

## GENERAL TERMS AND CONDITIONS

### 1. DEFINITIONS

**1.1 “Affiliates”** means any person or entity directly or indirectly Controlling, Controlled by, or under common Control with a 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. Affiliates of Customer are “Customer Affiliates”, and Affiliates of ServiceNow are “ServiceNow Affiliates”.

**1.2 “Ancillary Software”** means software licensed by ServiceNow to Customer that is deployed on machines operated by or for Customer to facilitate operation of the Subscription Service or interoperation of the Subscription Service with other software, hardware, or services. Ancillary Software may include code that is licensed under third-party license agreements, including open source made available or provided with the Ancillary Software.

**1.3 “Claim”** means any third-party suit, claim, action, or demand.

**1.4 “Confidential Information”** means: **(a)** ServiceNow Core Technology (which is Confidential Information of ServiceNow); **(b)** Customer Data and Customer Technology (which is Confidential Information of Customer); **(c)** any information of a party that is disclosed in writing or orally and is designated as *Confidential* or *Proprietary* at time of disclosure (and, for oral disclosures, summarized in writing within 30 days of initial disclosure and delivered in written summary form to the receiving party), or that, due to the nature of the information or circumstances of disclosure, receiving party would understand it to be disclosing party’s confidential information; and **(d)** the specific terms of this Agreement, any Order Form, any SOW, and any amendment or attachment to any of these, between the parties (which will be deemed Confidential Information of both parties). Confidential Information excludes any information that: **(i)** is or becomes generally known to the public through no fault or breach of this Agreement by receiving party; **(ii)** was already rightfully in receiving party’s possession, without restriction on use or disclosure, when receiving party received it under this Agreement; **(iii)** is independently developed by receiving party without use of disclosing party’s Confidential Information; or **(iv)** was or is rightfully obtained by receiving party, without restriction on use or disclosure, from a third party not under a duty of confidentiality to disclosing party.

**1.5 “Customer Data”** means electronic data uploaded by or for Customer or Customer’s agents, employees, or contractors, and processed in the Subscription Service, excluding ServiceNow Core Technology.

**1.6 “Customer Technology”** means software, methodologies, templates, business processes, documentation, or other material originally authored, invented, or otherwise created by Customer (or on Customer’s behalf, other than by ServiceNow or at ServiceNow’s direction) for use with the Subscription Service, excluding ServiceNow Core Technology.

**1.7 “Deliverable”** means anything that is created by or on behalf of ServiceNow for Customer in the performance of Professional Services.

**1.8 “Documentation”** means the then-current ServiceNow product documentation relating to the operation and use of the Subscription Service or Ancillary Software published by ServiceNow at <https://docs.servicenow.com> or its successor website. Documentation includes technical program or interface documentation, user manuals, operating instructions, and release notes.

**1.9 “Intellectual Property Rights”** means all intellectual property or other proprietary rights worldwide, including patents, copyrights, trademarks, moral rights, trade secrets, and any other intellectual or industrial property, including registrations, applications, renewals, and extensions of such rights.

**1.10 “Law”** means any applicable law, rule, statute, decree, decision, order, regulation, judgment, code, and requirement of any government authority (federal, state, local, or international) having jurisdiction.

**1.11 “Newly Created IP”** means Intellectual Property Rights in the inventions or works of authorship that are made by ServiceNow specifically for Customer in the course of performing Professional Services for Customer that are expressly identified as “Newly Created IP” in an SOW, excluding ServiceNow Core Technology.

**1.12 “Order Form”** means an ordering document signed by Customer and ServiceNow.

**1.13 “Product Overview”** means ServiceNow’s published description of its products and their functionalities, solely to the extent attached to or expressly referenced in an Order Form.

**1.14 “Professional Services”** means any consulting, development, or educational services provided by or on behalf of ServiceNow pursuant to an agreed SOW or Service Description.

**1.15 “Service Description”** means the written description for a packaged Professional Service, attached to or referenced in an Order Form.

**1.16 “ServiceNow Core Technology”** means: **(a)** the Subscription Service, Ancillary Software, Documentation, and technology and methodologies (including products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects, and documentation) created by or for, or licensed to, ServiceNow; and **(b)** updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related technical or end user documentation or manuals.

**1.17 “ServiceNow Products”** means, collectively, the Subscription Service, Ancillary Software, Documentation, and Deliverables.

**1.18 “SOW”** means a statement of work that describes scoped Professional Services.

**1.19 “Subscription Service”** means the ServiceNow software-as-a-service offering ordered by Customer under an Order Form.

**1.20 “Subscription Term”** means the period of authorized access to and use of the Subscription Service, as set forth in an Order Form.

## **2. ACCESS AND USE RIGHTS; RESTRICTIONS; PROVISION OF PROFESSIONAL SERVICES**

**2.1 ACCESS AND USE RIGHTS.** For each Subscription Term, ServiceNow grants the access and use rights set forth in this Section 2 for the ServiceNow Core Technology described in that Order Form.

**2.1.1. SUBSCRIPTION SERVICE.** Subject to the terms of this Agreement, ServiceNow authorizes Customer to access and use the Subscription Service during the Subscription Term stated in the applicable Order Form, solely for its internal business purposes in accordance with the Documentation. Customer will not otherwise access or use the Subscription Service in a manner that exceeds Customer’s authorized access and use rights as set forth in this Agreement and the applicable Order Form.

**2.1.2. ANCILLARY SOFTWARE.** ServiceNow grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 12.1 (Assignment)), non-exclusive, royalty-free license during the Subscription Term to install and execute Ancillary Software on machines operated by or for Customer, solely to facilitate Customer’s authorized access to and use of the Subscription Service.

### **2.2 AFFILIATE ACCESS AND USE.**

**2.2.1. ACCESS THROUGH CUSTOMER.** Customer may, at its option, provide access and use rights to the ServiceNow Products to one or more Customer Affiliates, subject to all terms in this Agreement. If Customer provides such access and use rights, Customer will be wholly responsible for the acts and omissions of the Customer Affiliate. No Customer Affiliate shall have the right to take any legal action against ServiceNow under this Agreement or any Order Form hereunder who has not entered into a direct Order Form with ServiceNow under Section 2.2.2 (Separate Affiliate Ordering) below.

**2.2.2. SEPARATE AFFILIATE ORDERING.** Subject to the parties executing a mutually agreed upon Order Form, Customer Affiliates may purchase the Subscription Service, hosted on a separate instance, by signing an Order Form that references this Agreement directly with ServiceNow (or a ServiceNow Affiliate as applicable to Customer Affiliate’s location), which will establish a new and separate agreement between the Customer Affiliate and the ServiceNow entity signing such Order Form. If such Customer Affiliate resides in a different country than Customer, such Customer Affiliate’s Order Form may include modifications particular to international transactions (e.g., tax rates and governing law). Customer Affiliates who have a direct Order Form with ServiceNow for the Subscription Service hosted on a separate instance (“**Affiliate Instance**”) may purchase Professional Services or additional access and use rights for the Affiliate Instance but may not order Professional Services or additional access and use rights for any other instance of the Subscription Service, and Customer may not purchase Professional Services or access and use rights for the Affiliate Instance.

**2.3 RESTRICTIONS.** With respect to the ServiceNow Core Technology, Customer will not (and will not permit others to): **(a)** use it in excess of contractual usage limits (including as set forth in an Order Form), or in a manner that circumvents usage limits or technological access control measures; **(b)** license, sub-license, sell, re-sell, rent, lease, transfer, distribute, time share, or otherwise make any of it available for access by third-parties, except as may otherwise be expressly stated in an Order Form; **(c)** access it for the purpose of developing or operating products or services for third-parties in competition with the ServiceNow Core Technology;

(d) disassemble, reverse engineer, or decompile it; (e) copy, create derivative works based on, or otherwise modify it, except as may be otherwise expressly stated in this Agreement; (f) remove or modify a copyright or other proprietary rights notice in it; (g) use it to reproduce, distribute, display, transmit, or use material protected by copyright or other Intellectual Property Right (including the rights of publicity) without first obtaining permission of the owner; (h) use it to create, use, send, store, or run viruses or other harmful computer code, files, scripts, agents, or other programs, or otherwise engage in a malicious act or disrupt its security, integrity, or operation; or (i) access or disable any ServiceNow or third-party data, software, or network (other than Customer's instance of the Subscription Service under this Agreement). Before Customer engages in any of the foregoing acts that it believes it may be entitled to, it will provide ServiceNow with 30-days' prior notice to [legalnotices@servicenow.com](mailto:legalnotices@servicenow.com), and reasonably requested information to allow ServiceNow to assess Customer's claim. ServiceNow may, in its discretion, provide alternatives that reduce adverse impacts on ServiceNow's Intellectual Property Rights or other rights.

**2.4 PROVISION OF PROFESSIONAL SERVICES.** Customer and ServiceNow may enter into one or more SOWs or Order Forms subject to this Agreement, and which may incorporate one or more Service Descriptions for the provision of Professional Services. ServiceNow will perform the Professional Services, subject to the fulfillment of any responsibilities and payments due from Customer, as stated in the SOW or the Order Form.

### 3. ORDERING

**3.1 ORDERS AND PAYMENT.** Upon execution by Customer and ServiceNow, each Order Form is non-cancellable and non-refundable, except as provided in this Agreement. Prices stated in each Order Form are final. Subscription Service fees are invoiced annually in advance. Each Subscription Term is a non-divisible, continuous commitment, regardless of the invoice schedule, and pricing is based on a purchase of the entire Subscription Term. Professional Services fees are invoiced on a time and materials basis, monthly in arrears. Customer will pay each invoice within 30 days after the invoice date. If Customer issues a purchase order, then it shall be for the full amount of the Order Form. Any such purchase order submitted by Customer is for its internal purposes only, and ServiceNow rejects, and in the future is deemed to have rejected, any purchase order's terms to the extent they add to or conflict in any way with this Agreement or the applicable Order Form, SOW, or Service Description, and such additional or conflicting terms will have no effect. On request, ServiceNow will reference the purchase order number on its invoices (solely for administrative convenience), so long as Customer provides the purchase order at least 15 business days before the invoice date. Late payments will accrue interest at a rate of 1.5% per month or the legal maximum interest rate, whichever is lower. Customer will cure a delinquency in payment of any amounts owed under this Agreement within 30 days from the date of ServiceNow's delinquency notice. If Customer fails to cure or regain compliance under Section 3.2 (Use Verification), ServiceNow may suspend Customer's use of the Subscription Service or terminate this Agreement for breach, in addition to any other available rights and remedies. All terms of this Section 3.1 apply except as may be expressly stated otherwise in the applicable Order Form, SOW, Service Description, or elsewhere in this Agreement.

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

**3.3 TAXES.** All payments required by this Agreement are stated exclusive of all taxes, duties, levies, imposts, fines, or similar governmental assessments, including sales and use taxes, value-added taxes ("VAT"), goods and services taxes ("GST"), excise, business, service, and similar transactional taxes imposed by any jurisdiction, and the interest and penalties on any and all of these (collectively, "Taxes"). Customer is solely liable for and will pay all Taxes associated with its purchase of, payment for, access to, or use of, any ServiceNow Products. For the avoidance of doubt, Taxes will not be deducted from payments to ServiceNow, except as required by Law, in which case Customer will increase the amount payable as necessary so that, after making all required deductions and withholdings, ServiceNow receives and retains (free from any liability for Taxes) an amount equal to the amount it would have received had no such deductions or withholdings been made. Each party is solely liable for and will pay taxes imposed on its net income. If Customer is a tax-exempt entity or claims exemption from any Taxes under this Agreement, it will include its tax exemption number on, and provide a tax exemption certificate on

execution of the Order Form and, after receipt of valid evidence of exemption, ServiceNow will not charge Customer any Taxes from which it is exempt. If ServiceNow is required to invoice or collect Taxes associated with Customer's purchase of, payment for, access to, or use of, any ServiceNow Products, ServiceNow will invoice Customer for those Taxes, itemized where required by Law. Customer will provide to ServiceNow its VAT or GST identification number(s) on the Order Form for: **(a)** the country where Customer has established its business; and **(b)** any other country where Customer has a fixed establishment. Customer will use the ordered ServiceNow Products for Customer's business use in the foregoing location(s) in accordance with the provided VAT or GST identification number(s).

## 4. INTELLECTUAL PROPERTY

**4.1 SERVICENOW OWNERSHIP.** As between the parties, ServiceNow and its licensors exclusively own all right, title, and interest in and to all Intellectual Property Rights in the ServiceNow Core Technology, notwithstanding anything in this Agreement purportedly to the contrary. Except for the access and use rights, and licenses expressly granted in Section 2 (Access and Use Rights; Restrictions; Provision of Professional Services) of this Agreement, ServiceNow, on behalf of itself and its licensors, reserves all rights in the ServiceNow Core Technology and does not grant Customer any rights (express, implied, by estoppel, through exhaustion, or otherwise). Any ServiceNow Core Technology delivered to Customer or to which Customer is given access shall not be deemed to have been sold, even if, for convenience, ServiceNow makes reference to words such as "sale" or "purchase" in the applicable Order Form or other documents.

**4.2 CUSTOMER OWNERSHIP.** As between the parties, Customer and its licensors will retain all right, title, and interest in and to all Intellectual Property Rights in Customer Data and Customer Technology. Customer hereby grants to ServiceNow a royalty-free, fully-paid, non-exclusive, non-transferrable (except as set forth in Section 12.1 (Assignment)), worldwide, right to use Customer Data and Customer Technology solely to provide and support the ServiceNow Products.

**4.3 FEEDBACK.** ServiceNow encourages Customer to provide suggestions, proposals, ideas, recommendations, or other feedback regarding improvements to the ServiceNow Products (collectively, "**Feedback**"). If Customer provides such Feedback, Customer grants to ServiceNow a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 12.1 (Assignment)), non-exclusive, irrevocable, perpetual, worldwide right and license to use, license, and commercialize Feedback (including by incorporation of such Feedback into ServiceNow Core Technology) without restriction.

**4.4 PROFESSIONAL SERVICES.** Subject to this Section 4.4, ServiceNow assigns (and in the future is deemed to have assigned) to Customer any Newly Created IP upon payment in full by Customer for the Professional Service under which the Newly Created IP was created. If any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable (except as set forth in Section 12.1 (Assignment)), non-sublicensable worldwide license to use the ServiceNow Core Technology incorporated into the Deliverable in connection with the Subscription Service as contemplated under this Agreement during the applicable Subscription Term. Nothing in this Agreement shall be deemed to restrict or limit ServiceNow's right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Professional Services.

## 5. WARRANTIES; DISCLAIMER OF WARRANTIES

**5.1 LIMITED SUBSCRIPTION SERVICE WARRANTY.** ServiceNow warrants that, during the Subscription Term, Customer's production instance of the Subscription Service will materially conform to the Product Overview. To submit a warranty claim under this Section 5.1, Customer will submit a support request to resolve the non-conformity as provided in the Subscription Service Guide. If the non-conformity persists without relief more than 30 days after notice of a warranty claim provided to ServiceNow under this Section 5.1, then Customer may terminate the affected Subscription Service, and ServiceNow will refund to Customer any prepaid subscription fees covering that part of the applicable Subscription Term for the affected Subscription Service remaining after the effective date of termination. Notwithstanding the foregoing, this warranty will not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than ServiceNow or a person acting at ServiceNow's direction. **This Section 5.1 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with this warranty.**

**5.2 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 SOW or Service Description. Customer will notify ServiceNow of any breach within 30 days after performance of the non-conforming Professional Services. On receipt of such notice, ServiceNow, at its option, will either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or will terminate the affected Professional Services and refund to Customer any amounts paid for the nonconforming Professional Services. **This Section 5.2 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with this warranty.**

**5.3 DISCLAIMER OF WARRANTIES.** Except for the warranties expressly stated in this Section 5, to the maximum extent allowed by Law, ServiceNow disclaims all warranties of any kind (express, implied, statutory, or otherwise, oral or written, including warranties of merchantability, accuracy, title, non-infringement, or fitness for a particular purpose, and any warranties arising from usage of trade, course of dealing, or course of performance). Without limiting the foregoing, ServiceNow specifically does not warrant that the ServiceNow Products will meet the requirements of Customer or others or will be accurate or operate without interruption or error. Customer acknowledges that in entering this Agreement, it has not relied on any promise, warranty, or representation not expressly set forth in this Agreement.

## 6. CONFIDENTIAL INFORMATION

**6.1 CONFIDENTIALITY OBLIGATIONS.** The recipient of Confidential Information will: **(a)** at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event use less than reasonable care; and **(b)** not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party will limit the disclosure of the other party's Confidential Information to those of its employees and contractors and the employees and contractors of its Affiliates with a need to access such Confidential Information for a party's exercise of its rights and obligations under this Agreement, and then only to employees and contractors subject to binding disclosure and use restrictions at least as protective as those in this Agreement. Each party's obligations under this Section 6 will remain in effect during, and for three years after termination of, this Agreement. Receiving party will, at disclosing party's request, return all originals, copies, reproductions, and summaries of Confidential Information and other tangible materials and devices provided to receiving party as Confidential Information, or at disclosing party's option, certified destruction of the same. Provisions for return of Customer Data are set forth in Section 11.2 (Return of Customer Data).

**6.2 THIRD PARTY REQUESTS.** This Agreement will not be construed to prevent receiving party from disclosing the disclosing party's Confidential Information to a court, or governmental body pursuant to a valid court order, Law, subpoena, or regulation, provided that the receiving party: **(a)** gives prompt notice (or the maximum notice permitted under Law) before making the disclosure, unless prohibited by Law; **(b)** provides reasonable assistance to disclosing party in any lawful efforts by disclosing party to resist or limit the disclosure of such Confidential Information; and **(c)** discloses only that portion of disclosing party's Confidential Information that is legally required to be disclosed. In addition, receiving party will cooperate and assist disclosing party, at disclosing party's cost, in relation to any such request and any response to any such communication.

## 7. INDEMNIFICATION

### 7.1 BY SERVICENOW.

**7.1.1. SERVICENOW OBLIGATION.** Subject to the limitations in this Section 7, ServiceNow will: **(a)** defend Customer and Customer Affiliates, and its and their officers, directors, and employees against any Claim; **(i)** to the extent alleging that any ServiceNow Core Technology accessed or used in accordance with this Agreement infringes any third-party patent, copyright, or trademark, or misappropriates any third-party trade secret; or **(ii)** to the extent alleging that ServiceNow's personnel when onsite at Customer's premises caused death, bodily harm, or damage to tangible personal property due to their negligence or willful misconduct; and **(b)** pay any settlement amount or any court-ordered award of damages, under the forgoing subsections (a)(i) and (ii) to the extent arising from such Claim.

**7.1.2. MITIGATION.** To the extent any Claim alleges any part of the ServiceNow Core Technology infringes any third-party patent, copyright, or trademark, or misappropriates any third-party trade secret, ServiceNow may: **(a)** contest the Claim; **(b)** obtain permission from the claimant for Customer's continued use of its instance of

the Subscription Service or any applicable ServiceNow Core Technology; **(c)** avoid such Claim by replacing or modifying Customer's access to and use of its instance of the Subscription Service or any applicable ServiceNow Core Technology as long as ServiceNow provides a substantially similar Subscription Service; or, if ServiceNow determines the foregoing (a), (b), and (c) are not commercially practicable, then **(d)** terminate Customer's access to and use of the affected Subscription Service on 60-days' prior notice and refund to Customer any prepaid subscription fees covering that part of the applicable Subscription Term for such Subscription Service remaining after the effective date of termination.

**7.1.3. LIMITATIONS.** Notwithstanding the above, ServiceNow will have no obligation or liability for any Claim under Section 7.1.1(a)(i) to the extent arising in whole or in part from: **(a)** any access to or use of any ServiceNow Core Technology not expressly authorized under this Agreement, to the extent the Claim would have been avoided without such unauthorized access or use; **(b)** Customer Data or Customer Technology; or **(c)** access to or use of the ServiceNow Core Technology: **(i)** in violation of Law; **(ii)** after termination under Section 7.1.2(d); **(iii)** as modified to Customer's specifications or by anyone other than ServiceNow or its contractors, if the Claim would have been avoided but for such modifications; or **(iv)** combined with anything not provided by ServiceNow, if the Claim would have been avoided but for such combination.

**7.2 CUSTOMER OBLIGATION.** Customer will: **(a)** defend ServiceNow and ServiceNow Affiliates, and its and their officers, directors, and employees against any Claim to the extent alleging that Customer Data, Customer Technology, or a modification to any ServiceNow Core Technology made to Customer's specifications or otherwise made by or on behalf of Customer by any person other than ServiceNow or a person acting at ServiceNow's direction (but only if the Claim would have been avoided by use of the unmodified ServiceNow Core Technology), infringes any patent, copyright, or trademark, misappropriates any third-party trade secret, or violates any third-party privacy rights; and **(b)** pay any settlement amount or any court-ordered award of damages, under the foregoing subsection (a) to the extent arising from such Claim.

**7.3 PROCESS.** The obligations of ServiceNow and Customer under Sections 7.1 and 7.2 are conditioned on the indemnified party **(a)** notifying the indemnifying party promptly in writing of any actual or threatened Claim, **(b)** the indemnified party giving the indemnifying party sole control of the defense of such Claim and of any related settlement negotiations, and **(c)** the indemnified party cooperating and, at the indemnifying party's reasonable request and expense, assisting in such defense. Neither party will stipulate, acknowledge, or admit fault or liability on the other's part without the other's prior, written consent. The indemnifying party will not publicize any settlement without the indemnified party's prior, written consent. **To the extent the parties perform as required, this Section 7 states each party's entire liability and the other party's exclusive remedy for third-party claims and third-party actions.**

## 8. LIMITED LIABILITY

**To the extent permitted by Law, each party's total, cumulative liability arising out of or related to this Agreement and the products and services provided under it, whether based on contract, tort (including negligence), or any other legal or equitable theory, will be limited to the amounts paid by Customer for use of the products or provision of the services giving rise to the claim during the 12-month period preceding the first event giving rise to liability. The existence of more than one claim will not enlarge this limit. The foregoing limitation of liability shall not apply to: (a) Customer's obligation to pay for products, services or taxes; (b) a party's obligations in Section 7 (Indemnification); and (c) infringement by a party of the other party's Intellectual Property Rights.**

## 9. EXCLUDED DAMAGES

**To the extent permitted by Law, neither ServiceNow nor Customer will be liable to the other or any third party for lost profits (direct or indirect) or loss of use or data or for any incidental, other consequential, punitive, special, or exemplary damages (including damage to business, reputation, or goodwill), or indirect damages of any type however caused, whether by breach of warranty, breach of contract, in tort (including negligence), or any other legal or equitable cause of action, even if such party has been advised of such damages in advance or if such damages were foreseeable. The foregoing exclusions shall not apply to: (a) payments to a third party arising from a party's obligations under Section 7 (Indemnification); and (b) infringement by a party of the other party's Intellectual Property Rights.**

## 10. GROSS NEGLIGENCE; WILLFUL MISCONDUCT

As provided by Law, nothing herein shall be intended to limit a party's liability in an action in tort, separate and distinct from a cause of action for breach of this Agreement, for the party's gross negligence or willful misconduct.

## 11. TERM AND TERMINATION

**11.1** TERMINATION. This Agreement begins on the Effective Date and continues until terminated under its terms. Each party may terminate this Agreement in its entirety: **(a)** on 30 days' prior notice to the other, if at the time of notice there are no Order Forms in effect; **(b)** immediately on notice if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership, or liquidation, in any jurisdiction, that is not dismissed within 60 days of its commencement or an assignment for the benefit of creditors; or **(c)** immediately on notice if the other party materially breaches this Agreement and does not cure such breach within 30 days after the other party's receipt of notice of the breach. Either party may terminate an Order Form or SOW on notice if the other party materially breaches this Agreement or the applicable Order Form or SOW for the affected service and does not cure the breach within 30 days after receiving notice of the breach from the non-breaching party. Professional Services are separately ordered from the Subscription Service and are not required for use of 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 Order Form.

**11.1.1.** EFFECT OF TERMINATION OF SUBSCRIPTION SERVICE. On termination or expiration of the Subscription Service, Customer will stop accessing and using, and ServiceNow will stop providing, the Subscription Service and all related rights granted to Customer in this Agreement will terminate immediately, automatically, and without notice. ServiceNow will, within 30 days after the effective date of termination by Customer for ServiceNow's breach, refund to Customer any prepaid fees received by ServiceNow covering that part of the Subscription Term for the affected Subscription Service, if any, remaining after the effective date of termination. Within 30 days after the effective date of termination by ServiceNow for Customer's breach, Customer will pay all remaining amounts, if any, payable under this Agreement for the Subscription Term applicable to the terminated Subscription Service regardless of the due dates specified in the Order Form.

**11.2** RETURN OF CUSTOMER DATA. After termination or expiration of this Agreement or the applicable Subscription Service, upon Customer's written request, ServiceNow will provide any Customer Data in the Subscription Service to Customer in ServiceNow's standard database export format at no additional charge. Customer must submit such request to ServiceNow within 45 days after termination or expiration of this Agreement or the Subscription Service. ServiceNow is not obligated to maintain or provide any Customer Data after such 45-day period and will, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control, and delete Customer's instances of the Subscription Service.

**11.3** SURVIVAL. Sections 2.3 (Restrictions), 3.3 (Taxes), 4 (Intellectual Property), 5 (Warranties; Disclaimer of Warranties) (solely in accordance with its terms), 6 (Confidential Information) through 10 (Gross Negligence; Willful Misconduct), 11 (Term and Termination) (solely in accordance with its terms), and 12 (General Provisions), together with any other terms required for their construction or enforcement, will survive termination or expiration of this Agreement.

## 12. GENERAL PROVISIONS

**12.1** ASSIGNMENT. Neither party may assign or novate its rights or obligations under this Agreement, by operation of law or otherwise (any of the foregoing, "Assign"), without the other party's prior written consent. Notwithstanding the foregoing, on notice and without the other's consent: **(a)** either party may in connection with a merger, reorganization, or sale of all or substantially all of such party's assets or equity, Assign this Agreement in its entirety to such party's successor; and **(b)** ServiceNow may Assign this Agreement in its entirety to any ServiceNow Affiliate. Any attempted or purported Assignment in violation of this Section 12.1 will be null and void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors, and permitted assigns.

**12.2** COMPLIANCE WITH LAWS. ServiceNow will comply with all Laws applicable to its provision under the Agreement of the ServiceNow Products, including those applicable to privacy and security of personal information (including mandatory trans-border data transfers and mandatory data breach notification requirements),

but excluding Laws specifically applicable to Customer and its industry not generally applicable to information technology service providers regardless of industry. Customer will comply with all Laws applicable to its use of the ServiceNow Products, including those applicable to collection and processing of Customer Data in ServiceNow systems through the Subscription Service. Customer agrees to provide any required disclosures to and obtain any required consents for the transfer of Customer Data to ServiceNow.

**12.3 EXPORT COMPLIANCE.** Each party will comply with local and foreign export control Laws, including U.S. export control Laws. Customer acknowledges that the ServiceNow Products are subject to U.S. Export Administration Regulations (“**EAR**”) and that Customer will comply with EAR. Without limiting the foregoing, Customer represents and warrants that: **(a)** it is not located in, and will not use any ServiceNow Products from, any country subject to U.S. export restrictions (currently including Cuba, Iran, North Korea, Sudan, Syria, and Crimea Region); **(b)** Customer will not use the ServiceNow Products in the design, development, or production of nuclear, chemical, or biological weapons, or rocket systems, space launch vehicles, sounding rockets, or unmanned air vehicle systems; and **(c)** Customer is not prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. In addition, Customer is responsible for complying with any local Laws that may impact Customer’s right to import, export, or use ServiceNow Products or any of them.

**12.4 US GOVERNMENT RIGHTS.** ServiceNow software is commercial computer software (as defined in Federal Acquisition Regulation (“**FAR**”) 2.101 for civilian agency purchases and Department of Defense (“**DOD**”) FAR Supplement (“**DFARS**”) 252.227-7014(a)(1) for defense agency purchases) and ServiceNow services are commercial items. If the software is licensed or services acquired by or on behalf of a civilian agency, ServiceNow provides the software, its documentation, and any other technical data subject to this Agreement consistent with FAR 12.212 (Computer Software) and FAR 12.211 (Technical Data). If software is licensed or services acquired by or on behalf of any DOD agency, ServiceNow provides the software, its documentation, and any other technical data subject to this Agreement consistent with DFARS 227.7202-3. If this is a DOD prime contract or DOD subcontract, the DOD agency Customer may acquire additional rights in technical data under DFARS 252.227-7015(b). 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.

**12.5 NOTICE.** Except as otherwise provided in this Agreement, all notices will be in writing and deemed given on: **(a)** personal delivery; **(b)** when received by the addressee if sent by a recognized overnight courier (receipt requested); **(c)** the third business day after mailing; or **(d)** the first business day after sending by email with confirmation of receipt, except that email will not be sufficient for notices regarding a Claim or alleged breach. Notices will be sent as set forth on the first page of this Agreement or as subsequently updated in writing.

**12.6 FORCE MAJEURE.** ServiceNow is not, and may not be construed to be, in breach of this Agreement for any failure or delay in fulfilling or performing the Subscription Service or any Professional Services, when and to the extent such failure or delay is caused by or results from acts beyond ServiceNow’s reasonable control, including: strikes, lock-outs, or other industrial disputes; trespass, sabotage, theft or other criminal acts export bans, sanctions, war, terrorism, riot, civil unrest, or government action; failure of Internet connectivity or backbone or other telecommunications failures, in each case outside of ServiceNow’s local network; breakdown of plant or machinery; nuclear, chemical, or biological contamination; fire, flood, natural disaster, extreme adverse weather, or other acts of God (each a “**Force Majeure Event**”). ServiceNow will use reasonable efforts to mitigate the effects of such Force Majeure Event.

**12.7 HIGH RISK ACTIVITY.** The ServiceNow Products are not designed for any purpose requiring fail-safe performance, including stock trading, financial transaction processing, operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, weapons systems, or other management or operation of hazardous facilities or applications for which failure could result in death, personal injury, or severe physical, property, or environmental damage (each, a “**High Risk Activity**”). ServiceNow, its licensors, and suppliers expressly disclaim all warranties of fitness for any such use.

**12.8 EXECUTION.** This Agreement may be executed in counterparts, by electronic means to accurately send images, such as via email, or by electronic signature service. Neither party will contest the Agreement’s validity solely because a signature was faxed or sent through other permitted electronic means. Each party will deliver to the other an original executed copy of the Agreement promptly after execution.

**12.9 WAIVER AND AMENDMENT.** Failure by a party to enforce any part of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. A waiver of any right is effective only if in a

writing signed by an authorized representative of the waiving party. Any modification of this Agreement must be in writing and signed by authorized representatives of both parties.

**12.10 SEVERABILITY.** If any term of this Agreement is held invalid, unenforceable, or void by a court of competent jurisdiction, such term will be enforced to the maximum extent permissible, such holding will not affect the remaining terms, and the invalid, unenforceable, or void term will be deemed amended or replaced by a valid, legal, and enforceable term that matches the intent of the original language as closely as possible.

**12.11 RELATIONSHIP.** The parties are independent contractors. Nothing in this Agreement will be construed to create a partnership, joint venture, agency, or other relationship. Neither party has any right or authority to assume or create any obligation of any kind, express or implied, in the other party's name or on its behalf. No third-party is a third-party beneficiary of, or liable under, this Agreement, and no third-party is responsible for any obligations or liability arising out of Customer's use of the ServiceNow Core Technology.

**12.12 GOVERNING LAW; JURISDICTION AND VENUE.** If Customer is located in the United States, Canada, or Mexico this Agreement will be governed by the Laws of the State of California, without regard to its conflict of laws principles. The parties irrevocably consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Santa Clara County, California, for the purposes of adjudicating any dispute arising out of or related to this Agreement. Each party expressly consents to service of process by registered mail. To the extent permitted by Law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods will not apply. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party's Intellectual Property Rights.

**12.13 COUNTRY SPECIFIC PROVISIONS.** For any Customer domiciled outside the United States, Canada, or Mexico, the country-specific provisions following this Section 12 shall replace or supplement the equivalent provisions of the Agreement depending on the following: **(a)** if Customer is executing its Order Form with ServiceNow Nederland B.V., then "the Netherlands" provisions apply; **(b)** if Customer is executing its Order Form with ServiceNow UK Ltd., then the "United Kingdom" provisions apply; and **(c)** if Customer is executing its Order Form with ServiceNow Australia Pty Ltd, then the "Australia" provisions apply.

**12.14 EQUITABLE REMEDIES.** The receiving party's disclosure of Confidential Information except as provided in this Agreement, or a party's infringement or misappropriation of the other party's Intellectual Property Rights may result in irreparable injury for which a remedy in money damages may be inadequate. In the event of such actual or threatened disclosure, infringement or misappropriation, disclosing party may be entitled to seek an injunction to prevent the breach or threatened breach without the necessity of proving irreparable injury or the inadequacy of money damages, in addition to remedies otherwise available to disclosing party at law or in equity.

**12.15 CONSTRUCTION.** ServiceNow is obligated to provide ServiceNow Products only in the English language, unless otherwise agreed in writing. The parties have expressly requested that this Agreement and all related documents be drafted in English. *Les parties confirment avoir expressément exigé que le présent contrat et les documents de ServiceNow qui y sont attachés soient rédigés en anglais.* Section headings are for convenience only and are not to be used in interpreting this Agreement. This Agreement has been negotiated by the parties and their respective counsel and will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party. Lists of examples following "including", "e.g.", "such as", or "for example" are interpreted to include "without limitation", unless qualified by words such as "only" or "solely." Unless stated or context requires otherwise: **(a)** all internal references are to this Agreement, its parties, and its Exhibits; **(b)** "days" means calendar days; **(c)** "may" means that the applicable party has a right, but not a concomitant duty; **(d)** all monetary amounts are expressed and, if applicable, payable, in U.S. dollars; **(e)** "current" or "currently" means "as of the Effective Date" but "then-current" means the present time when the applicable right is exercised or performance rendered or measured; **(f)** the word "or" will be deemed to be an inclusive "or"; **(g)** URLs are understood to also refer to successor URLs, URLs for localized content, and information or resources linked from within the websites at such URLs; **(h)** a writing is "signed" when it has been hand-signed (i.e., with a pen) or electronically signed using an electronic signature service by duly authorized representatives of both parties; **(i)** a party's choices, elections, and determinations under this Agreement are in its sole discretion; **(j)** the singular includes the plural and vice versa; **(k)** a reference to a document includes any amendment, replacement, or novation of it; and **(m)** a reference to a thing includes a part of that thing (i.e., is interpreted to include "in whole or in part").

**12.16 ENTIRETY.** This Agreement (together with the Order Forms, Product Overviews, SOWs, and Service Descriptions, all of which are also deemed incorporated by this reference) is the parties' entire agreement regarding its subject matter and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings, negotiations, letters of intent, and proposals, with respect to such subjects. The terms of this Agreement apply to the exclusion of any other terms Customer seeks to impose or incorporate, or that may be implied by trade, custom, practice, or course of dealing. Customer acknowledges it has not relied on any statement, promise, or representation made or given by or on behalf of ServiceNow that is not expressly stated in this Agreement. Customer's orders are not contingent, and Customer has not relied, on the delivery of any future functionality regardless of any verbal or written communication about ServiceNow's possible future plans.

## THE NETHERLANDS

1. The following language shall replace Section 12.12 of the General Terms and Conditions:

If Customer is executing its Order Form with ServiceNow Nederland B.V., this Agreement shall be governed by the laws of The Netherlands without regard to its conflict of laws principles. The parties hereby irrevocably consent to the nonexclusive jurisdiction of, and venue in, any court of competent jurisdiction located in Amsterdam, The Netherlands for the purposes of adjudicating any dispute arising out of this Agreement. Each party hereto expressly consents to service of process by registered mail. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party's intellectual property rights.

## UNITED KINGDOM

1. The following language shall replace Section 12.12 of the General Terms and Conditions:

If Customer is executing its Order Form with ServiceNow UK Ltd., this Agreement shall be governed by the laws of the England and Wales without regard to its conflict of laws principles. The parties hereby irrevocably consent to the nonexclusive jurisdiction of, and venue in, any court of competent jurisdiction located in London, England for the purposes of adjudicating any dispute arising out of this Agreement. Each party hereto expressly consents to service of process by registered mail. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party's intellectual property rights.

## AUSTRALIA

1. The following language shall be added as a new Section 5.4 of the General Terms and Conditions:

**COMPLIANCE WITH CONSUMER LAWS.** To the extent, if any, that the terms and conditions of the **Competition and Consumer Act 2010 (Cth)**, including the Australian Consumer Law, or other statutory Law prevents ServiceNow from excluding certain liability as set forth in the Agreement, such liability will be limited to the extent permitted by such Law to one or more of the following: (a) in respect of a supply of services, to: (i) the supplying of the services again, or (ii) the payment of the cost of having the services supplied again; and (b) in respect of a supply of goods, to: (i) the replacement of the goods or the supply of equivalent goods, (ii) the repair of the goods, (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods, or (iv) the payment of the cost of having the goods repaired. Notwithstanding any other provision of this Agreement or any Order Form to the contrary, nothing therein will derogate from any requirement to provide a refund under the Australian Consumer Law. If Customer is acquiring services as a "consumer" for the purposes of the Australian

**Consumer Law, the benefits given by any warranties that are a “warranty against defects” (as such term is defined in the Australian Consumer Law) are in addition to any other rights and remedies available to Customer under a law in relation to the services to which such warranty relates and, in such case, “Our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:**

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

**You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.”**

2. The following language shall replace section 12.12 of the General Terms and Conditions:

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

///  
///  
///

Remainder of page intentionally left blank