.

10.5. NOTICE. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by a recognized overnight courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by email with confirmation of receipt, except that email shall not be sufficient for notices regarding a Claim. Notices shall be sent to the parties as set forth on the signature page of this Agreement or as subsequently updated in writing.

10.6. FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (excluding Customer's failure to pay amounts owed when due), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including without limitation: strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, sabotage, theft or other criminal acts, failure of energy sources or transport network, acts of God, export bans, sanctions and other government actions, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, explosions, collapse of building structures, fires, floods, storms, earthquakes, epidemics or similar events, natural disasters or extreme adverse weather conditions (each a "***Force Majeure Event***"). The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.

10.7. HIGH RISK ACTIVITIES. Customer shall use the ServiceNow Core Technology within the intended business purposes described in the Documentation, and not for any purpose that requires fail-safe performance including, but not limited to, stock trading, financial transaction processing, management of hazardous facilities or applications for which failure could result in death, personal injury, or severe physical or environmental damage ("***High Risk Activity***"). ServiceNow, its licensors and suppliers expressly disclaim all warranties of fitness for any such use and Customer shall release and hold ServiceNow, its licensors and suppliers harmless from liability arising out of the use of the ServiceNow Core Technology for High Risk Activity.

10.8. USE OF AGGREGATE DATA. Customer agrees that ServiceNow may collect, use and disclose quantitative data derived from the use of the Subscription Service for industry analysis, benchmarking, analytics, marketing, and other business purposes. All data collected, used, and disclosed will be in aggregate form only and will not identify Customer or its users.

10.9. ENTIRETY. This Agreement, together with the Use Authorizations, Product Overviews, SOWs, Service Descriptions, and the Subscription Service Guide (including the Customer Support Policy, the Upgrade Policy and the Data Security Guide), is the final and entire agreement between the parties regarding the products and services provided hereunder and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings and negotiations with respect to the subject matter hereof. The terms of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ServiceNow that is not set out in this Agreement. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future

SUBSCRIPTION SERVICE GUIDE

functionality regardless of any verbal or written communication about ServiceNow's future plans. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

10.10. WAIVER AND AMENDMENT. A waiver of any right is only effective if it is in writing and only against the party who signed such writing and for the circumstances given. Any modification of this Agreement must be in writing and signed by authorized representatives of both parties.

10.11. RELATIONSHIP OF THE PARTIES. The parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship. Neither party shall have any right or authority to assume or create any obligation of any kind expressed or implied in the name of or on behalf of the other party.

10.12. GOVERNING LAW; JURISDICTION AND VENUE. This Agreement shall be governed by the laws of the state of California, without regard to its conflict of laws principles. The parties hereby irrevocably consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Santa Clara County, California, for the purposes of adjudicating any dispute arising out of this Agreement. Each party hereto expressly consents to service of process by registered mail. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party's intellectual property rights.

10.13. CONSTRUCTION. Products and services shall be provided in the English language unless agreed otherwise. The parties confirm that they have requested that this Agreement and all related documents be drafted in English at the express wishes of the parties. Section headings are for convenience only and are not to be used in interpreting this Agreement.

SUBSCRIPTION SERVICE GUIDE

1.   SUPPORT

During the Subscription Term, ServiceNow or its authorized reseller, as applicable, shall provide support for the Subscription Service as set forth in the ***Customer Support Policy*** attached hereto, and incorporated herein by reference.

2.   UPGRADES

ServiceNow determines whether and when to develop, release and apply any Upgrade (as defined in the ***Upgrade Policy*** attached hereto, and incorporated herein by reference) to Customer's instances of the Subscription Service.

3.   DATA SECURITY

ServiceNow shall implement and maintain security procedures and practices appropriate to information technology service providers to protect Customer Data from unauthorized access, destruction, use, modification, or disclosure, as described in the ***Data Security Guide*** attached hereto, and incorporated herein by reference.

4.   INSURANCE

ServiceNow agrees to maintain in effect during the Subscription Term, at ServiceNow's expense, the following minimum insurance coverage:

(i)   (a) Workers' Compensation Insurance, in accordance with applicable statutory, federal, and other legal requirements and (b) Employers' Liability Insurance covering ServiceNow's employees in an amount of not less than $1,000,000 for bodily injury by accident, $1,000,000 policy limit for bodily injury by disease, and $1,000,000 each employee for bodily injury by disease;

(ii)   Commercial General Liability Insurance written on an occurrence form and including coverage for bodily injury, property damage, products and completed operations, personal injury, advertising injury arising out of the services and/or products provided by ServiceNow under this Agreement with minimum limits of $1,000,000 per occurrence/$2,000,000 aggregate;

(iii)   Commercial Automobile Liability Insurance providing coverage for hired and non-owned automobiles used in connection with this Agreement in an amount of not less than $1,000,000 per accident combined single limit for bodily injury and property damage;

(iv)   Combined Technology Errors' & Omission Policy with a $5,000,000 per Claim limit, including: (a) Professional Liability Insurance providing coverage for the services and software in this Agreement. Such coverage to be maintained for at least two (2) years after the termination of this Agreement; and (b) Privacy, Security, and Media Liability Insurance providing liability coverage for unauthorized access or disclosure, security breaches or system attacks, as well as infringements of copyright and trademark that might result from this Agreement; and

(v)   Excess Liability over Employers' Liability, Commercial General Liability and Commercial Automobile Liability with a $5,000,000 aggregate limit.

For the purpose of this Section, a "***Claim***" means a written demand for money or a civil proceeding which is commenced by service of a complaint or similar pleading.

5.   AVAILABILITY SERVICE LEVEL

5.1.   DEFINITIONS

(a)   "***Available***" means that the Subscription Service can be accessed by authorized users.

SUBSCRIPTION SERVICE GUIDE

(b)   "***Excused Downtime***" means: (i) Maintenance Time of up to two (2) hours per month; and (ii) any time the Subscription Service is not Available due to circumstances beyond ServiceNow's control, including without limitation modifications of the Subscription Service by any person other than ServiceNow or a person acting at ServiceNow's direction, a Force Majeure Event, general Internet outages, failure of Customer's infrastructure or connectivity (including without limitation, direct connectivity and virtual private network (VPN) connectivity to the Subscription Service), computer and telecommunications failures and delays, and network intrusions or denial-of-service or other criminal attacks.

(c)   "***Maintenance Time***" means the time the Subscription Service is not Available due to service maintenance.

(d)   "***Availability SLA***" means the percentage of total time during which Customer's production instances of the Subscription Service are Available during a calendar month, excluding Excused Downtime.

5.2.   AVAILABLITY

If Customer's production instances of the Subscription Service fall below the Availability SLA of ninety-nine and eight-tenths percent (99.8%) during a calendar month, Customer's exclusive remedy for failure of the Subscription Service to meet the Availability SLAs is either: (1) to request that the affected Subscription Term be extended for the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA; or (2) to request that ServiceNow issue a service credit to Customer for the dollar value of the number of minutes the Subscription Service was not Available in the month in accordance with the Availability SLA (determined at the deemed per minute rate ServiceNow charges to Customer for Customer's use of the affected Subscription Service), which Customer may request ServiceNow apply to the next invoice for subscription fees.

5.3.   REQUESTS

Customer must request all service credits or extensions in writing to ServiceNow within thirty (30) days of the end of the month in which the Availability SLA was not met, identifying the support requests relating to the period Customer's production instances of the Subscription Service was not Available. The total amount of service credits for any month may not exceed the subscription fee for the affected Subscription Service for the month, and has no cash value. ServiceNow may delay issuing service credits until such amounts reach one thousand U.S. dollars ($1,000) or equivalent currency specified in the applicable Order Form.

SUBSCRIPTION SERVICE GUIDE

CUSTOMER SUPPORT POLICY

This Customer Support Policy governs the support that ServiceNow or its authorized reseller, as applicable, will provide for the Subscription Service. This Policy may be updated from time to time.

SCOPE

The purpose of Customer Support is to resolve defects that cause the Subscription Service to perform not in substantial conformance to the Product Overview. A resolution to a defect may consist of a fix, workaround or other relief ServiceNow deems reasonable.

Customer Support does not include:

- implementation services
- configuration services
- integration services
- customization services or other custom software development
- training
- assistance with administrative functions

Customer Support is not required to provide resolutions for immaterial defects or defects due to modifications of the Subscription Service made by any person other than ServiceNow or a person acting at ServiceNow's direction.

BUSINESS HOURS

Customer Support is available 24 hours a day, 7 days a week, including all holidays.

ACCESS CONTACTS

Customer may contact ServiceNow using one of the following means:

- Support Portal at https://hi.service-now.com/. Customer may get login access to this self-service portal by contacting its ServiceNow administrator.
- Phone using one of the numbers at http://servicenow.com/support/contact-support.html.

Customer shall contact ServiceNow's authorized reseller in accordance with its agreement with the reseller.

Incident Priority

Incident priority for a defect is determined using the guidelines below:

Priority	Definition
P1	Any defect that causes an instance to be unavailable.
P2	Any defect that causes a critical function to fail.
P3	Any defect that significantly impedes work or progress.
P4	Any defect that does not significantly impede work or progress.

RESPONSE TIMES AND LEVEL OF EFFORT

Customer submits an incident with ServiceNow via phone or web and with ServiceNow's authorized reseller as directed by reseller. All support requests are tracked online and can be viewed by Customer's authorized contacts. Response times do not vary if the incident was filed via phone or web.

ServiceNow or its authorized reseller, as applicable, will use reasonable efforts to meet the target response times and target level of effort stated in the table below. Support from the reseller may be limited to business hours only.

Priority	Target Response Times	Target Level of Effort
P1	30 minutes	Continuously, 24 hours per day, 7 days per week
P2	2 hours	Continuously, but not necessarily 24 hours per day, 7 days per week
P3	1 business day	As appropriate during normal business hours
P4	N/A	Varies

CUSTOMER RESPONSIBILITIES

Customer's obligations are as follows:

(a)   Customer agrees to receive from ServiceNow or its authorized reseller, as applicable, communications via email, phone or through the Support Portal regarding the Subscription Service.

(b)   Customer shall appoint no more than five (5) contacts ("*Customer Authorized Contacts*") to engage Customer Support for questions and/or technical issues.

    (i)   Only Customer Authorized Contacts are authorized to contact Customer Support.

    (ii)   Customer must ensure the information for these contacts is current in the Support Portal at https://hi.service-now.com/.

    (iii)   Customer Authorized Contacts are trained on the use and administration of the Subscription Service.

(c)   Customer shall cooperate to enable ServiceNow to deliver the Subscription Service and support for the service.

(d)   Customer is solely responsible for the use of the Subscription Service by its authorized users.

SUPPORT RESOURCES

- ServiceNow Website (http://www.servicenow.com/services/overview.html)
- ServiceNow Community (https://community.servicenow.com/welcome)
- Release Notes (http://wiki.service-now.com/index.php?title=Main_Page)
- Product Documentation (http://wiki.service-now.com/index.php?title=Main_Page)
- Knowledge Base (https://hi.service-now.com/nav_to.do?uri=kb_home.do)
- Support Community (https://community.servicenow.com/community/support)

UPGRADE POLICY

1. UPGRADES

"*Upgrades*" are ServiceNow's releases of the Subscription Service for repairs, enhancements or new features applied by ServiceNow to Customer's instances of the Subscription Service at no additional fee during the Subscription Term. ServiceNow has the discretion to provide new functionality as an Upgrade or as different software or service for a separate fee. ServiceNow determines whether and when to develop, release and apply any Upgrade to Customer's instances of the Subscription Service.

2. NOTICE; MAINTENANCE DOWNTIME

ServiceNow shall use reasonable efforts to give Customer thirty (30) days prior notice of any Upgrade to the Subscription Service. ServiceNow shall use reasonable efforts to give Customer ten (10) days prior notice of any Upgrade to the cloud infrastructure network, hardware, or software used by ServiceNow to operate and deliver the Subscription Service if ServiceNow in its reasonable judgment believes that the infrastructure Upgrade will impact Customer's use of its production instances of the Subscription Service. ServiceNow will use commercially reasonable efforts to limit the period of time during which the Subscription Service is unavailable due to the application of Upgrades to no more than two (2) hours per month. Notwithstanding the foregoing, ServiceNow may provide Customer with a shorter or no notice period of an Upgrade if necessary, in the reasonable judgment of ServiceNow, to maintain the availability, security or performance of the Subscription Service or the ability of ServiceNow to efficiently provide the Subscription Service.

3. NOMENCLATURE

A pending Upgrade may be a "Feature Release", "Patch" or "Hotfix." A "*Feature Release*" is an Upgrade that includes new features or enhancements. A "*Patch*" or a "*Hotfix*" is an Upgrade to a Feature Release that maintains the functionality of the Feature Release and does not include new functionality. ServiceNow refers to each Feature Release and its associated Patches and Hotfixes as a "*Release Family*." For example, ServiceNow's Feature Release "Aspen" established the "Aspen" Release Family, and ServiceNow's subsequent Feature Release "Berlin" established the "Berlin" Release Family.

4. PINNING REQUESTS

Customer may submit a support request for "no Upgrade" not fewer than five (5) business days' prior to a pending Upgrade of the Subscription Service. Subject to the terms and conditions of this Upgrade Policy, Customer's "no Upgrade" request shall be granted, and the Upgrade shall not be applied to Customer's instances of the Subscription Service.

5. SUPPORTED AND NON-SUPPORTED RELEASE FAMILIES

ServiceNow offers support for the then current Release Family and the prior two (2) Release Families ("*Supported Release Families*") as set forth in the Customer Support Policy. A Customer using a Supported Release Family may be required to Upgrade to a Patch or Hotfix within the Supported Release Family to correct a defect. At its discretion, ServiceNow may offer limited support for additional Release Families ("*Non-Supported Release Families*"). Without limiting ServiceNow's discretion to determine the availability of support for Non- Supported Release Families, a Customer using a Non-Supported Release Family may be required to Upgrade to a Supported Release Family to correct a defect. Any service level agreements, recovery time objectives or recovery point objectives are not applicable to Non-Supported Release Families. Details of ServiceNow support are further set forth in the Customer Support Policy.

Customer acknowledges that the current Release Family is the most current feature, availability, performance and security version of the Subscription Service. Within a Supported Release Family, the most recent Patch contains the most current feature, availability, performance and security version of the Subscription Service for that Release Family. A Customer that has submitted a "no Upgrade" request may experience defects, for which Customer hereby agrees that ServiceNow is not responsible, including without limitation those that affect the features, availability, performance and security of the Subscription Service, that are fixed in the most

current version of the Subscription Service.

6. REQUIRED UPGRADES

If Customer has requested "no Upgrade" it may nevertheless be required to Upgrade if in the reasonable judgment of ServiceNow the Upgrade is necessary to maintain the availability, security or performance of the Subscription Service or the ability of ServiceNow to efficiently provide the Subscription Service, as follows:

6.1. <u>SUPPORTED RELEASE FAMILY</u>. If Customer is using a Supported Release Family, it may be required to Upgrade to a Patch or Hotfix within the Supported Release Family.

6.2. <u>NON-SUPPORTED RELEASE FAMILY</u>. If Customer is using a Non-Supported Release Family, it may be required to Upgrade to a Supported Release Family.

7. EXCEPTIONS

Notwithstanding the other provisions of this Upgrade Policy, Customer may not submit a support request for "no Upgrade" for any Upgrade to, or that is essential for, the infrastructure network, hardware, or software used by ServiceNow to operate and deliver the Subscription Service.

DATA SECURITY GUIDE

Security Statement of an Enterprise IT Cloud Company

The ServiceNow cloud is built for the enterprise customer with every aspect aimed towards meeting the customer's demand for reliability, availability and security. ServiceNow's comprehensive approach to address this demand is enabled by the following: (a) ServiceNow's robust cloud infrastructure runs on its own applications and utilizes industry best-of-breed technology to automate mission critical functionalities in the cloud service with around-the-clock and around-the-world delivery; (b) ServiceNow achieves flexibility and control in its ability to deliver a stable user experience to the customer by having a logical single tenant architecture; (c) ServiceNow's application development which has a paramount focus on quality, security, and the user experience is closely connected to the operations of delivering those applications in a reliable and secure cloud environment; (d) ServiceNow invests in a comprehensive compliance strategy that allows its customers to attain their own compliance to applicable laws by obtaining attestations and certifications and running its subscription service from paired data centers situated close to where its customers are located; and (e) ServiceNow's homogeneous environment where all applications are on a single platform offers ServiceNow a competitive advantage in being able to concentrate its efforts to make the customer's user experience the best possible.

This Data Security Guide describes the measures ServiceNow takes to protect Customer Data when it resides in the ServiceNow cloud. This Data Security Guide forms a part of any legal agreement into which this Data Security Guide is explicitly incorporated by reference (the "***Agreement***") and is subject to the terms and conditions of the Agreement. Capitalized terms that are not otherwise defined herein shall have the meaning given to them in the Agreement.

1. **SECURITY PROGRAM**

While providing the Subscription Service, ServiceNow shall maintain a written information security program of policies, procedures and controls ("***Security Program***") governing the processing, storage, transmission and security of Customer Data. The Security Program includes industry standard practices designed to protect Customer Data from unauthorized access, acquisition, use, disclosure, or destruction. ServiceNow may periodically review and update the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, provided that any such update does not materially reduce the commitments, protections or overall level of service provided to Customer as described herein.

2. **CERTIFICATIONS AND ATTESTATIONS**

2.1. **Certifications and Attestations**. ServiceNow shall establish and maintain sufficient controls to meet the objectives stated in ISO 27001 and SSAE 16 / SOC 1 and SOC 2 Type 2 (or equivalent standards) (collectively, the "***Standards***") for the information security management system supporting the Subscription Service. At least once per calendar year, ServiceNow shall perform an assessment against such Standards ("***Assessment***"). Upon Customer's written request, which shall be no more than once per calendar year, ServiceNow shall provide a summary of the Assessment(s) to Customer. Assessments shall be Confidential Information of ServiceNow.

2.2. **Safe Harbor**. ServiceNow shall maintain self-certified compliance under the U.S.-EU and U.S.-Swiss Safe Harbor Frameworks developed by the U.S. Department of Commerce regarding the collection, use and retention of Personal Data (defined in Section 6 below) from European Union member countries and Switzerland.

3. **PHYSICAL, TECHNICAL AND ADMINISTRATIVE SECURITY MEASURES**

The Security Program shall include the following physical, technical and administrative measures designed to protect Customer Data from unauthorized access, acquisition, use, disclosure, or destruction:

3.1. **PHYSICAL SECURITY MEASURES**

(a) Data Center Facilities: (i) Physical access restrictions and monitoring that may include a combination of any of the following: multi-zone security, man-traps, appropriate perimeter deterrents (for example,

fencing, berms, guarded gates), on-site guards, biometric controls, CCTV, and secure cages; and (ii) fire detection and fire suppression systems both localized and throughout the data center floor.

(b)   Systems, Machines and Devices: (i) Physical protection mechanisms; and (ii) entry controls to limit physical access.

(c)   Media: (i) Industry standard destruction of sensitive materials before disposition of media; (ii) secure safe for storing damaged hard disks prior to physical destruction; and (iii) physical destruction of all decommissioned hard disks storing Customer Data.

3.2.   TECHNICAL SECURITY MEASURES

(a)   Access Administration. Access to the Subscription Service by ServiceNow employees and contractors is protected by authentication and authorization mechanisms. User authentication is required to gain access to production and sub-production systems. Access privileges are based on job requirements and are revoked upon termination of employment or consulting relationship. Production infrastructure includes appropriate user account and password controls (for example, the required use of virtual private network connections, complex passwords with expiration dates, and a two-factored authenticated connection) and is accessible for administration.

(b)   Logging and Monitoring. The production infrastructure log activities are centrally collected and are secured in an effort to prevent tampering and are monitored for anomalies by a trained security team.

(c)   Firewall System. An industry-standard firewall is installed and managed to protect ServiceNow systems by residing on the network to inspect all ingress connections routed to the ServiceNow environment.

(d)   Vulnerability Management. ServiceNow conducts periodic independent security risk evaluations to identify critical information assets, assess threats to such assets, determine potential vulnerabilities, and provide for remediation. When software vulnerabilities are revealed and addressed by a vendor patch, ServiceNow will obtain the patch from the applicable vendor and apply it within an appropriate timeframe in accordance with ServiceNow's then current vulnerability management and security patch management standard operating procedure and only after such patch is tested and determined to be safe for installation in all production systems.

(e)   Antivirus. ServiceNow updates anti-virus, anti-malware, and anti-spyware software on regular intervals and centrally logs events for effectiveness of such software.

(f)   Change Control. ServiceNow ensures that changes to platform, applications and production infrastructure are evaluated to minimize risk and are implemented following ServiceNow's standard operating procedure.

3.3.   ADMINISTRATIVE SECURITY MEASURES

(a)   Data Center Inspections. ServiceNow performs routine reviews at each data center to ensure that it continues to maintain the security controls necessary to comply with the Security Program.

(b)   Personnel Security. ServiceNow performs background and drug screening on all employees and all contractors who have access to Customer Data in accordance with ServiceNow's then current applicable standard operating procedure and subject to applicable law.

(c)   Security Awareness and Training. ServiceNow maintains a security awareness program that includes appropriate training of ServiceNow personnel on the Security Program. Training is conducted at time of hire and periodically throughout employment at ServiceNow.

(d)   Vendor Risk Management. ServiceNow maintains a vendor risk management program that assesses all vendors that access, store, process or transmit Customer Data for appropriate security controls and business disciplines.

4. DATA PROTECTION AND SERVICE CONTINUITY

4.1.   Data Centers; Data Backup. ServiceNow shall host Customer's instances in primary and secondary SSAE 16 Type II or ISO 27001 certified (or equivalent) data centers in the geographic regions specified on the Order Form for the Subscription Term. Each data center includes full redundancy (N+1) and fault tolerant infrastructure for electrical, cooling and network systems. The deployed servers are enterprise scale servers with redundant power to ensure maximum uptime and service availability. The production database servers are replicated in near real time to a mirrored data center in a different geographic region. Each customer instance is supported by a network configuration with multiple connections to the Internet. ServiceNow backs up all Customer Data in accordance with ServiceNow's standard operating procedure.

4.2.   Personnel. In the event of an emergency that renders the customer support telephone system unavailable, all calls are routed to an answering service that will transfer to a ServiceNow telephone support representative, geographically located to ensure business continuity for support operations.

5. INCIDENT MANAGEMENT AND BREACH NOTIFICATION

5.1.   Incident Monitoring and Management. ServiceNow shall monitor, analyze and respond to security incidents in a timely manner in accordance with ServiceNow's standard operating procedure. Depending on the nature of the incident, ServiceNow security group will escalate and engage response teams necessary to address an incident.

5.2.   Breach Notification. Unless notification is delayed by the actions or demands of a law enforcement agency, ServiceNow shall report to Customer the unauthorized acquisition, access, use, disclosure or destruction of Customer Data (a "Breach") promptly following determination by ServiceNow that a Breach occurred. The initial report shall be made to Customer security contact(s) designated in ServiceNow's customer support portal. ServiceNow shall take reasonable measures to promptly mitigate the cause of the Breach and shall take reasonable corrective measures to prevent future Breaches. As information is collected or otherwise becomes available to ServiceNow and unless prohibited by law, ServiceNow shall provide information regarding the nature and consequences of the Breach that are reasonably requested to allow Customer to notify affected individuals, government agencies and/or credit bureaus. Customer is solely responsible for determining whether to notify impacted Data Subjects (defined in 6.1 below) and for providing such notice, and for determining if regulatory bodies or enforcement commissions applicable to Customer or Customer Data need to be notified of a Breach.

5.3.   Customer Cooperation. Customer agrees to cooperate with ServiceNow in maintaining accurate contact information in the customer support portal and by providing any information that is reasonably requested to resolve any security incident, identify its root cause(s) and prevent a recurrence.

6. DATA PROCESSING GUIDELINES; COMPLIANCE WITH LAWS

6.1.   Customer as Data Controller. Customer acknowledges that in relation to Personal Data supplied and/or processed under the Agreement it acts as Controller and it warrants that it will duly observe all of its obligations under all applicable laws and regulations of the European Union, the European Economic Area and their member states regarding the processing of Personal Data (collectively referred to as "Data Protection Laws") including, without limitation, obtaining and maintaining all necessary notifications and obtaining and maintaining all necessary Data Subject Consents. Customer shall (i) have sole responsibility for the accuracy, quality, integrity, legality and reliability of Personal Data and of the means by which it acquired Personal Data, (ii) ensure that data processing instructions given to ServiceNow comply with applicable Data Protection Laws, and (iii) comply with all applicable Data Protection Laws in collecting, compiling, storing, accessing and using Personal Data in connection with the Subscription Service. For the purposes of this Data Security Guide, "Personal Data", "Controller", "Data Subject" and "Data Subject Consent" shall have the meaning given to these terms in Directive 95/46/EC. For clarity, "process" or "processing" means any operation or set of operations performed upon Customer Data.

6.2.   ServiceNow as Data Processor. ServiceNow shall process or otherwise use Personal Data (including possible onward transfers) on behalf of Customer solely for the purpose of providing the services

described in the Agreement and only in accordance with Customer's lawful instructions (limited to those instructions which ServiceNow can reasonably carry out in the provision of the Subscription Service), the terms of the Agreement, and this Data Security Guide. ServiceNow shall ensure that those employees to whom it grants access to such Personal Data are directed to keep such Personal Data confidential and are informed of any additional data protection obligations applicable to such Personal Data. ServiceNow shall, to the extent legally permitted, promptly notify Customer with respect to any request or communication ServiceNow receives from any regulatory authority in relation to any data processing activities ServiceNow conducts on behalf of Customer. In addition, ServiceNow will cooperate and assist Customer, at Customer's cost, in relation to any such request and to any response to any such communication. ServiceNow will pass on to the Customer any requests of a Data Subject to access, delete, correct, or block Personal Data processed under the Agreement. If ServiceNow is compelled by law to disclose Customer's information as part of a civil proceeding to which Customer is a party, and Customer is not contesting the disclosure, Customer will reimburse ServiceNow for its reasonable cost of compiling and providing secure access to that information.

6.3. **Subcontractors**. ServiceNow may engage subcontractors for processing Customer Data under the Agreement, provided ServiceNow shall ensure compliance by such subcontractor(s) with the requirements of this Section 6 by entering into written agreements with such subcontractors which provide that the subcontractor will apply the Safe Harbor principles to the processing of Personal Data. ServiceNow's use of any subcontractor will not relieve, waive or diminish any obligation ServiceNow has under the Agreement or this Data Security Guide.

7. PENETRATION TESTS

7.1. **By a Third Party**. ServiceNow contracts with third party vendors to perform an annual penetration test on the ServiceNow platform to identify risks and remediation that help increase security.

7.2. **By Customer**. No more than once per calendar year Customer may request to perform, at its own expense, an application penetration test of its instances of the Subscription Service. Customer shall notify ServiceNow in advance of any test by submitting a request using ServiceNow's online support portal and completing a penetration testing agreement. ServiceNow and Customer must agree upon a mutually acceptable time for the test; and Customer shall not perform a penetration test without ServiceNow's express written authorization. The test must be of reasonable duration, and must not interfere with ServiceNow's day-to-day operations. Promptly upon completion of the penetration test, Customer shall provide ServiceNow with the test results including any detected vulnerability. Upon such notice, ServiceNow shall, consistent with industry standard practices, use all commercially reasonable efforts to promptly make any necessary changes to improve the security of the Subscription Service. Customer shall treat the test results as Confidential Information of ServiceNow.

8. SHARING THE SECURITY RESPONSIBILITY

8.1. **Product Capabilities**. The Subscription Service has the capabilities to: (i) authenticate users before access; (ii) encrypt passwords; (iii) allow users to manage passwords; and (iv) prevent access by users with an inactive account. Customer manages each user's access to and use of the Subscription Service by assigning to each user a credential and user type that controls the level of access to the Subscription Service.

8.2. **Customer Responsibilities**. ServiceNow provides the cloud environment that permits Customer to use and process Customer Data in the Subscription Service. The architecture in the Subscription Service includes, without limitation, column level encryption functionality and the access control list engine. Customer shall be responsible for using the column level encryption functionality and access control list engine for protecting all Customer Data containing sensitive data, including without limitation, credit card numbers, social security numbers, financial and health information, and sensitive personal data. Customer is solely responsible for the results of its decision not to encrypt such sensitive data. ServiceNow protects all Customer Data in the ServiceNow cloud infrastructure equally in accordance with this Data Security Guide, regardless of the classification of the type of Customer Data. Customer shall be responsible for protecting the confidentiality of each user's login and password and shall manage each user's access to the Subscription Service.

8.3. **Customer Cooperation**. Customer shall promptly apply any application upgrade that ServiceNow determines is necessary to maintain the security, performance or availability of the Subscription Service.

8.4. **Limitations**. Notwithstanding anything to the contrary in the Agreement or this Data Security Guide, ServiceNow's obligations extend only to those systems, networks, network devices, facilities and components over which ServiceNow exercises control. This Data Security Guide does not apply to: (i) information shared with ServiceNow that is not data stored in its systems using the Subscription Service; (ii) data in Customer's virtual private network (VPN) or a third party network; or (iii) any data processed by Customer or its users in violation of the Agreement or this Data Security Guide.