

GENERAL TERMS AND CONDITIONS

1. PRODUCT AND SERVICES

Subject to this Agreement, ServiceNow will make available the purchased ServiceNow subscription product ("**Product**") and professional services ("**Services**"). Customer's purchases are not contingent on the delivery of any future functionality or features regardless of any verbal or written communication about ServiceNow's product plans.

2. ORDERING TERMS

2.1. **ORDER FORM.** Each Order Form is an ordering document signed by the parties which may contain: the subscription fee; the number and type of permitted users, servers and other use requirements; the period of authorized use ("**Subscription Term**"); the description of Services which may incorporate one or more statements of work ("**SOWs**") for Services; and other ordering terms ("**Order Form**").

2.2. **PAYMENT.** Customer shall pay fees and other amounts as stated on the Order Form. Orders are final when placed and non-cancellable and non-refundable. Any undisputed amounts not paid when due bear interest at a rate of 1.5% per month or the legal maximum, whichever is less, and ServiceNow may suspend use of the Product after giving 14-business days notice for undisputed amounts more than 30-days past due.

2.3. **TAXES.** All payments required by this Agreement are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies and similar assessments. Customer agrees to bear and be responsible for the payment of all taxes, duties, tariffs, levies, fees and charges of any kind, including sales, use, excise or value added taxes, and all other similar charges (collectively, "**Taxes**") which are imposed on transactions under this Agreement by or under the authority of any government body, excluding Taxes based upon ServiceNow's net income. Customer shall make all payments required without deduction of any Taxes, except as required by law, in which case the amount payable shall be increased as necessary so that after making any required deductions and withholdings, ServiceNow receives and retains (free from any liability for payment of Taxes) an amount equal to the amount it would have received had no such deductions or withholdings been made. If Customer is a tax-exempt entity or claims exemption from any Taxes under this Agreement, Customer shall provide a certificate of exemption upon execution of this Agreement and, after receipt of valid evidence of exemption, ServiceNow shall not charge Customer any Taxes from which it is exempt.

3. TERM AND TERMINATION

3.1. **TERM AND TERMINATION.** This Agreement commences on the Effective Date and continues until terminated. Each Party may terminate: (i) this Agreement in its entirety or with respect to any individual Product or Service for material breach without liability with 30-days prior written notice to the other Party, if the complaining party informs the other party of the nature of the breach in its notice to terminate and the breach remains uncured for that 30-day period; or (ii) this Agreement if the other party becomes the subject of a petition in bankruptcy or any proceeding related to its insolvency, receivership, liquidation that is not dismissed within 60-days of its commencement or an assignment for the benefit of creditors.

3.2. **EFFECT OF TERMINATION.** Upon any termination of this Agreement: (i) Customer will cease using the Product; (ii) Customer shall pay any unpaid Product subscription fees under all Order Forms covering the Subscription Term prior to the effective date of termination; (iii) for cause by Customer, ServiceNow shall refund to Customer any prepaid Product subscription fees covering the remainder of the Subscription Term under all Order Forms after the effective date of termination; (iv) for cause by ServiceNow, Customer shall pay any unpaid Product subscription fees covering the remainder of the Subscription Term under all Order Forms after the effective date of termination; and (v) Sections 3, 5, 6.2, 6.3, 7, and 8 of this Agreement shall survive.

3.3. **INDEPENDENT ORDERS.** The expiration or termination of this Agreement with respect to any individual Product or Service for whatever reason does not terminate this Agreement in its entirety nor terminate the parties' duties and obligations with respect to other Products and Services. A breach of this Agreement with respect to any particular Product or Service does not, by itself, constitute a breach of the entire Agreement or of the breaching party's obligations with respect to other Products or Services.

4. WARRANTIES

The warranties for Product and Services are set forth in the applicable product or service guide incorporated into this Agreement. They may be found at <http://www.service-now.com/schedules.do> if not attached to this Agreement. EXCEPT FOR THE WARRANTIES STATED IN THIS AGREEMENT, SERVICENOW MAKES NO REPRESENTATION, EXPRESS,

STATUTORY OR IMPLIED, AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY OR ACCURACY OF THE PRODUCT OR ANY RELATED PRODUCT OR SERVICE. WITHOUT LIMITING THE FOREGOING, SERVICENOW MAKES NO WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

5. CONFIDENTIALITY AND NON-USE

5.1. **CONFIDENTIAL INFORMATION.** Confidential information means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure: including, without limitation, each party's respective business plans and processes; financial and employee data; proprietary technology and product information and designs; the Product; data submitted by Customer to the Product ("**Customer Data**"); and the terms of the Agreement. Without limitation, ServiceNow's prices and discounts are its Confidential Information. Without limitation, Customer Data is Customer's Confidential Information. Confidential Information excludes information that: (i) is or becomes generally known to the public; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation to the Disclosing Party; (iii) is received from a third party without breach of any obligation to the Disclosing Party; (iv) was independently developed by the Receiving Party; or (v) is Product usage metrics in an aggregate form and not attributable to the Disclosing Party. Customer agrees that ServiceNow may use its name in promotional materials and discussions regarding ServiceNow's customer accounts.

5.2. **PROTECTION.** The Receiving Party shall (i) not disclose and use the same degree of care to protect the Disclosing Party's Confidential Information against unauthorized disclosure that it uses to protect its own Confidential Information (but in no event less than reasonable care); and (ii) not use Confidential Information except to the extent necessary under this Agreement. To the extent necessary under this Agreement, each party may disclose the Confidential Information of the other party to employees or subcontractors who are bound by written obligations of confidentiality and non-disclosure at least as protective as those set forth herein. In the event of a court order or government regulation compelling disclosure of any Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt written notice thereof, and shall reasonably cooperate with the other party to seek confidential or other protective treatment. Each party's obligations set forth in this Section 5 shall remain in effect after termination of the Agreement for 3 years. Each party will promptly return to the other party all Confidential Information of the other party in its possession or control upon request from the Disclosing Party.

6. INDEMNIFICATION

6.1. **CLAIMS.** ServiceNow shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand ("**Claim**") alleging that the Product as used in accordance with this Agreement infringes any valid and issued patent, copyright, or trademark of a third party; and (ii) pay any court-ordered award of damages or settlement amount, and reasonable attorney fees, arising from such Claim. If any portion of the Product becomes the subject of an infringement Claim, ServiceNow may: (a) obtain permission for Customer's continued use of the Product; (b) replace or modify the Product to avoid infringement, such update or replacement having substantially similar capabilities; or, if the foregoing (a) and (b) are not available on commercially reasonable terms, (c) terminate Customer's use of the affected Product upon 30-days' written notice and refund the pro rata portion of prepaid Product subscription fees covering the remainder of the Subscription Term after the date of termination. The term "**Product**" includes Software and Documentation as defined in the **Product Guide**.

6.2. **LIMITATIONS.** Notwithstanding the above, ServiceNow shall have no liability for any Claim to the extent arising from: (i) any use of the Product which exceeds the scope of the subscription granted to Customer or due to the content of Customer Data; (ii) use of the Product by Customer not in compliance with laws; (iii) use of the Product after ServiceNow notifies Customer to discontinue use; or (iv) modifications to the Product or use of the Product in combination with any software, application or service made or provided other than by ServiceNow.

6.3. **CUSTOMER OBLIGATION.** Customer shall: (i) defend ServiceNow, its officers, directors and employees against any third party Claim alleging that the Customer Data infringes any valid and issued patent, copyright, or trademark of a third party; and (ii) pay any court-ordered award of damages or settlement amount, and reasonable attorney fees, arising from such Claim.

6.4. **PROCESS.** The foregoing indemnity obligations 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 6 STATES THE EACH PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR THIRD PARTY INFRINGEMENT CLAIMS AND ACTIONS.

7. LIMITATIONS OF LIABILITY

7.1. CUSTOMER RESULTS. Customer assumes sole responsibility for results obtained from use of the Product or Services.

7.2. EXCLUSIONS. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO EACH OTHER OR ANYONE FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR REVENUE OR LOSS OF USE OR DATA, COSTS OF COVER, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES, OR INDIRECT DAMAGES OF ANY TYPE OR KIND HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL CAUSE OF ACTION AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.3. LIMITATIONS ON DIRECT DAMAGES. The maximum liability of either party whatsoever arising out of or in connection with the Agreement whether such liability arises from any claim based on breach of contract, breach of warranty, negligence, tort, or otherwise, shall in no case exceed the aggregate of 12 months in fees received by ServiceNow and/or due from Customer immediately preceding the event giving rise to such claim.

7.4. EXCEPTIONS. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION SHALL NOT APPLY TO EACH PARTY'S INDEMNITY OBLIGATIONS SET FORTH IN SECTION 6 OF THIS AGREEMENT, DEATH OR PERSONAL INJURY CAUSED BY EITHER PARTY, FRAUD OR FRAUDULENT MISREPRESENTATION.

8. GENERAL PROVISIONS

8.1. ASSIGNMENT. Neither party may assign its rights or obligations, whether by operation of law or otherwise, without the prior written consent of the other party, not to be unreasonably withheld. Notwithstanding the foregoing, either party, in connection with a merger, reorganization, or sale of all or substantially all of the assets or equity of such party, may assign this Agreement in its entirety to such party's successor without the other party's consent. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

8.2. GOVERNING LAW. This Agreement shall be governed by California law if Customer is located in Canada, United States or Mexico, and the laws of England if Customer is located elsewhere, without regard to the Uniform Computer Information Transactions Act ("**Applicable Law**"). Choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods will not apply. If Customer is located in Canada, United States or Mexico, the parties agree to jurisdiction and venue for claims or actions arising under this Agreement in the state or federal courts located in San Jose, California, USA. If Customer is located elsewhere, then any dispute arising under this Agreement shall be finally settled by binding arbitration in London, England. Such arbitration shall be conducted in English in accordance with the rules of the International Chamber of Commerce by one (1) arbitrator appointed in accordance with such rules. The arbitrator shall allow such discovery as is appropriate in accomplishing a fair, speedy, and cost-effective resolution of the dispute, and shall be expressly empowered to issue appropriate injunctive relief. The award of arbitration shall be final and binding upon both parties, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Any monetary award shall be payable in United States dollars. The prevailing party in an action to enforce this Agreement shall be entitled to costs and attorneys' and experts' fees and expenses. Notwithstanding the foregoing, either Party may also seek and obtain appropriate relief in any court of competent jurisdiction for claims regarding either party's intellectual property rights and Confidential Information.

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

If to the Customer: To the address set forth on the applicable Order Form.

If to ServiceNow: Legal Counsel, 4810 Eastgate Mall, Suite 100, San Diego, CA 92121, with copy for all notices to: legalnotices@service-now.com.

8.4. 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.

8.5. EXPORT COMPLIANCE. Each party shall comply with United States and foreign export control laws and regulations. Neither party shall distribute or supply or allow access to the Product to any person or entity if there is reason to believe that such person or entity intends to export or re-export or otherwise use the Product in violation of applicable export control laws and regulations.

8.6. 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 (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control. The party suffering a Force Majeure Event shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

8.7. ENTIRE AGREEMENT. This Agreement, together with the referenced and/or attached documents and Order Form(s), is the entire agreement of the parties regarding the subject matter of this Agreement, and supersedes all prior or contemporaneous oral or written agreements, representations and negotiations. For any conflict between this Agreement and any referenced and/or attached documents or Order Form(s), this Agreement shall govern unless such referenced and/or attached document, SOW, or Order Form is signed by both parties and expresses an intent to override the terms of the Agreement. Any purchase order submitted by Customer is for Customer's internal purposes and its terms and conditions are superseded and replaced by this Agreement, and the purchase order terms and conditions have no force or effect. Any modification must be in writing and signed by authorized representatives of the parties. A waiver of any right is only effective if it is in writing and only to the party addressed and for the circumstances given. If any provision is determined by a court or arbitrator in accordance with Section 8.2 to be illegal or unenforceable, its invalidity shall not affect the other provisions that can be given effect without the invalid provision. If any provision does not comply with any law, ordinance or regulation, to the extent possible it shall be interpreted to comply with such law, ordinance or regulation, or, if not possible, struck and the Agreement construed in accordance with the remaining provisions of the Agreement.