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**TULSA COUNTY**  

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**PURCHASING  
DEPARTMENT**

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# MEMO

DATE: NOVEMBER 16, 2016

FROM: LINDA R. DORRELL  
PURCHASING DIRECTOR 

TO: BOARD OF COUNTY COMMISSIONERS

SUBJECT: MASTER SUBSCRIPTION SERVICE AGREEMENT—SERVICENOW, INC.

SUBMITTED FOR YOUR APPROVAL AND EXECUTION IS THE ATTACHED MASTER SUBSCRIPTION SERVICE AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS ON BEHALF OF THE TULSA COUNTY INFORMATION TECHNOLOGY AND SERVICENOW, INC. FOR THE SUBSCRIPTION SERVICE GUIDE DETAILED IN THE ATTACHED DOCUMENTATION.

RESPECTFULLY SUBMITTED FOR YOUR APPROVAL AND EXECUTION.

LRD/arh

ORIGINAL: PAT KEY, COUNTY CLERK, FOR THE NOVEMBER 21, 2016 AGENDA.

COPIES: COMMISSIONER JOHN M. SMALIGO  
COMMISSIONER KAREN KEITH  
COMMISSIONER RON PETERS  
MICHAEL WILLIS, CHIEF DEPUTY  
VICKI ADAMS, CHIEF DEPUTY  
DAN PEASE, DIRECTOR, INFORMATION TECHNOLOGY

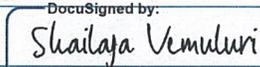
**MASTER SUBSCRIPTION SERVICE AGREEMENT**

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

The Subscription Service Guide includes: (1) the Customer Support Policy; (2) the Upgrade Policy; (3) the Data Security Guide; and (4) any other attachment set forth or referenced in the Subscription Service Guide. The Subscription Service Guide is attached hereto and incorporated herein by reference.

Pursuant to a separate transaction between Customer and ServiceNow's authorized reseller ("**Reseller**"), Customer has purchased from Reseller certain services to be delivered by ServiceNow. This Agreement specifies the terms and conditions under which those services will be provided, apart from price, payment and other terms specified in the separate agreement between Customer and Reseller.

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

<b>Customer's official name:</b>	<b>ServiceNow, Inc.</b>
<b>Individual signing:</b> (print name)	<b>Individual signing:</b> Shailaja Vemuluri (print name)
<b>Signature:</b>	<b>Signature:</b> 
<b>Title:</b>	<b>Title:</b> 25BE59AB4D48477... Sr Manager, Revenue
<b>Signing date:</b>	<b>Effective Date:</b> November 11, 2016
<b>Customer address for notice:</b>	<b>ServiceNow address for notice:</b>  ServiceNow, Inc. 3260 Jay Street Santa Clara, CA 95054  Attn: General Counsel cc: <a href="mailto:legalnotices@servicenow.com">legalnotices@servicenow.com</a>

**1. DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2. GRANT OF USE RIGHTS

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

2.2. SOFTWARE. ServiceNow grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable (except as set forth in Section 10.1 (Assignment)), non-exclusive license during the Subscription

Term to install and execute Software on machines operated by or for Customer solely to facilitate Customer's authorized access to and use of the purchased Subscription Service. The Software may include code that is licensed under third party license agreements, including open source made available or provided with the Software. Software is licensed and not sold even if for convenience ServiceNow makes reference to words such as *sale* or *purchase*.

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

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

### 3. ORDERING

**3.1. RESELLER ORDERS.** Customer shall order and purchase the Subscription Service and Professional Services directly from Reseller pursuant to a separate agreement specifying price, payment and other commercial terms. ServiceNow is not a party to such separate agreement but will provide the purchased services pursuant to this Agreement. For each order, Reseller or ServiceNow will provide Customer with a Use Authorization for Customer to sign and return to ServiceNow. ServiceNow will have no obligation to provide services unless and until it has received a Use Authorization signed by Customer. Reseller is not authorized to make any changes to this Agreement (including any Use Authorizations issued hereunder) or bind ServiceNow to any additional or different terms or conditions. Additional orders for ServiceNow products or services may be placed either through Reseller or ServiceNow, provided that if Customer places an order directly through

ServiceNow, Customer shall sign an addendum to this Agreement setting forth pricing, payment and other commercial terms between Customer and ServiceNow.

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

#### 4. INTELLECTUAL PROPERTY

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

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

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

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

#### 5. WARRANTIES

**5.1. LIMITED SUBSCRIPTION SERVICE WARRANTY.** ServiceNow warrants that during the Subscription Term Customer's production instances of the Subscription Service shall materially conform to the Product Overview. To submit a warranty claim under this Section, Customer shall (1) reference this Section; and (2) submit a support request to resolve the non-conformity as provided in the Subscription Service Guide. If the

non-conformity persists without relief more than thirty (30) days after written notice of a warranty claim provided to ServiceNow under this Section 5.1, then Customer may terminate the affected Subscription Service and submit to Reseller a claim for refund of any prepaid subscription fees covering the remainder of the Subscription Term of the affected Subscription Service after the date of termination. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than ServiceNow or a person acting at ServiceNow's direction. THIS SECTION 5.1 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

**5.2. 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 shall notify ServiceNow in writing of any breach within thirty (30) days after performance of the non-conforming Professional Services. Upon receipt of such notice, ServiceNow, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services, in which case Customer may submit to Reseller a claim for a refund of any amounts paid for the nonconforming Professional Services. THIS SECTION 5.2 SETS FORTH CUSTOMER'S EXCLUSIVE RIGHTS AND REMEDIES (AND SERVICENOW'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

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

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

## 6. CONFIDENTIAL INFORMATION

**6.1. CONFIDENTIALITY OBLIGATIONS.** The recipient of Confidential Information shall: (i) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event using less than reasonable care; and (ii) not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party shall limit the disclosure of the other party's Confidential Information to those of its employees and contractors with a need to access such Confidential Information for a party's exercise of its rights and obligations under this Agreement, provided that all such employees and contractors are subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each party's obligations set forth in this Section 6 shall remain in effect during the term and three (3) years after termination of this Agreement. The receiving party shall, at the disclosing party's request or upon termination of this Agreement, return all originals, copies, reproductions and summaries of Confidential Information and other tangible materials and devices provided to the receiving party as Confidential Information, or at the disclosing party's option, certify destruction of the same. Provisions for the return of Customer Data are set forth in Section 9.3 (Return of Customer Data).

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

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

**7. INDEMNIFICATION**

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

**7.2. RESERVED.**

**7.3. PROCESS.** All of the foregoing indemnity obligations of ServiceNow are conditioned on the indemnified party notifying the indemnifying party promptly in writing of any actual or threatened Claim, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense. SECTION 7 STATES EACH PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR THIRD PARTY CLAIMS AND ACTIONS.

**8. LIMITATIONS OF LIABILITY**

**8.1. LIMITATIONS OF LIABILITY.** SERVICENOW SHALL HAVE NO LIABILITY FOR ANY REFUND THAT, IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, IS TO BE PAID BY RESELLER. TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR

EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) CUSTOMER'S OBLIGATION TO PAY FOR PRODUCTS, SERVICES OR TAXES; (2) A PARTY'S OBLIGATIONS IN SECTION 7 (INDEMNIFICATION); AND (3) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

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

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

## 9. TERM AND TERMINATION

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

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

**9.3. TRANSITION SERVICES.** At least thirty (30) days prior to either the expiration of the Subscription Term (where Customer elects not to renew) or in connection with the termination by Customer of the Subscription Service in accordance with Section 9.1, provided that Customer signs an addendum to this Agreement setting forth payment and other commercial terms between Customer and ServiceNow, Customer may purchase the following services from ServiceNow: (i) one (1) extension of the Subscription Service for up to

six (6) months ("**Transition Subscription Service**"); and (ii) Professional Services. Prior to the commencement of any Transition Subscription Service or Professional Services, Customer shall sign an ordering document and shall pay in advance for the Transition Subscription Service and any Professional Services plus verifiable travel and expenses.

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

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

**10. GENERAL PROVISIONS**

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

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

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

government. In addition, Customer is responsible for complying with any local laws which may impact Customer's right to import, export or use the Subscription Service, Professional Services, Software, Documentation, Development Tools and Deliverables.

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

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

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

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

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

**10.9. ENTIRETY.** This Agreement, together with the Use Authorizations, Product Overviews, SOWs, Service Descriptions, and the Subscription Service Guide (including the Customer Support Policy, the Upgrade Policy and the Data Security Guide), is the final and entire agreement between the parties regarding the products and services provided hereunder and supersedes all prior or contemporaneous oral or written agreements,

representations, understandings, undertakings and negotiations with respect to the subject matter hereof. The terms of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ServiceNow that is not set out in this Agreement. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any verbal or written communication about ServiceNow's future plans. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

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

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

**10.12. GOVERNING LAW; JURISDICTION AND VENUE.** This Agreement shall be governed by the laws of the state of Oklahoma, 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 Tulsa County, Oklahoma, 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.

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

**SUBSCRIPTION SERVICE GUIDE**

**1. SUPPORT**

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

**2. UPGRADES**

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

**3. DATA SECURITY**

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

**4. INSURANCE**

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

- (i) (a) Workers' Compensation Insurance, in accordance with applicable statutory, federal, and other legal requirements and (b) Employers' Liability Insurance covering ServiceNow's employees in an amount of not less than \$1,000,000 for bodily injury by accident, \$1,000,000 policy limit for bodily injury by disease, and \$1,000,000 each employee for bodily injury by disease;
- (ii) Commercial General Liability Insurance written on an occurrence form and including coverage for bodily injury, property damage, products and completed operations, personal injury, advertising injury arising out of the services and/or products provided by ServiceNow under this Agreement with minimum limits of \$1,000,000 per occurrence/\$2,000,000 aggregate;
- (iii) Commercial Automobile Liability Insurance providing coverage for hired and non-owned automobiles used in connection with this Agreement in an amount of not less than \$1,000,000 per accident combined single limit for bodily injury and property damage;
- (iv) Combined Technology Errors' & Omission Policy with a \$5,000,000 per Claim limit, including: (a) Professional Liability Insurance providing coverage for the services and software in this Agreement. Such coverage to be maintained for at least two (2) years after the termination of this Agreement; and (b) Privacy, Security, and Media Liability Insurance providing liability coverage for unauthorized access or disclosure, security breaches or system attacks, as well as infringements of copyright and trademark that might result from this Agreement; and
- (v) Excess Liability over Employers' Liability, Commercial General Liability and Commercial Automobile Liability with a \$5,000,000 aggregate limit.

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

**5. AVAILABILITY SERVICE LEVEL**

**5.1. DEFINITIONS**

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

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

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

**5.2. AVAILABILITY**

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

**5.3. REQUESTS**

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

**CUSTOMER SUPPORT POLICY**

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

**Scope**

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

Customer Support does not include:

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

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

**Business Hours**

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

**Access Contacts**

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

**Incident Priority**

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

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

**Response Times and Level of Effort**

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

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

**Customer Responsibilities**

Customer's obligations are as follows:

- (a) Customer agrees to receive from ServiceNow communications via email, phone or through the Support Portal regarding the Subscription Service.
- (b) Customer shall appoint no more than five (5) contacts ("**Customer Authorized Contacts**") to engage Customer Support for questions and/or technical issues.
  - (i) Only Customer Authorized Contacts are authorized to contact Customer Support.
  - (ii) Customer must ensure the information for these contacts is current in the Support Portal at <https://hi.service-now.com/>.
  - (iii) Customer Authorized Contacts are trained on the use and administration of the Subscription Service.
- (c) Customer shall cooperate to enable ServiceNow to deliver the Subscription Service and support for the service.
- (d) Customer is solely responsible for the use of the Subscription Service by its authorized users.

**Support Resources**

- ServiceNow Website (<http://www.servicenow.com/services/overview.html>)
- ServiceNow Community (<https://community.servicenow.com/welcome>)
- Release Notes ([http://wiki.service-now.com/index.php?title=Main\\_Page](http://wiki.service-now.com/index.php?title=Main_Page))
- Product Documentation ([http://wiki.service-now.com/index.php?title=Main\\_Page](http://wiki.service-now.com/index.php?title=Main_Page))
- Knowledge Base ([https://hi.service-now.com/hav\\_to.do?uri=kb\\_home.do](https://hi.service-now.com/hav_to.do?uri=kb_home.do))
- Support Community (<https://community.servicenow.com/community/support>)

**UPGRADE POLICY**

**1. UPGRADES**

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

**2. NOTICE; MAINTENANCE DOWNTIME**

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

**3. NOMENCLATURE**

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

**4. PINNING REQUESTS**

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

**5. SUPPORTED AND NON-SUPPORTED RELEASE FAMILIES**

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

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

**6. REQUIRED UPGRADES**

If Customer has requested "no Upgrade" it may nevertheless be required to Upgrade if in the reasonable

judgment of ServiceNow the Upgrade is necessary to maintain the availability, security or performance of the Subscription Service or the ability of ServiceNow to efficiently provide the Subscription Service, as follows:

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

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

**7. EXCEPTIONS**

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

**DATA SECURITY GUIDE**

**Security Statement of an Enterprise IT Cloud Company**

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

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

**1. SECURITY PROGRAM**

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

**2. CERTIFICATIONS AND ATTESTATIONS**

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

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

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

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

**3.1. Physical Security Measures**

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

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

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

**3.2. Technical Security Measures**

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

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

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

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

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

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

**3.3. Administrative Security Measures**

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

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

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

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

**4. DATA PROTECTION AND SERVICE CONTINUITY**

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

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

**5. INCIDENT MANAGEMENT AND BREACH NOTIFICATION**

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

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

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

**6. DATA PROCESSING GUIDELINES; COMPLIANCE WITH LAWS**

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

**6.2. ServiceNow as Data Processor.** ServiceNow shall process or otherwise use Personal Data (including possible onward transfers) on behalf of Customer solely for the purpose of providing the services described in the Agreement and only in accordance with Customer's lawful instructions (limited to those instructions which ServiceNow can reasonably carry out in the provision of the Subscription Service), the terms of the Agreement, and this Data Security Guide. ServiceNow shall ensure that those employees to whom it grants

access to such Personal Data are directed to keep such Personal Data confidential and are informed of any additional data protection obligations applicable to such Personal Data. ServiceNow shall, to the extent legally permitted, promptly notify Customer with respect to any request or communication ServiceNow receives from any regulatory authority in relation to any data processing activities ServiceNow conducts on behalf of Customer. In addition, ServiceNow will cooperate and assist Customer, at Customer's cost, in relation to any such request and to any response to any such communication. ServiceNow will pass on to the Customer any requests of a Data Subject to access, delete, correct, or block Personal Data processed under the Agreement. If ServiceNow is compelled by law to disclose Customer's information as part of a civil proceeding to which Customer is a party, and Customer is not contesting the disclosure, Customer will reimburse ServiceNow for its reasonable cost of compiling and providing secure access to that information.

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

**7. PENETRATION TESTS**

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

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

**8. SHARING THE SECURITY RESPONSIBILITY**

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

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

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

**8.4. Limitations.** Notwithstanding anything to the contrary in the Agreement or this Data Security Guide, ServiceNow's obligations extend only to those systems, networks, network devices, facilities and components over which ServiceNow exercises control. This Data Security Guide does not apply to: (i) information

shared with ServiceNow that is not data stored in its systems using the Subscription Service; (ii) data in Customer's virtual private network (VPN) or a third party network; or (iii) any data processed by Customer or its users in violation of the Agreement or this Data Security Guide.

## Use Authorization Form



ServiceNow, Inc.  
2225 Lawson Lane  
Santa Clara, CA 95054

**Use Authorization Number**  
UAN0571739-1

**End Customer Address:**

Company Name	Tulsa County Board of County Commissioners on behalf of Tulsa County IT
Address	500 S Denver Ave
Suite	
City	Tulsa
State/Province	OK - Oklahoma
Zip/Postal Code	74103-3838
Country	United States
Website	http://www.tulsacounty.org
Business Contact	Joe Lord
Title	Operations Manager
Phone	9185965248
E-Mail	JLORD@TULSACOUNTY.ORG

**Reseller:**

Company Name	Carahsoft Technology Corp
Order Number #	ORD0571739-1
Date order issued to reseller	
Level1 Support Provider	ServiceNow

Product Code	Subscription Product Name	Type	Units	Subscription Term	Start Date	End Date
PROD00588	ServiceNow® Express	Fulfiller User	30	12 Months	4 Oct 2016	3 Oct 2017

Professional Services	Units of Measure	Quantity
ServiceNow® Express Remote Services - 10 hours	Packaged Services	3
ServiceNow® Express - Essentials	Packaged Services	1

**Hosting Details:**

ServiceNow # of Instances:	1 Production 4TB Storage Limit		
Instance Names:	tulsacounty		
Customer ServiceNow Admin:	Beau Blackford	E-mail:	BBLACKFORD@TULSACOUNTY.ORG
Data Center Region:	North America		

**Terms and Conditions**

ENTIRE AGREEMENT. This Use Authorization is issued under and governed by the terms of that certain Master Subscription Service Agreement, executed by the parties in November 2016, with the reference number(s) set forth above ("Agreement"). End Customer shall limit the types and number of ServiceNow applications, users and their permitted functions, and other use restrictions to those specified in this Use Authorization.

## Professional Services

Reseller shall reimburse ServiceNow for all authorized and verifiable travel expenses incurred during the performance of the professional services, training and other services. ServiceNow agrees to keep commercially reasonable records of all expenses to support claims for reimbursement from Reseller. All fees and expenses shall be invoiced to Reseller within sixty (60) days from of the date the fees and expenses were incurred.

The above packaged services are described in the applicable Service Description and offered subject to the Master Ordering Agreement at <http://www.servicenow.com/schedules.html>, which is incorporated herein by reference.

## Product Overview

The ServiceNow Product Overview containing descriptions of the ServiceNow applications and platform services included in the Subscription Products as described in the attached ServiceNow Order Form Product and Use Definitions is posted on <http://www.servicenow.com/content/dam/servicenow/other-documents/schedules/product-overview-express.pdf>

## ORDERING - USAGE AMOUNT

### USER TYPE DEFINITIONS

**"User"** means any employee or contractor of Customer. Each User must be assigned a unique username and password that may not be shared or transferred. Only employees and contractors that have a user profile in the subscription service which is designated as "active" may be given access to the subscription service.

**"Requester"** is any User without a role. A Requester may perform only the functions defined in the table below for Requester.

**"Fulfiller"** is any User given a role in the subscription service by Customer. A Fulfiller may only perform the functions set forth in the table below for Fulfiller.

FUNCTION	USER TYPES	
	REQUESTER	FULLFILLER
USER ROLE(S) DEFINED IN SERVICE	None	Any role
Create its own request	Included	Included
View its own request	Included	Included
Modify its own request	Included	Included
Search the Service Catalog	Included	Included
Search the Knowledge Base	Included	Included
Access public pages	Included	Included
Take surveys	Included	Included
Set its own notification preferences	Included	Included
View assets assigned to User	Included	Included
Access and post to Live Feed	Included	Included
Approve requests routed to User	-	Included
Create any record	-	Included
Delete any record	-	Included
Modify any record	-	Included
View any report	-	Included
Create any report	-	Included

Delete any report	-	Included
Modify any report	-	Included
Perform administrative activities	-	Included

**ENABLING REQUIREMENTS AND RESTRICTIONS**

Customer shall restrict its use of the subscription service as specified in the order form and this product overview, including without limitation to its ordered product types and usage amounts. Creation of new applications on the ServiceNow platform requires separate authorization.

Customer shall not access the subscription service to develop or use a competing product or service to the subscription service.

Customer must separately purchase any third party application that it uses with the subscription service. Support is not included for third party applications.

In its sole discretion, ServiceNow may add additional functionality as enhancements to the subscription service at no additional fee, or as one or more separate applications for an additional fee.

## PRODUCT DESCRIPTIONS

SUBSCRIPTION PRODUCTS	
Subscription Product Code/Name	Included ServiceNow Applications and Use Rights
PROD00588 ServiceNow® Express - Fulfiller User	Express includes the following applications: Incident Management, Problem Management, Change Management, Configuration Management, and Request Management.  Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.

**ACKNOWLEDGED AND AGREED:**

**End Customer: Tulsa County Board of County Commissioners on behalf of Tulsa County IT**

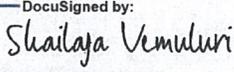
**ServiceNow, Inc.**

Signature:

Name:

Title:

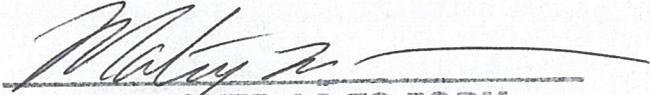
Date:

Signature: 
DocuSigned by:  
  
25BE59AB4D48477

Name: Shailaja Vemuluri

Title: Sr Manager, Revenue

Date: November 8, 2016


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**APPROVED AS TO FORM  
ASSISTANT DISTRICT ATTORNEY**