

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 Agreement and each use certificate provided by ServiceNow’s authorized reseller (“**Reseller**”) to Customer (each, a “**Use Certificate**”): (a) use of the ServiceNow software (“**Software**”) as specified on a Use Certificate; 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 Certification 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 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 Agreement, as reasonably updated by ServiceNow from time to time (“**Specifications**”).

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 Specifications; 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.

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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 and Professional Services provided hereunder at such prices and upon 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.

4. GRANT OF LICENSE.

4.1 **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 Specifications; 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. 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. The Software and/or Deliverables (as defined below) may be rendered using or may include third-party software that is licensed to ServiceNow pursuant to third party license agreements, including open source licenses, the terms and conditions of which will be reproduced in the Specifications if applicable 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.

4.2 **OWNERSHIP.** As between ServiceNow and Customer, all rights, title, and interest in and to all intellectual property rights in the Software, Specifications 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, Specifications, 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, Specifications, and/or ServiceNow Core Technology, any suggestions, enhancements, recommendations or other feedback provided by Customer relating to the Software, Specifications, and/or ServiceNow Core Technology.

4.3 **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 Specifications 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 Specifications; (iii) disassemble, reverse engineer or decompile the Software; (iv) access the Software or Specifications 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)

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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 Specifications; 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.

4.4 **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.

4.5 **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 causing Customer’s instances of the Software to not conform to the Specifications (“**Defect**”). 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 Specifications 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 Specifications; 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.

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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 services provided hereunder. Sections 4.2 (Ownership), 4.3 (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 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.

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 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 7 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

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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 the Software will substantially conform to the Specifications with respect to the particular Software licensed under this EULA for a period of 90 days after the date of shipment (“**Warranty Period**”). If during the Warranty Period the Software does not substantially conform to the description contained in the Specifications, Customer’s sole remedy will be that ServiceNow shall, at its option, correct the Defects (defined below) in the Software or upon notice from ServiceNow that a correction of the Defects is not possible, ServiceNow may terminate Customer’s use of the Software and Customer shall have a right to receive a refund from Reseller of the license fees paid for the use of the Software covering the remainder of the License Term of the affected Software after the date of termination, if any, provided that: (a) the Software has been properly installed and used at all times and in accordance with the instructions in the Specifications; (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 following shipment. 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 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.

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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 (INCLUDING NEGLIGENCE), 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 CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY; (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED 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 COVER, 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, NEGLIGENCE, 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 CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY; 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.

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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

NON-HOSTED SOFTWARE SUPPORT

Guidelines

Document ID #: 10776

Version: 4.0

Effective date: June 28, 2012

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12225 El Camino Real, San Diego, CA 92130, USA

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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.servicenow.com/index.php?title=Technical_Support).

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 1. 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 2. 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.

Table 3. 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 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**”), which do not require a signed statement of work 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**”) signed by ServiceNow and Customer.

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 documentation relating to the operation and use of the Subscription Service that are provided by ServiceNow to Customer under the Agreement, as reasonably updated by ServiceNow from time to time (the “**Specifications**”); 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 Subscription Service, Software or Deliverables (as defined below) may be rendered using or may include third-party software that is licensed to ServiceNow pursuant to third party license agreements, including open source licenses, the terms and conditions of which will be reproduced in the Specifications if applicable to Customer.

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, Specifications 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, Specifications, and/or ServiceNow Core Technology. ServiceNow shall have a royalty-free, worldwide, non-exclusive, transferable, sublicensable, irrevocable, perpetual right to make, use, sell, offer for sale, import, or otherwise incorporate into the Subscription Service, Software, Specifications, and/or ServiceNow Core Technology, any suggestions, enhancements, recommendations or other feedback provided by Customer relating to the Subscription Service, Software, Specifications, 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 Specifications 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 Specifications; (iii) disassemble, reverse engineer or decompile the Subscription Service or Software; (iv) access the Subscription Service, Software or Specifications 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 Specifications; 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 Specifications. Customer’s

exclusive remedy for breach of this warranty is to request 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 then 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 (INCLUDING NEGLIGENCE), 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 CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY; (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED 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 COVER, 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, NEGLIGENCE, 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 CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF A PARTY; AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

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 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 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, 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: (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 without the other party's consent; 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 Specifications. 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 Specifications 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	Classified as P3 Defect Within 12 hours on ServiceNow business days,

	Within 2 hours at all times	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 Specifications 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.