

## ORDERING AGREEMENT

This Ordering Agreement (including the Subscription Service Guide, attached hereto as Exhibit A) (“**Agreement**”) is made between the ServiceNow entity (“**ServiceNow**”) and the customer entity (“**Customer**”) on the ordering document and becomes effective on the last signature date of the ordering document issued by ServiceNow (“**Effective Date**”).

## 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 foregoing 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; and (d) if Customer is executing its Order Form with ServiceNow Brasil Gerenciamento de Serviços Ltda., then the "Brazil" 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 amount of 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.

## BRAZIL

1. The following language shall replace Section 3.3. of the General Terms and Conditions:

TAXES. ServiceNow offers a remotely hosted service, so under this Agreement Customer may initiate purchases from, and pay from, any of its Affiliates inside or outside of Brazil, and may use and access the Subscription Service and receive Professional Services inside or outside of Brazil, without restriction and as controlled by Customer (with the exception of US embargoed countries as described in Section 12.13 (Export Compliance)). Different Taxes may apply depending on where the services are purchased and paid for, and in some cases, where the services are accessed or used.

For purchases of, payment for, access to, and use of the Subscription Service and Professional Services in Brazil, the following terms shall apply: “**Taxes**” shall mean all taxes, duties, levies, imposts, fines or similar governmental assessments including sales and use taxes, excise, business, service, and similar transactional taxes imposed by any taxing jurisdiction in Brazil and the interest and penalties thereon. ServiceNow shall issue a valid tax invoice to Customer and this invoice shall be inclusive of all Taxes as applicable by Brazilian Law. Where required by Brazilian Law, Customer will withhold Taxes with no impact on the final price. If withholding tax should apply to any purchase or Order Form, any pricing limitation herein or in an Order Form may be subject to renegotiation for future Order Forms.

For purchases of, payment for, access to or use of the Subscription Service and Professional Services from outside of Brazil by a foreign affiliate or a foreign place of business of Customer or its affiliates, the following terms shall apply: “**Taxes**” shall mean all taxes, duties, levies, imposts, fines or similar governmental assessments including sales and use taxes, excise, business, service, and similar transactional taxes imposed

by any taxing jurisdiction and the interest and penalties thereon, value-added taxes (“**VAT**”), goods and service taxes (“**GST**”). Customer shall be responsible for and bear Taxes associated with its purchase of, payment for, access to or use of the Subscription Service and Professional Services. Taxes shall not be deducted from the payments to ServiceNow, except as required by Law, in which case Customer shall increase the amount payable as necessary so that after making all required deductions and withholdings, ServiceNow receives and retains (free from any Tax liability) an amount equal to the amount it would have received had no such deductions or withholdings been made. Each party is responsible for and shall bear taxes imposed on its net income. If ServiceNow is required to invoice or collect Taxes associated with Customer’s purchase of, payment for, access to or use of the Subscription Service or Professional Services, ServiceNow will issue an invoice to Customer including the amount of those Taxes, itemized where required by Law. Customer shall provide to ServiceNow its VAT or GST identification number(s) on the Order Form for: (a) the country where Customer has established its business; and/or (b) any other country where Customer has a fixed establishment. Customer shall use the ordered Subscription Service and Professional Services for Customer’s business use in the foregoing location(s) in accordance with the provided VAT or GST identification number(s). The parties’ obligations under this Section shall survive the termination or expiration of this Agreement.

TAX EXEMPTION. Customer hereby represents that it is not a tax-exempt entity, nor claims exemption from any Taxes under this Agreement. In the event that Customer claims exemption from any Taxes under this Agreement, Customer shall provide a tax exemption number on the Order Form and a certificate upon execution of the Order Form and, after receipt of valid evidence of exemption, ServiceNow shall not charge Customer any Taxes from which it is exempt.

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

**GOVERNING LAW; JURISDICTION AND VENUE.** If Customer is executing its Order Form with ServiceNow Brasil Gerenciamento de Serviços Ltda., this Agreement shall be governed by the Laws of Brazil, without regard to its conflict of laws principles. The parties irrevocably consent to the exclusive jurisdiction of, and venue in, any court of competent jurisdiction located in the city of São Paulo, state of São Paulo, Brazil, for the purposes of adjudicating any dispute arising out of or related to 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 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.

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## EXHIBIT A SUBSCRIPTION SERVICE GUIDE

### 1. SUPPORT

ServiceNow will provide support for the Subscription Service as set forth in the **Customer Support Policy** attached to this Subscription Service Guide as Exhibit A.2 and incorporated herein by reference. The Customer Support Policy may be updated periodically.

### 2. UPGRADES AND UPDATES

ServiceNow will provide upgrades and updates to the Subscription Service as described in Exhibit A.3 **Upgrades and Updates** attached to this Subscription Service Guide and incorporated herein by reference. The Upgrade and Update exhibit may be updated periodically.

### 3. DATA PROCESSING ADDENDUM

The parties' agreement with respect to the processing of personal information submitted to the Subscription Service is described in the **Data Processing Addendum** attached to this Subscription Service Guide as Exhibit A.4 and incorporated herein by reference. The Data Processing Addendum may be updated periodically.

### 4. DATA SECURITY GUIDE

ServiceNow will implement and maintain security procedures and practices appropriate to information technology service providers designed to protect Customer Data from unauthorized access, destruction, use, modification, or disclosure, as described in the **Data Security Guide** attached to this Subscription Service Guide as Exhibit A.5 and incorporated herein by reference. The Data Security Guide may be updated periodically.

### 5. INSURANCE

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

**5.1** Workers' Compensation Insurance, in accordance with applicable statutory, federal, and other legal requirements;

**5.2** Employers' Liability Insurance covering ServiceNow's employees in an amount of not less than \$1,000,000 for bodily injury by accident and \$1,000,000 each employee for bodily injury by disease;

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

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

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

**5.6** Excess Liability over Employers' Liability, Commercial General Liability, and Commercial Automobile Liability, with a \$5,000,000 aggregate limit.

For the purpose of this Section 5, a "claim" means a written demand for money or a civil proceeding which is commenced by service of a complaint or similar pleading.

## 6. AVAILABILITY SERVICE LEVEL

### 6.1 DEFINITIONS.

6.1.1. “Available” means that the Subscription Service can be accessed by authorized users.

6.1.2. “Excused Downtime” means: (a) Maintenance Time of up to two hours per month; and (b) any time the Subscription Service is not Available due to circumstances beyond ServiceNow’s control, including modifications of the Subscription Service by any person other than ServiceNow or a person acting at ServiceNow’s direction, a Force Majeure Event, general Internet outages, failure of Customer’s infrastructure or connectivity (including direct connectivity and virtual private network (“VPN”) connectivity to the Subscription Service), computer and telecommunications failures and delays, and network intrusions or denial-of-service or other criminal attacks.

6.1.3. “Infrastructure Modification” means any repairs, maintenance, improvements, or changes to the cloud infrastructure used by ServiceNow to operate and deliver the Subscription Service.

6.1.4. “Maintenance Time” means the time the Subscription Service is not Available due to an Infrastructure Modification, Upgrade, and Update.

6.1.5. “Availability SLA” means that the production instances of the Subscription Service will be Available at least 99.8% of the time during a calendar month, excluding Excused Downtime.

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

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

6.4 NOTICE. ServiceNow will give Customer 10 days’ prior notice of an Infrastructure Modification if ServiceNow, in its reasonable judgment, believes that the Infrastructure Modification will impact Customer’s use of its production instances of the Subscription Service, unless, in the reasonable judgment of ServiceNow, the Infrastructure Modification is necessary to: (a) maintain the availability, security, or performance of the Subscription Service; (b) comply with Law; or (c) avoid infringement or misappropriation of third-party Intellectual Property Rights.

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## EXHIBIT A.2 - CUSTOMER SUPPORT POLICY

This Customer Support Policy governs the support that ServiceNow will provide for its Subscription Service (“**Customer Support**”).

### 1. SCOPE

The purpose of Customer Support is to resolve defects that cause a nonconformity in the Subscription Service as compared to the Product Overview. A resolution to a defect may consist of a fix, workaround, or other relief, as ServiceNow deems reasonable. Customer Support does not include performing the following services:

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

Customer Support is not required to provide resolutions for immaterial defects or defects due to modifications of the Subscription Service made by any person other than ServiceNow or a person acting at ServiceNow’s direction, or defects on any instance of the Subscription Service not in conformance with Exhibit A.3 - Upgrades and Updates.

### 2. BUSINESS HOURS

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

### 3. ACCESS CONTACTS

ServiceNow’s Customer Support portal (“**Support Portal**”) is located at <https://hi.service-now.com/>. Customer may get login access to the Support Portal by contacting its ServiceNow administrator.

ServiceNow’s Customer Support may be reached by phone using one of the numbers at <http://servicenow.com/support/contact-support.html>.

### 4. INCIDENT PRIORITY

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

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

## 5. RESPONSE TIMES AND LEVEL OF EFFORT

Customer may submit an incident with ServiceNow via the Support Portal or phone. Response times are not affected by the manner of contact. All support requests are tracked in the Support Portal and can be viewed by Customer's authorized contacts. ServiceNow will use reasonable efforts to meet the target response times and target level of effort stated in the table below.

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

## 6. CUSTOMER RESPONSIBILITIES

Customer's obligations with respect to Customer Support are as follows:

**6.1** Customer will receive from ServiceNow communications via email, phone, or through the Support Portal regarding the Subscription Service.

**6.2** Customer will appoint no more than 10 contacts ("**Customer Authorized Contacts**") to engage Customer Support for questions and technical issues.

**6.2.1.** Customer must maintain the following Customer Authorized Contacts:

- Primary Business Contact;
- Secondary Business Contact;
- Technical Contact;
- Support Contact;
- Primary Customer Administrator; and
- Security Contact.

**6.2.2.** Customer will maintain current information for all Customer Authorized Contacts in the Support Portal.

**6.2.3.** Only Customer Authorized Contacts will contact Customer Support.

**6.2.4.** Customer will train all Customer Authorized Contacts on the use and administration of the Subscription Service.

**6.3** Customer will cooperate to enable ServiceNow to deliver the Subscription Service and Customer Support.

**6.4** Customer is solely responsible for the use of the Subscription Service by its users.

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## EXHIBIT A.3 - UPGRADES AND UPDATES

### 1. DEFINITIONS

**1.1 “Upgrades”** are ServiceNow’s releases of the Subscription Service for enhancements or new features (including a new Release Family) applied by ServiceNow to Customer’s instances of the Subscription Service at no additional fee during the Subscription Term.

**1.2 “Updates”** are ServiceNow’s releases (including patches and hotfixes) of the Subscription Service applied by ServiceNow to Customer’s instances of the Subscription Service at no additional fee during the Subscription Term that provide problem fixes, but do not generally include new functionality, and are released as needed.

**1.3 “Release Family”** is an Upgrade that is a complete solution with new features or enhancements, including previously released Updates if applicable to the features included in the Upgrade. For example, ServiceNow’s “Geneva” Upgrade established the “Geneva Release Family”, and ServiceNow’s “Helsinki” Upgrade established the “Helsinki Release Family”.

**1.4 “Critical Upgrade”** is an Upgrade that in ServiceNow’s reasonable judgment is critical to maintaining the availability, security or performance of the Subscription Service; comply with applicable laws or to avoid infringement or misappropriation of a third-party Intellectual Property Right.

**1.5 “Critical Update”** is an Update that in ServiceNow’s reasonable judgment is critical to maintaining the availability, security or performance of the Subscription Service; comply with applicable laws or to avoid infringement or misappropriation of a third-party Intellectual Property Right.

**1.6 “Supported Release Family”** at a particular time means the then-current Release Family and the prior 2 Release Families.

### 2. UPGRADES AND UPDATES

ServiceNow shall determine, in its sole discretion: **(a)** whether and when to develop, release and apply any Update or Upgrade to Customer’s instances of the Subscription Service; and **(b)** whether a particular release is an Update, Upgrade or new service offering that is available separately for purchase.

### 3. NOTICE

ServiceNow shall: **(a)** give Customer 30 days’ notice of any Upgrade to the Subscription Service; and **(b)** use reasonable efforts to give Customer 10 days’ notice of any Update to the Subscription Service. Notwithstanding the foregoing, ServiceNow may provide Customer with shorter notice or no notice before the application of a Critical Upgrade or a Critical Update.

### 4. SUPPORTED AND NON-SUPPORTED RELEASE FAMILIES

Customer acknowledges that the current Release Family is the version of the Subscription Service containing the most current features, availability, performance and security. Within a Supported Release Family, the most recent Update is the version of the Subscription Service for that Release Family that contains the most current problem fixes, availability, performance and security. A Customer using a Supported Release Family may be required to apply a Critical Update within the Supported Release Family. A Customer that has not Upgraded to a Supported Release Family may experience defects, for which Customer hereby agrees that ServiceNow is not responsible, including without limitation those that affect the features, availability, performance and security of the Subscription Service, that are fixed in the most current version of the Subscription Service. A Customer who is not using a Supported Release Family may be required to apply an Upgrade to a Supported Release Family.

## EXHIBIT A.4 - DATA PROCESSING ADDENDUM

This Data Processing Addendum (“**DPA**”) is deemed to include Sections 1 through 9 below, including the attached Appendix 1, and the Data Security Guide, all of which are expressly deemed incorporated in the Agreement by this reference.

In the event of any conflict between the terms of this DPA and the terms of the Agreement with respect to the subject matter herein, this DPA shall control. Any data processing agreements that may already exist between parties as well as any earlier version of the Data Security Guide to which the parties may have agreed are superseded and replaced by this DPA in their entirety. All capitalized terms not defined in this DPA will have the meaning given to them in other parts of the Agreement.

### 1. DEFINITIONS

**1.1 “Affiliates”** means any person or entity directly or indirectly Controlling, Controlled by or under common Control with a party to the Agreement, where “**Control**” means the legal power to direct or cause the direction of the general management of the company, partnership, or other legal entity.

**1.2 “Agreement”** means the Order Form or Use Authorization or other signed ordering document, as applicable, between ServiceNow and Customer and the signed master agreement (if any) for the purchase of the Subscription Service.

**1.3 “Data Controller”** means the natural or legal person, public authority, agency, or other body which, alone or jointly with others, determines the purposes and means of Processing of Personal Data. For purposes of this DPA, Data Controller is Customer and, where applicable, its Affiliates either permitted by Customer to submit Personal Data to the Subscription Service or whose Personal Data is Processed in the Subscription Service.

**1.4 “Data Processor”** means the natural or legal person, public authority, agency, or other body which Processes Personal Data on behalf of the Data Controller. For purposes of this DPA, Data Processor is the ServiceNow entity that is a party to the Agreement.

**1.5 “Data Protection Laws”** means all applicable laws and regulations regarding the Processing of Personal Data and includes GDPR.

**1.6 “Data Subject”** means an identified or identifiable natural person.

**1.7 “GDPR”** means the European Union’s General Data Protection Regulation (2016/679).

**1.8 “Instructions”** means Data Controller’s documented data Processing instructions issued to Data Processor in compliance with this DPA.

**1.9 “Personal Data”** means any information relating to a Data Subject uploaded by or for Customer or Customer’s agents, employees, or contractors to the Subscription Service as Customer Data.

**1.10 “Process” or “Processing”** means any operation or set of operations which is performed upon Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure or destruction.

**1.11 “Professional Services”** means any consulting or development services provided by or on behalf of ServiceNow pursuant to an agreed Statement of Work or Service Description described or referenced in a signed ordering document.

**1.12 “Sub-Processor”** means any legal person or entity engaged in the Processing of Personal Data by Data Processor. For the avoidance of doubt, ServiceNow’s colocation datacenter facilities are not Sub-Processors under this DPA.

**1.13 “Subscription Service”** means the ServiceNow software-as-a-service offering ordered by Customer under an Order Form, Use Authorization or other signed ordering document between ServiceNow and Customer.

**1.14 “Subscription Term”** means the term of authorized use of the Subscription Service as set forth in the Order Form, Use Authorization, or other ordering document signed by Customer and ServiceNow.

## 2. SCOPE OF THE PROCESSING

**2.1 COMMISSIONED PROCESSOR.** Data Controller appoints Data Processor to Process Personal Data on behalf of Data Controller to the extent necessary to provide the Subscription Service described in the Agreement and in accordance with the Instructions.

**2.2 INSTRUCTIONS.** The Agreement constitutes Data Controller's written Instructions to Data Processor for Processing of Personal Data. Data Controller may issue additional or alternate Instructions provided that such Instructions are: (a) consistent with the purpose and the scope of the Agreement; and (b) confirmed in writing by Data Controller. For the avoidance of doubt, Data Controller shall not use additional or alternate Instructions to alter the scope of the Agreement. Data Controller is responsible for ensuring its Instructions to Data Processor comply with Data Protection Laws.

**2.3 NATURE, SCOPE AND PURPOSE OF THE PROCESSING.** Data Processor shall only Process Personal Data in accordance with Data Controller's Instructions and to the extent necessary for providing the Subscription Service and the Professional Services, each as described in the Agreement. Data Controller acknowledges that all Personal Data it instructs Data Processor to Process for the purpose of providing the Professional Services must be limited to the Customer Data Processed within the Subscription Service.

**2.4 CATEGORIES OF PERSONAL DATA AND CATEGORIES OF DATA SUBJECTS.** Data Controller may submit Personal Data to the Subscription Service as Customer Data, the extent of which is determined and controlled by Data Controller in its sole discretion and is further described in Appendix 1.

## 3. DATA CONTROLLER

**3.1 COMPLIANCE WITH DATA PROTECTION LAWS.** Data Controller shall comply with all of its obligations under Data Protection Laws when Processing Personal Data.

**3.2 SECURITY RISK ASSESSMENT.** Data Controller agrees that in accordance with Data Protection Laws and before submitting any Personal Data to the Subscription Service, Data Controller will perform an appropriate risk assessment to determine whether the security measures within the Subscription Service provide an adequate level of security, taking into account the nature, scope, context and purposes of the processing, the risks associated with the Personal Data and the applicable Data Protection Laws. Data Processor shall provide Data Controller reasonable assistance by providing Data Controller with information requested by Data Controller to conduct Data Controller's security risk assessment. Data Controller is solely responsible for determining the adequacy of the security measures within the Subscription Service in relation to the Personal Data Processed. As further described in Section 7.1 (Product Capabilities) of the Data Security Guide, the Subscription Service includes, without limitation, column level encryption functionality and role-based access control, which Data Controller may use in its sole discretion to ensure a level of security appropriate to the risk of the Personal Data. For clarity, Data Controller may influence the scope and the manner of Processing of its Personal Data by its own implementation, configuration (i.e., different types of encryption) and use of the Subscription Service, including any other products or services offered by ServiceNow and third-party integrations.

**3.3 CUSTOMER'S AFFILIATES.** The obligations of Data Processor set forth herein will extend to Customer's Data Controller Affiliates to which Customer provides access to the Subscription Service or whose Personal Data is Processed within the Subscription Service, subject to the following conditions:

**3.3.1. COMPLIANCE.** Customer shall at all times be liable for its Affiliates' compliance with this DPA and all acts and omissions by a Data Controller Affiliate are considered acts and omissions of Customer; and

**3.3.2. CLAIMS.** Customer's Data Controller Affiliates will not bring a claim directly against Data Processor. In the event a Data Controller Affiliate wishes to assert a valid legal action, suit, claim or proceeding against Data Processor (a "**Data Controller Affiliate Claim**"): (i) Customer must bring such Data Controller Affiliate Claim directly against Data Processor on behalf of such Data Controller Affiliate, unless Data Protection Laws require that Data Controller Affiliate be party to such Data Controller Affiliate Claim; and (ii) all Data Controller Affiliate Claims will be considered claims made by Customer and are at all times subject to any aggregate limitation of liability set forth in the Agreement.

**3.3.3. DATA CONTROLLER AFFILIATE ORDERING.** If a Data Controller Affiliate purchased a separate instance of the Subscription Service under the terms of the signed master agreement between ServiceNow and Customer, then such Data Controller Affiliate will be deemed a party to this DPA and shall be treated as Customer under the terms of this DPA.

**3.4 COMMUNICATION.** Unless otherwise provided in this DPA, all requests, notices, cooperation, and communication, including Instructions issued or required under this DPA (collectively, “**Communication**”), must be in writing and between Customer and ServiceNow only and Customer shall inform the applicable Data Controller Affiliate of any Communication from ServiceNow pursuant to this DPA. Customer shall be solely responsible for ensuring that any Communications (including Instructions) it provides to ServiceNow relating to Personal Data for which a Customer Affiliate is Data Controller reflect the relevant Customer Affiliate’s intentions.

## 4. DATA PROCESSOR

**4.1 DATA CONTROLLER’S INSTRUCTIONS.** Data Processor will have no liability for any harm or damages resulting from Data Processor’s compliance with Instructions received from Data Controller. Where Data Processor believes that compliance with Data Controller’s Instructions could result in a violation of Data Protection Laws or is not in the ordinary course of Data Processor’s obligations in operating the Subscription Service or delivering Professional Services, Data Processor shall promptly notify Data Controller thereof. Data Controller acknowledges that Data Processor is reliant on Data Controller’s representations regarding the extent to which Data Controller is entitled to Process Personal Data.

**4.2 DATA PROCESSOR PERSONNEL.** Access to Personal Data by Data Processor will be limited to personnel who require such access to perform Data Processor’s obligations under the Agreement and who are bound by obligations to maintain the confidentiality of such Personal Data at least as protective as those set forth herein and in the Agreement.

**4.3 DATA SECURITY MEASURES.** Without prejudice to Data Controller’s security risk assessment obligations under Section 3.2 (Security Risk Assessment) above, Data Processor shall maintain appropriate technical and organizational safeguards to protect the security, confidentiality, and integrity of Customer Data, including any Personal Data contained therein, as described in Section 2 (Physical, Technical, and Administrative Security Measures) of the Data Security Guide. Such measures are designed to protect Customer Data from loss, alteration, unauthorized access, acquisition, use, disclosure, or accidental or unlawful destruction, and include:

**4.3.1. SERVICE ACCESS CONTROL.** The Subscription Service provides user and role-based access controls. Data Controller is responsible for configuring such access controls within its instance.

**4.3.2. LOGGING AND MONITORING.** The production infrastructure log activities are centrally collected and are secured in an effort to prevent tampering and are monitored for anomalies by a trained security team.

**4.3.3. DATA SEPARATION.** Customer Data shall be maintained within a logical single-tenant architecture on multi-tenant cloud infrastructure that is logically and physically separate from ServiceNow’s corporate infrastructure.

**4.3.4. SERVICE CONTINUITY.** The production database servers are replicated in near real time to a mirrored data center in a different geographic region.

**4.3.5. TESTING.** Data Processor regularly tests, assess and evaluates the effectiveness of its information security program and may periodically review and update such program to address new and evolving security technologies, changes to industry standard practices, and changing security threats.

**4.4 DELETION OF PERSONAL DATA.** Upon termination or expiration of the Agreement, Data Processor shall return and delete Customer Data, including Personal Data contained therein, as described in the Agreement.

**4.5 DATA CENTERS.** Data Processor will host Data Controller’s instances of the Subscription Service in data centers located in the geographic regions specified on the Order Form, Use Authorization, or other signed ordering document between ServiceNow and Customer.

**4.6 DATA PROTECTION IMPACT ASSESSMENTS (DPIA).** Data Processor will, on request, provide Data Controller with reasonable information required to fulfill Data Controller's obligations under GDPR to carry out data protection impact assessments, if any, for Processing of Personal Data within the Subscription Service.

**4.7 PRIOR CONSULTATION.** Data Processor shall provide reasonable assistance (at Data Controller's expense) in connection with any prior consultation Data Controller is required to undertake with a supervisory authority under Data Protection Laws with respect to Processing of Personal Data in the Subscription Service.

**4.8 DATA PROCESSOR ASSISTANCE.** Data Processor will assist Data Controller in ensuring compliance with Data Controller's obligations pursuant to Articles 32 to 36 of GDPR taking into account the nature of Processing by providing Data Controller with reasonable information requested pursuant to the terms of this DPA, including information required to conduct Data Controller's security risk assessment and respond to Data Subject Requests (defined below). For clarity, Data Controller is solely responsible for carrying out its obligations under GDPR and this DPA. Data Processor shall not undertake any task that can be performed by Data Controller.

**4.9 DATA PROTECTION CONTACT.** ServiceNow and its Sub-Processor Affiliates (defined below) will maintain a dedicated data protection team to respond to data protection inquiries throughout the duration of this DPA and can be contacted at [privacy@servicenow.com](mailto:privacy@servicenow.com).

## 5. REQUESTS MADE FROM DATA SUBJECTS AND AUTHORITIES

**5.1 REQUESTS FROM DATA SUBJECTS.** During the Subscription Term, Data Processor shall provide Data Controller with the ability to access, correct, rectify, erase, or block Personal Data, or to transfer or port such Personal Data, within the Subscription Service, as may be required under Data Protection Laws (collectively, "**Data Subject Requests**").

**5.2 RESPONSES.** Data Controller will be solely responsible for responding to any Data Subject Requests, provided that Data Processor shall reasonably cooperate with the Data Controller to respond to Data Subject Requests to the extent Data Controller is unable to fulfill such Data Subject Requests using the functionality in the Subscription Service. Data Processor will instruct the Data Subject to contact the Customer in the event Data Processor receives a Data Subject Request directly.

**5.3 REQUESTS FROM AUTHORITIES.** In the case of a notice, audit, inquiry, or investigation by a government body, data protection authority, or law enforcement agency regarding the Processing of Personal Data, Data Processor shall promptly notify Data Controller unless prohibited by applicable law. Data Controller shall keep records of the Personal Data Processed by Data Processor and shall cooperate and provide all necessary information to Data Processor in the event Data Processor is required to produce such information to a data protection authority.

**5.4 COOPERATION WITH SUPERVISORY AUTHORITIES.** In accordance with Data Protection Laws, Data Controller and Data Processor shall cooperate, on request, with a supervisory authority in the performance of such supervisory authority's task.

## 6. BREACH NOTIFICATION

**6.1 NOTIFICATION.** Data Processor will report to Data Controller any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to Customer Data ("**Breach**") that it becomes aware of without undue delay following determination by ServiceNow that a Breach has occurred.

**6.2 REPORT.** The initial report will be made to Data Controller's security or privacy contact(s) designated in ServiceNow's customer support portal (or if no such contact(s) are designated, to the primary contact designated by Customer). As information is collected or otherwise becomes available, Data Processor shall provide without undue delay any further information regarding the nature and consequences of the Breach to allow Data Controller to notify relevant parties, including affected Data Subjects, government agencies and data protection authorities in accordance with Data Protection Laws. The report will include the name and contact information of the Data Processor contact from whom additional information may be obtained. Data Processor shall inform Customer of the measures that it will adopt to mitigate the cause of the Breach and to prevent future Breaches.

**6.3 DATA CONTROLLER OBLIGATIONS.** Data Controller will cooperate with Data Processor in maintaining accurate contact information in the customer support portal and by providing any information that is reasonably

requested to resolve any security incident, including any Breaches, identify its root cause(s), and prevent a recurrence. Data Controller is solely responsible for determining whether to notify the relevant supervisory or regulatory authorities and impacted Data Subjects and for providing such notice.

## 7. CUSTOMER MONITORING RIGHTS

**7.1 REMOTE SELF-ASSESSMENTS.** Data Processor shall enable remote self-serve assessments of its Security Program (as defined in the Data Security Guide) by granting Data Controller, at all times and at no additional costs, access to the Data Processor self-access documentation portal ("**ServiceNow CORE**"). The information available on ServiceNow CORE will include documentation evidencing Data Processor's policies, procedures and security measures, as well as copies of the certifications and attestations listed in Section 7.2 (Audit) below.

**7.2 AUDIT.** No more than once per year and upon written request by Data Controller, Customer shall have the right directly or through its representative(s) (provided however, that such representative(s) shall enter into written obligations of confidentiality directly with Data Processor), to access all reasonable and industry recognized documentation evidencing Data Processor's policies and procedures governing the security of Customer Data ("**Audit**"). Such Audit shall include a written summary report of any assessment performed by an independent third-party of Data Processor's information security management system supporting the Subscription Service against the objectives stated in ISO 27001, ISO 27018, SSAE 18 / SOC 1 and SOC 2 Type 2 (or equivalent or successor standards). Data Processor reserves the right to refuse to provide Customer (or its representatives) with any information which would pose a security risk to Data Processor or its customers, or which Data Processor is prohibited to provide or disclose under applicable law or contractual obligation.

**7.3 OUTPUT.** Upon completion of the Audit, Data Processor and Customer may schedule a mutually convenient time to discuss the output of the Audit. Data Processor may in its sole discretion, consistent with industry and Data Processor's standards and practices, make commercially reasonable efforts to implement Customer's suggested improvements noted in the Audit to improve Data Processor's Security Program. The Audit and the results derived therefrom are Confidential Information of Data Processor.

**7.4 DATA CONTROLLER EXPENSES.** Any expenses incurred by Data Controller in connection with the Audit shall be borne exclusively by Data Controller.

## 8. SUB-PROCESSORS

**8.1 USE OF SUB-PROCESSORS.** Data Controller authorizes Data Processor to engage Sub-Processors appointed in accordance with this Section 8 to support the provision of the Subscription Service and to deliver Professional Services as described in the Agreement.

**8.1.1. SERVICENOW AFFILIATES.** As of the Effective Date, Data Processor engages, as applicable, the following ServiceNow Affiliates as Sub-Processors: ServiceNow, Inc. (USA), ServiceNow Nederland B.V. (the Netherlands), ServiceNow Australia Pty Ltd (Australia), ServiceNow Software Development India Private Limited (India), ServiceNow UK Ltd. (United Kingdom), ServiceNow Ireland Limited (Ireland), and ServiceNow Japan K.K. (Japan) (collectively, "**Sub-Processor Affiliates**"). Data Processor will notify Data Controller of changes regarding such Sub-Processor Affiliates through Data Processor's customer support portal (or other mechanism used to notify its general customer base). Each Sub-Processor Affiliate shall comply with the obligations of the Agreement in the Processing of the Personal Data.

**8.1.2. NEW SUB-PROCESSORS.** Prior to Data Processor or a Data Processor Affiliate engaging a Sub-Processor, Data Processor shall: **(a)** notify Data Controller by email to Customer's designated contact(s) or by notification within the customer support portal (or other mechanism used to notify its customer base); and **(b)** ensure that such Sub-Processor has entered into a written agreement with Data Processor (or the relevant Data Processor Affiliate) requiring that the Sub-Processor abide by terms no less protective than those provided in this DPA. Upon written request by Data Controller, Data Processor shall make a summary of the data processing terms available to Data Controller. Data Controller may request in writing reasonable additional information with respect to Sub-Processor's ability to perform the relevant Processing activities in accordance with this DPA.

**8.2 RIGHT TO OBJECT.** Data Controller may object to Data Processor's proposed use of a new Sub-Processor by notifying Data Processor within 10 days after receipt of Data Processor's notice if Data Controller reasonably determines that such Sub-Processor is unable to Process Personal Data in accordance with the terms of this DPA ("**Controller Objection Notice**"). Data Processor shall notify Data Controller within 30 days from receipt of the Controller Objection Notice if Data Processor intends to provide the applicable Professional Service or Subscription Service with the use of the Sub-Processor at issue, and Customer may terminate the applicable Order Form(s), Use Authorization(s) or other signed ordering document between ServiceNow and Customer with respect to the Professional Service or Subscription Service that require use of the Sub-Processor at issue upon written notice to ServiceNow within 45 days of the date of Controller Objection Notice and, as Customer's sole and exclusive remedy, ServiceNow will refund to Customer any unused prepaid fees.

**8.3 LIABILITY.** Use of a Sub-Processor will not relieve, waive, or diminish any obligation Data Processor has under the Agreement, and Data Processor is liable for the acts and omissions of any Sub-Processor to the same extent as if the acts or omissions were performed by Data Processor.

## 9. INTERNATIONAL DATA TRANSFERS

**9.1 STANDARD CONTRACTUAL CLAUSES AND ADEQUACY.** Where required under Data Protection Laws, Data Processor or Data Processor's Affiliates shall require Sub-Processors to abide by **(a)** the Standard Contractual Clauses for Data Processors established in third countries; or **(b)** another lawful mechanism for the transfer of Personal Data as approved by the European Commission.

**9.2 PRIVACY SHIELD.** ServiceNow, Inc. shall comply with the EU-U.S. and Swiss-U.S. Privacy Shield Framework set forth by the United States Department of Commerce with respect to the Processing of Personal Data transferred from the European Economic Area and Switzerland to the United States.

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## APPENDIX 1 DETAILS OF PROCESSING

### Nature and Purpose of Processing

Data Processor will Process Personal Data as required to provide the Subscription Service and Professional Services and in accordance with the Agreement.

### Duration of Processing

Data Processor will Process Personal Data for the duration of the Agreement and in accordance with Section 4 (Data Processor) of this DPA.

### Data Subjects

Data Controller may submit Personal Data to the Subscription Service, the extent of which is solely determined by Data Controller, and may include Personal Data relating to the following categories of Data Subjects:

- clients and other business contacts;
- employees and contractors;
- subcontractors and agents; and
- consultants and partners.

### Categories of Personal Data

Data Controller may submit Personal Data to the Subscription Service, the extent of which is solely determined by Data Controller, and may include the following categories:

- communication data (e.g. telephone, email);
- business and personal contact details; and
- other Personal Data submitted to the Subscription Service.

### Special Categories of Personal Data

Data Controller may submit Special Categories of Personal Data to the Subscription Service, the extent of which is solely determined by Data Controller in compliance with Data Protection Law, and may include the following categories, if any:

- racial or ethnic origin;
- political opinions;
- religious or philosophical beliefs;
- trade union membership;
- genetic data or biometric data;
- health information; and
- sex life or sexual orientation.

### Processing Operations

The personal data transferred will be subject to the following basic processing activities:

- All activities necessary for the performance of the Agreement.

## EXHIBIT A.5 - DATA SECURITY GUIDE

This Data Security Guide forms a part of the Agreement and describes the measures ServiceNow takes to protect Customer Data.

In the event of any conflict between the terms of this Data Security Guide and the terms of the Agreement with respect to the subject matter herein, this Data Security Guide shall control. All capitalized terms not defined in this Data Security Guide will have the meaning given to them in other parts of the Agreement.

### 1. SECURITY PROGRAM

While providing the Subscription Service, ServiceNow will maintain a written information security program of policies, procedures and controls governing the processing, storage, transmission and security of Customer Data (the “**Security Program**”). The Security Program includes industry-standard practices designed to protect Customer Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access. ServiceNow regularly tests, assesses, and evaluates the effectiveness of the Security Program and may periodically review and update the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, although no such update will materially reduce the commitments, protections or overall level of service provided to Customer as described herein.

### 2. PHYSICAL, TECHNICAL, AND ADMINISTRATIVE SECURITY MEASURES

#### 2.1 PHYSICAL SECURITY MEASURES.

**2.1.1. Data Center Facilities.** (a) Physical access restrictions and monitoring that may include a combination of any of the following: multi-zone security, man-traps, appropriate perimeter deterrents (e.g. fencing, berms, guarded gates), on-site guards, biometric controls, CCTV, and secure cages; and (b) fire detection and fire suppression systems both localized and throughout the data center floor.

**2.1.2. SYSTEMS, MACHINES AND DEVICES.** (a) Physical protection mechanisms; and (b) entry controls to limit physical access.

**2.1.3. MEDIA.** (a) Industry standard destruction of sensitive materials before disposition of media; (b) secure safe for storing damaged hard disks prior to physical destruction; and (c) physical destruction of all decommissioned hard disks storing Customer Data.

#### 2.2 TECHNICAL SECURITY MEASURES.

**2.2.1. ACCESS ADMINISTRATION.** Access to the Subscription Service by ServiceNow employees and contractors is protected by authentication and authorization mechanisms. User authentication is required to gain access to production and sub-production instances. Access privileges are based on job requirements and are revoked upon termination of employment or consulting relationships. Production infrastructure includes appropriate user account and password controls (e.g., the required use of VPN connections, complex passwords with expiration dates, and a two-factored authenticated connection) and is accessible for administration.

**2.2.2. SERVICE ACCESS CONTROL.** The Subscription Service provides user and role-based access controls. Customer is responsible for configuring such access controls within its instance.

**2.2.3. LOGGING AND MONITORING.** The production infrastructure log activities are centrally collected and are secured in an effort to prevent tampering and are monitored for anomalies by a trained security team.

**2.2.4. FIREWALL SYSTEM.** An industry-standard firewall is installed and managed to protect ServiceNow systems by residing on the network to inspect all ingress connections routed to the ServiceNow environment.

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

**2.2.6. ANTIVIRUS.** ServiceNow updates antivirus, anti-malware, and anti-spyware software on regular intervals and centrally logs events for effectiveness of such software.

**2.2.7. CHANGE CONTROL.** ServiceNow ensures that changes to platform, applications, and production infrastructure are evaluated to minimize risk and are implemented following ServiceNow's standard operating procedure.

**2.2.8. DATA SEPARATION.** Customer Data shall be maintained within a logical single-tenant architecture on multi-tenant cloud infrastructure that is logically and physically separate from ServiceNow's corporate infrastructure.

### **2.3 ADMINISTRATIVE SECURITY MEASURES.**

**2.3.1. DATA CENTER INSPECTIONS.** ServiceNow performs routine reviews at each data center to ensure that it continues to maintain the security controls necessary to comply with the Security Program.

**2.3.2. PERSONNEL SECURITY.** ServiceNow performs background screening on all employees and all contractors who have access to Customer Data in accordance with ServiceNow's then-current applicable standard operating procedure and subject to Law.

**2.3.3. SECURITY AWARENESS AND TRAINING.** ServiceNow maintains a security awareness program that includes appropriate training of ServiceNow personnel on the Security Program. Training is conducted at time of hire and periodically throughout employment at ServiceNow.

**2.3.4. VENDOR RISK MANAGEMENT.** ServiceNow maintains a vendor risk management program that assesses all vendors that access, store, process, or transmit Customer Data for appropriate security controls and business disciplines.

## **3. SERVICE CONTINUITY**

**3.1 DATA MANAGEMENT; DATA BACKUP.** ServiceNow will host Customer's access to and use of purchased instances of the Subscription Service in a pair of data centers that attained SSAE 18 Type 2 attestations or have ISO 27001 certifications (or equivalent or successor attestations) acting in an active/active capacity for the Subscription Term. Each data center includes full redundancy (N+1) and fault tolerant infrastructure for electrical, cooling and network systems. The deployed servers are enterprise scale servers with redundant power to ensure maximum uptime and service availability. The production database servers are replicated in near real time to a mirrored data center in a different geographic region. Each Customer instance is supported by a network configuration with multiple connections to the Internet. ServiceNow backs up all Customer Data in accordance with ServiceNow's standard operating procedure.

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

## **4. CERTIFICATIONS AND AUDITS**

**4.1 CERTIFICATIONS AND ATTESTATIONS.** ServiceNow shall establish and maintain sufficient controls to meet the objectives stated in ISO 27001, ISO 27018, SSAE 18 / SOC 1 and SOC 2 Type 2 (or equivalent standards) (collectively, the "**Standards**") for the information security management system supporting the Subscription Service. At least once per calendar year, ServiceNow shall obtain an assessment against such Standards by an independent third-party auditor.

### **4.2 CUSTOMER MONITORING RIGHTS.**

**4.2.1. REMOTE SELF ASSESSMENTS.** ServiceNow shall enable remote self-serve assessments of its Security Program by granting Customer, at all times and at no additional costs, access to the ServiceNow self-access documentation portal ("**ServiceNow CORE**"). The information available on ServiceNow CORE will include documentation evidencing ServiceNow's policies, procedures and security measures, as well as copies of the certifications and attestations listed in Section 4.2.2 (Audit) below.

**4.2.2. AUDIT.** No more than once per year and upon written request by Customer, Customer shall have the right directly or through its representative(s) (provided however, that such representative(s) shall enter into written

obligations of confidentiality directly with ServiceNow), to access all reasonable and industry recognized documentation evidencing ServiceNow's policies and procedures governing the security of Customer Data ("**Audit**"). Such Audit shall include a written summary report of any assessment performed by an independent third-party of ServiceNow's information security management system supporting the Subscription Service against the objectives stated in ISO 27001, ISO 27018, SSAE 18 / SOC 1 and SOC 2 Type 2 (or equivalent or successor attestations). ServiceNow reserves the right to refuse to provide Customer (or its representatives) with any information which would pose a security risk to ServiceNow or its customers, or which ServiceNow is prohibited to provide or disclose under Law or contractual obligation.

**4.2.3. OUTPUT.** Upon completion of the Audit, ServiceNow and Customer may schedule a mutually convenient time to discuss the output of the Audit. ServiceNow may in its sole discretion, consistent with industry and ServiceNow's standards and practices, make commercially reasonable efforts to implement Customer's suggested improvements noted in the Audit to improve ServiceNow's Security Program. The Audit and the results derived therefrom are Confidential Information of ServiceNow.

**4.2.4. CUSTOMER EXPENSES.** Any expenses incurred by Customer in connection with the Audit shall be borne exclusively by Customer.

## 5. MONITORING AND INCIDENT MANAGEMENT

### 5.1 MONITORING, MANAGEMENT AND NOTIFICATION.

**5.1.1. INCIDENT MONITORING AND MANAGEMENT.** ServiceNow will monitor, analyze, and respond to security incidents in a timely manner in accordance with ServiceNow's standard operating procedure. ServiceNow's security group will escalate and engage response teams as may be necessary to address an incident.

**5.1.2. BREACH NOTIFICATION.** ServiceNow will report to Customer any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Data (a "**Breach**") without undue delay following determination by ServiceNow that a Breach has occurred.

**5.1.3. REPORT.** The initial report will be made to Customer security or privacy contact(s) designated in ServiceNow's customer support portal (or if no such contact(s) are designated, to the primary contact designated by Customer). As information is collected or otherwise becomes available, ServiceNow shall provide without undue delay any further information regarding the nature and consequences of the Breach to allow Customer to notify relevant parties, including affected Data Subjects, government agencies, and data protection authorities in accordance with Data Protection Laws. The report will include the name and contact information of the ServiceNow contact from whom additional information may be obtained. ServiceNow shall inform Customer of the measures that it will adopt to mitigate the cause of the Breach and to prevent future Breaches.

**5.1.4. CUSTOMER OBLIGATIONS.** Customer will cooperate with ServiceNow in maintaining accurate contact information in the customer support portal and by providing any information that is reasonably requested to resolve any security incident, including any Breaches, identify its root cause(s), and prevent a recurrence. Customer is solely responsible for determining whether to notify the relevant supervisory or regulatory authorities and impacted Data Subjects and for providing such notice.

**5.2 USE OF AGGREGATE DATA.** ServiceNow may collect, use, and disclose quantitative data derived from Customer's use of the Subscription Service for industry analysis, benchmarking, analytics, marketing, and other business purposes in support of the provision of the Subscription Service. Any such data will be in aggregate form only and will not contain Customer Data.

**5.3 COOKIES.** When providing the Subscription Service, ServiceNow uses cookies to: **(a)** track session state; **(b)** route a browser request to a specific node when multiple nodes are assigned; and **(c)** recognize a user upon returning to the Subscription Service. Customer shall be responsible for providing notice to, and collecting any necessary consents from, its authorized users of the Subscription Service for ServiceNow's use of cookies.

## 6. PENETRATION TESTS

**6.1 BY A THIRD-PARTY.** ServiceNow contracts with third-party vendors to perform a penetration test on the ServiceNow application per family release to identify risks and remediation that help increase security.

**6.2 BY CUSTOMER.** No more than once per calendar year Customer may request to perform, at its own expense, an application penetration test of a sub-production instance of the Subscription Service. Customer shall notify ServiceNow in advance of any test by submitting a request to schedule an application penetration test using ServiceNow's customer support portal per ServiceNow's then-current penetration testing policy and procedure, including entering into ServiceNow's penetration test agreement. ServiceNow and Customer must agree on a mutually acceptable time for the test; and Customer shall not perform a penetration test without ServiceNow's express written authorization. The test must be of reasonable duration, but in no event longer than 14 days and must not interfere with ServiceNow's day-to-day operations. Promptly on completion of the penetration test, Customer shall provide ServiceNow with the test results including any detected vulnerability. Upon such notice, ServiceNow shall, consistent with industry-standard practices, use all commercially reasonable efforts to promptly make any necessary changes to improve the security of the Subscription Service. Customer shall treat the test results as Confidential Information of ServiceNow subject to the confidentiality requirements in the Agreement.

## 7. SHARING THE SECURITY RESPONSIBILITY

**7.1 PRODUCT CAPABILITIES.** The Subscription Service has the capabilities to: **(a)** authenticate users before access; **(b)** encrypt passwords; **(c)** allow users to manage passwords; and **(d)** prevent access by users with an inactive account. Customer manages each user's access to and use of the Subscription Service by assigning to each user a credential and user type that controls the level of access to the Subscription Service. Customer shall be responsible for implementing encryption and access control functionalities available within the Subscription Service for protecting all Customer Data containing sensitive data, including credit card numbers, social security and other government-issued identification numbers, financial and health information, Personal Data, and any Personal Data deemed sensitive or "special categories of personal data" under Data Protection Laws. Customer is solely responsible for its decision not to encrypt such data and ServiceNow will have no liability to the extent that damages would have been mitigated by Customer's use of such encryption measures. Customer is responsible for protecting the confidentiality of each user's login and password and managing each user's access to the Subscription Service.

**7.2 CUSTOMER COOPERATION.** Customer shall promptly apply any Upgrade or Update that ServiceNow determines is necessary to maintain the security, performance, or availability of the Subscription Service.

**7.3 LIMITATIONS.** Notwithstanding anything to the contrary in this Data Security Guide or other parts of the Agreement, ServiceNow's obligations extend only to those systems, networks, network devices, facilities, and components over which ServiceNow exercises control. This Data Security Guide does not apply to: **(a)** information shared with ServiceNow that is not Customer Data; **(b)** data in Customer's VPN or a third-party network; **(c)** any data processed by Customer or its users in violation of the Agreement or this Data Security Guide; or **(iv)** Integrated Products. For the purposes of this Data Security Guide, "**Integrated Products**" shall mean ServiceNow-provided integrations to third-party products or any other third-party products that are used by Customer in connection with the Subscription Service. Customer agrees that its use of such Integrated Products will be: **(i)** in compliance with all Laws, including but not limited to, Data Protection Laws; and **(ii)** in accordance with its contractual agreement with the provider of such Integrated Products. Any Personal Data populated from the Integrated Products to the Subscription Service must be collected, used, disclosed and, if applicable, internationally transferred in accordance with Customer's privacy policy, which will adhere to Data Protection Laws.