

**City and County of San Francisco  
Office of Contract Administration  
Purchasing Division  
City Hall, Room 430  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102-4685**

**RESELLER AGREEMENT  
BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND**

**Carahsoft Technology Corp.  
Agreement No. 1000026636**

This Agreement is made this 1st day of December, 2022, in the City and County of San Francisco ("City), State of California, by and between Carahsoft Technology Corp. ("Contractor" or "Reseller") and the City and County of San Francisco.

**Recitals**

WHEREAS, the City through its Department of Technology ("Department" or "DT") wishes to procure a variety of ServiceNow software and services through an Enterprise Agreement with a certified ServiceNow Value-Added Reseller; and

WHEREAS, Reseller will manage renewal of maintenance and support for the City's Licensed Software, will ensure that certain products and services are hosted in the continental United States; and will procure additional products and services ordered by the City under the agreed upon terms and pricing; and

WHEREAS, the Office of Contract Administration has approved the Department of Technology's sole source waiver request OCAWVR0005958 on May 9, 2022; and

WHEREAS, Reseller represents and warrants that it is qualified to sell such software licenses, software as a service, maintenance/support and related services and as set forth under this Agreement; and

WHEREAS, there is no Local Business Entity ("LBE") subcontracting participation requirement for this Agreement; and

Now, THEREFORE, the parties agree as follows:

**Article 1 Definitions**

The following definitions apply to this Agreement:

1.1 "Agreement" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements specifically incorporated into this Agreement by reference as provided herein.

1.2 "Authorization or Authorization Document" means a Blanket Purchase Order, Contract Order, or Purchase Order of the City, properly executed, and certified by the Controller for the specific funding of this Agreement or any modification thereof.

1.3 "Authorized User" means Any End User authorized by City to access and utilize products and/or services that are to the subject of this Agreement, including any City employee, contractor, or agent, or any other individual or entity authorized by City.

1.4 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through both its Department of Technology and/or the Office of Contract Administration, hereinafter referred to as "Purchasing."

1.5 "City Portal" means an electronic gateway to a secure entry point via Contractor and/or Supplier's Website that allows City and its Authorized Users to log in to an area where they can view and download information or request assistance regarding the products and/or services that are to the subject of this Agreement.

1.6 "CMD" means the Contract Monitoring Division of the City.

1.7 "Confidential Information" means confidential City information including, but not limited to, personally-identifiable information ("PII"), protected health information ("PHI"), or individual financial information (collectively, "Proprietary or Confidential Information") that is subject to local, state or federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164); and San Francisco Administrative Code Chapter 12M (Chapter 12M). Confidential Information includes, without limitation, City Data.

1.8 "Contractor" means Carahsoft. Wherever "Contractor," "Value-Added Reseller" or "Reseller" appears in the Agreement, it shall be construed to mean Contractor or Carahsoft.

1.9 "Contractor Account or Project Manager" means the individual specified by Contractor as the Account Manager authorized to administer this Agreement on Contractor's behalf.

1.10 "Customer Data" means electronic data pertaining to City or its agents, employees, or contractors, and processed using the Software, excluding ServiceNow Core Technology.

1.11 "Data Breach" means any access, destruction, loss, theft, use, modification or disclosure of City Data by an unauthorized party or that is in violation of the Agreement terms and/or applicable local, state or federal law.

1.12 "Data Center(s)" means a physical location within the United States where the Contractor (or its subcontractor) houses and operates the hardware (including computer servers, routers, and other related equipment) on which Contractor hosts on the Internet the SaaS Application and City Data pursuant to this Agreement.

1.13 "Deliverables" means the work product resulting from the products and services provided by Contractor/Supplier to City during the course of Contractor/Supplier's performance of the Agreement.

1.14 "Deliverable Data" means Project Data that is identified in the Appendices and required to be delivered to the City.

1.15 "Disabling Code" means computer instructions or programs, subroutines, code, instructions, data or functions (including but not limited to viruses, worms, date bombs or time bombs), including but not limited to other programs, data storage, computer libraries and programs that self-replicate without manual intervention, instructions programmed to activate at a predetermined time or upon a specified event, and/or programs purporting to do a meaningful function but designed for a different function, that alter, destroy, inhibit, damage, interrupt, interfere with or hinder the operation of the City's access to the SaaS Services through the Contractor/Supplier's Website and/or Authorized User's processing environment, the system in which it resides, or any other software or data on such system or any other system with which it is capable of communicating.

1.16 "Documentation" means the technical publications relating to the use of the products and/or services that are to the subject of this Agreement, such as reference, installation, administrative and programmer manuals.

1.17 "Effective Date" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

1.18 "Errors, Defects and Malfunctions" means either a deviation between the function of the products and/or services that are to the subject of this Agreement and the Documentation furnished by Contractor/Supplier for the products and/or services that are to the subject of this Agreement, or a failure of these which degrades the use of the Software.

1.19 "Internet" means that certain global network of computers and devices commonly referred to as the "internet," including, without limitation, the World Wide Web.

1.20 "Licensed Software" of "Software" means one or more of the proprietary computer programs identified the Authorization Document, all related materials, Documentation, all corrections, patches or updates thereto, and other written information received by City from Contractor, whether in machine-readable or printed form. The Authorization Document may identify more than one software product or more than one copy of any product. All Software, revisions and versions provided by Contractor shall be subject to the terms and conditions of this Agreement, including any amendments thereto.

1.21 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws, which impose specific duties and obligations upon Contractor.

1.22 "Party" and "Parties" mean the City and Contractor either collectively or individually.

1.23 "Personally Identifiable Information (PII)" means any information about an individual, including information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked to an individual, such as medical, educational, financial, and employment information.

1.24 "PAAS" means platform as a service.

1.25 "Precedence" means notwithstanding the terms of any other document executed by the Parties as a part of this Agreement, the terms of this Agreement shall control over any discrepancy, inconsistency, gap, ambiguity, or conflicting terms set forth in any other pre-printed document by Contractor including the Appendices.

1.26 "Programs" or "Software" means the software developed by Supplier and delivered to City, in the form of machine-executable instructions, to operate on the Equipment for purposes of accomplishing the functional capabilities set forth in Program Specifications.

1.27 "Project Schedule" means the schedule for Supplier's completion of all phases of Work, and the Critical Milestones associated with such completion as specified in this Agreement.

1.28 "Reseller" means "means Carahsoft. Wherever "Contractor," or "Reseller" appears in the Agreement, it shall be construed to mean Carahsoft.

1.29 "SaaS" means software as a service.

1.30 "SaaS Application/SaaS Software" means the licensed and hosted computer program and associated documentation, as listed in this Agreement and Appendices, and any modification or Upgrades or modifications to the program(s), residing in Supplier and/or Contractor's servers that provides the SaaS Services that may be accessed by Authorized Users through the Internet.

1.31 "SaaS Maintenance Services" means the activities to investigate, resolve SaaS Application and Services issues and correct product bugs arising from the use of the SaaS Application and Services in a manner consistent with the published specifications and functional requirements defined during implementation.

1.32 "SaaS Services" means the Services performed by Supplier and/or Contractor to host the SaaS Application to provide the functionality listed in the Documentation.

1.33 "Services" means the work performed by Contractor/Supplier under this Agreement including, without limitation, SaaS Maintenance and Support Services, storage, simulation and testing services, training, benefits, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

1.34 "Successor Service Provider" means a new service provider, if any, selected by City in the event the SaaS Services are terminated under this Agreement.

1.35 "Supplier" means ServiceNow.

1.36 "Supplier Terms and Conditions" means the terms and conditions contained in Appendices A through D.

1.37 "Supplier's Website" means the website that provides Authorized User access to the products and/or services that are to the subject of this Agreement.

1.38 "Support Services" means the Software support service required under this Agreement. Support Services include correcting a Software Error, Defect or Malfunction; providing telephone and/or online support concerning the installation and use of the Software, detection, warning and correction of viruses; and disabled/Disabling Code.

1.39 "Transition Services" means that assistance reasonably requested by City to affect the orderly transition of the products and/or services that are the subject matter of this Agreement, in whole or in part, to City or to Successor Service Provider.

1.40 "Upgrade" means either an enhancement to the products and/or services that are the subject matter of this Agreement to add new features or functions to the system or software programming Revisions containing corrections to Errors, Defects and Malfunctions.

1.41 “Value Added Reseller” means a company that buys products and/or services that are the subject matter of this Agreement, improves it in some way (“adds value”), and then resells it, used interchangeably.

## **Article 2 Term of the Agreement**

2.1 **Term of the Agreement.** The term of this Agreement shall commence on September 1, 2022 and expire on August 31, 2025, unless earlier terminated as otherwise provided herein. Contractor shall not begin performance of its obligations under this Agreement until it receives written notice from City that it may do so, which notice shall be in accordance with Section 3.1 "Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation". The written notice shall clearly identify the goods and/or services that will be rendered pursuant to it.

2.2 **Options to Renew.** The City has two (2) options to renew the Agreement for a period of two (2) years' each. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

## **Article 3 Financial Matters**

3.1 **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.** This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3.2 **Guaranteed Maximum Costs.** The City's payment obligation to Contractor cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Contractor under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

### **3.3 Compensation.**

3.3.1 **Payment.** Contractor shall provide an invoice to the City on a monthly basis for Products, Services and/or Licensed Software completed in the immediately preceding month, unless a different schedule is set out in Appendix E, "Calculation of Charges."

Compensation shall be made for Products, Services and/or Licensed Software identified in the invoice that the Director of the Department of Technology, or her designee, in his or her sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed 9,847,096 [nine million, eight hundred forty-seven thousand and ninety-six dollars]. The breakdown of charges and payment terms associated with this Agreement appears in Appendix E, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. In no event shall City be liable for interest or late charges for any late payments.

**3.3.2 Payment Limited to Satisfactory Services.** Contractor is not entitled to any payments from City until the Director of the Department of Technology approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Contractor by City shall not excuse Contractor/Supplier from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and Services that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay at no cost to the City.

**3.3.3 Withhold Payments.** If Contractor fails to provide Services in accordance with Contractor's obligations under this Agreement, the City may withhold any and all payments due Contractor until such failure to perform is cured, and Contractor shall not stop work as a result of City's withholding of payments as provided herein. Except as expressly permitted in Section 3.1, if the City is in default on its payment obligations, Contractor shall be able to stop or suspend work without being deemed in breach of the Agreement.

**3.3.4 Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City as specified in 3.3.6 or in such alternate manner as the Parties have mutually agreed upon in writing.

**3.3.5 Reserved. (LBE Payment and Utilization Tracking System).**

**3.3.6 Getting Paid by the City for Products and/or Services.**

(a) All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through the City's Automated Clearing House (ACH) payments service/provider. Electronic payments are processed every business day and are safe and secure. To sign up for electronic payments, visit [www.sfgov.org/ach](http://www.sfgov.org/ach).

(b) The following information is required to sign up: (i) The enroller must be their company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

**3.4 Reserved (Grant Funded Contracts).**

**3.5 Payment Terms.**

**3.5.1 Payment Due Date.** Unless City notifies the Contractor that a dispute exists, Payment shall be made within thirty calendar days, measured from (1) the delivery of goods and/or the rendering of services or (2) the date of receipt of the invoice, whichever is later. Payment is deemed to be made on the date on which City has issued a check to Contractor or, if Contractor has agreed to electronic payment, the date on which City has posted electronic payment to Contractor.

**3.5.2 Reserved (Payment Discount Terms).**

**3.6 Audit and Inspection of Records.** Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

**3.7 Submitting False Claims.** The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

**3.8 Reserved. (Payment of Prevailing Wages).**

**3.9 Most Favored Customer Notice.** For the duration of the Agreement, Contractor agrees to give the City notice if Contractor becomes aware of better rates, term, conditions, and equal deal size offered by Supplier to a similarly situated public customer of Contractor. Provided Supplier has authorized Carahsoft to offer similar rates, term, conditions, and equal deal size, Contractor agrees City will receive rates for a substantially similar service or equipment, offered under substantially similar terms and conditions that are lower than the rates provided in this Agreement when the volume of business from the other customer is equal to or less than the volume of business the City receives under this Agreement and to provide the same lower rate for the substantially similar product and service to the City. At the end of each contract year, an executive level officer of Contractor shall certify in writing to the City that the Contractor has complied with this provision.

## **Article 4 Services and Resources**

**4.1 Services Contractor Agrees to Perform.** Contractor is a Value Added Reseller/ Supplier of Supplier's products and services. During the term on this Agreement, Contractor will ensure that certain products and services listed in Appendix E are hosted in the continental United States; and will procure additional Supplier products and services ordered by the City under the terms and pricing in Appendix E. The complete products and/or services that are the subject matter of this Agreement are listed in Appendix E. Officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Services beyond the Scope of Services listed in this Agreement unless this Agreement is modified as provided in Section 11.5, "Modification of this Agreement." At ordering, City will formally request from Contractor, and verify with Supplier, that Supplier includes instances in US Data Center or FedRAMP to meet this requirement.

**4.2 Products and Services to be Provided under this Agreement.** The Supplier products and services that may be purchased through Contractor fall into the following categories.

**4.2.1 Licensed Software, SaaS, PAAS, and IASS and Subscription Based Software.** Subject to City's payment of fees to Reseller as set forth in Appendix E, "Calculation of Charges," Reseller shall, for the term of this Agreement, procure and pass through to the City for its use, the software licenses, SaaS, PAAS, IASS and subscription-based software specified in Appendix E and the ordering documents. Reseller's procurement of said licenses shall be further subject and pursuant to the Supplier Terms and Conditions attached hereto as Appendices A through D.

**4.2.2 Management of Supplier Products and Services.** Subject to City's payment of fees to Reseller as set forth in Appendix E, "Calculation of Charges," Reseller shall, for the term of this Agreement provide management of Supplier Licenses, which include, but are not limited, to tracking renewal of maintenance and Support Services, providing pricing optimization by unbundling products in order to provide the best pricing to the City; assisting the City in the removal of unused licenses, products and services that are no longer utilized by the City.

**4.3 Qualified Personnel.** Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. All personnel, including those assigned at City's request, and must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the Project Schedule specified in this Agreement.

**4.4 Reserved (Subcontracting).**

**4.5 Independent Contractor; Payment of Employment Taxes and Other Expenses.**

**4.5.1 Independent Contractor.** For the purposes of this Section 4.5, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits



that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five (5) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

**4.5.2 Payment of Employment Taxes and Other Expenses.** Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability). A determination of employment status pursuant to this Section 4.4 shall be solely limited to the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, Contractor agrees to indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

**4.6 Assignment.** The Services to be performed by Contractor are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Contractor, or, where the Contractor is a joint venture, a joint venture partner, (collectively referred to as an "Assignment") unless first approved by City by written instrument executed and approved in the same manner as this Agreement in accordance with the Administrative Code. The City's approval of any such Assignment is subject to the Contractor demonstrating to City's reasonable satisfaction that the proposed transferee is: (i) reputable and capable, financially and otherwise,

of performing each of Contractor's obligations under this Agreement and any other documents to be assigned, (ii) not forbidden by applicable law from transacting business or entering into contracts with City; and (iii) subject to the jurisdiction of the courts of the State of California. A change of ownership or control of Contractor or a sale or transfer of substantially all of the assets of Contractor shall be deemed an Assignment for purposes of this Agreement. Contractor shall immediately notify City about any Assignment. Any purported Assignment made in violation of this provision shall be null and void.

4.7 **Reserved (Service Warranty).**

4.8 **Reserved (Liquidated Damages).**

## **Article 5 Insurance and Indemnity**

### **5.1 Insurance.**

**5.1.1 Required Coverages.** Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(b) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(c) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable, and

(d) Technology Errors and Omissions Liability coverage, with limits of \$5,000,000 each occurrence and each loss. The policy shall at a minimum cover professional misconduct or lack of the requisite skill required for the performance of services defined in the contract and shall also provide coverage for the following risks:

(i) Network security liability arising from the unauthorized access to, use of, or tampering with computers or computer systems, including hacker attacks; and

(ii) Liability arising from the introduction of any form of malicious software including computer viruses into, or otherwise causing damage to the City's or third person's computer, computer system, network, or similar computer related property and the data, software, and programs thereon.

(e) Contractor shall maintain in force during the full life of the agreement Cyber and Privacy Insurance with limits of not less than \$5,000,000 per occurrence. Such insurance shall include coverage for liability arising from theft, dissemination, and/or use of confidential information, including but not limited to, bank and credit card account information or personal information, such as name, address, social security numbers, protected health information or other personally identifying information, stored or transmitted in electronic form.

5.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

5.1.3 All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.4 Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

5.1.5 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

5.1.6 Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

5.1.7 Before commencing any Services, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Contractor's liability hereunder.

5.1.8 The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

5.1.9 If Contractor will use any subcontractor(s) to provide Services, Contractor shall require the subcontractor(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Contractor as additional insureds.

5.1.10 **Reserved.**

5.2 **Indemnification.** Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, state,

or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors, or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

**5.2.2 Infringement Indemnification.** If notified promptly in writing of any judicial action brought against City based on an allegation that City's use of products and/or services that are the subject of this agreement infringes a patent, copyright, or any right of a third-party or constitutes misuse or misappropriation of a trade secret or any other right in intellectual property (Infringement), Contractor will hold City harmless and defend such action at its own expense. Contractor will pay the costs and damages awarded in any such action or the cost of settling such action, provided that Contractor shall have sole control of the defense of any such action and all negotiations or its settlement or compromise, provided, however, that Contractor shall not agree to any injunctive relief or settlement that obligates the City to perform any obligation, make an admission of guilt, fault or culpability or incur any expense, without City's prior written consent, which shall not be unreasonably withheld or delayed. If notified promptly in writing of any informal claim (other than a judicial action) brought against City based on an allegation that City's use of the products and/or services that are the subject of this agreement constitutes Infringement, Contractor will pay the costs associated with resolving such claim and will pay the settlement amount (if any), provided that Contractor shall have sole control of the resolution of any such claim and all negotiations for its settlement. In the event a final injunction is obtained against City's use of the products and/or services that are the subject of this agreement by reason of Infringement, or in Contractor's opinion City's use of the products and/or services that are the subject of this agreement is likely to become the subject of Infringement, Contractor may at its option and expense: (a) procure for City the right to continue to use the products and/or services

that are the subject of this agreement as contemplated hereunder, (b) replace the products and/or services that are the subject of this agreement with a non-infringing, functionally equivalent substitute products and/or services that are the subject of this agreement, or (c) suitably modify the products and/or services that are the subject of this agreement to make its use hereunder non-infringing while retaining functional equivalency to the unmodified version of the products and/or services that are the subject of this agreement. If none of these options is reasonably available to Contractor, then the applicable Authorization Document or relevant part of such Authorization Document may be terminated at the option of either Party hereto and Contractor shall refund to City all amounts paid under this Agreement for the license of such infringing products and/or services that are the subject of this agreement. Any unauthorized modification or attempted modification of the products and/or services that are the subject of this agreement by City or any failure by City to implement any improvements or updates to the products and/or services that are the subject of this agreement, as supplied by Contractor, shall void this indemnity unless City has obtained prior written authorization from Contractor permitting such modification, attempted modification or failure to implement. Contractor shall have no liability for any claim of Infringement based on City's use or combination of the SaaS Application and Services with products or data of the type for which the products and/or services that are the subject of this agreement was neither designed nor intended to be used.

## **Article 6 Liability of the Parties**

**6.1 Liability of City.** CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

**6.2 Liability for Use of Equipment.** City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

**6.3 Liability for Incidental and Consequential Damages.** Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions.

## **Article 7 Payment of Taxes**

**7.1 Contractor to Pay All Taxes.** Except for any applicable California sales and use taxes charged by Contractor to City, Contractor shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Contractor shall remit to the State of California any sales or use taxes paid by City to Contractor under this Agreement. Contractor agrees to promptly provide information requested by the City to verify Contractor's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

## 7.2 **Reserved (Possessory Interest Taxes).**

**7.3 Withholding.** Contractor agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Contractor further acknowledges and agrees that City may withhold any payments due to Contractor under this Agreement if Contractor is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld under this paragraph shall be made to Contractor, without interest, upon Contractor coming back into compliance with its obligations.

## **Article 8 Termination; Disposition of Content; Survival**

**8.1 Termination for Cause and/or Convenience.** City shall have the right, without further obligation or liability to Contractor:

8.1.1 To immediately terminate this Agreement if Contractor commits any breach of this Agreement or default (see Section 8.2 below) and fails to remedy such breach or default within ten (10) days after written notice by City of such breach (10-day cure period), in which event, Contractor shall refund to City all amounts paid under this Agreement for the SaaS Application and/or Services in the same manner as if City ceased to use the SaaS Application and/or Services due to infringement under Section 5.2.2. At City's sole election, the 10-day cure period will **not** apply to termination for data breach and/or breach of confidentiality; or

8.1.2 To terminate this Agreement upon thirty (30) days prior written notice for City's convenience and without cause, provided that except for termination due to an uncured breach as set forth in this Section and in the event of Infringement, City shall not be entitled to a refund of any amounts previously paid under this Agreement.

**8.2** Each of the following shall constitute an immediate event of default ("Event of Default") under this Agreement:

8.2.1 Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

3.5	Submitting False Claims	11.10	Compliance with Laws
4.7	Assignment	10.10	Alcohol and Drug-Free Workplace
Article 5	Insurance; Indemnity and Warranties		
Article 7	Payment of Taxes	Article 13	Data and Security

8.2.2 Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default is not cured within ten (10) days after written notice thereof from City to Contractor. If Contractor defaults a second time in the same manner as a prior default cured by Contractor, City may in its sole discretion immediately terminate the Agreement for default or grant an additional period not to exceed five days for Contractor to cure the default.

8.2.3 Contractor (i) is generally not paying its debts as they become due; (ii) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or

arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property; or (v) takes action for the purpose of any of the foregoing.

8.2.4 A court or government authority enters an order (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of Contractor.

8.2.5 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, where applicable, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Contractor pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City. This Section 8.2.5 shall survive termination of this Agreement.

8.3 **Bankruptcy.** In the event that Contractor shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at City's option this Agreement shall terminate and be of no further force and effect. Upon termination of this Agreement pursuant to this Section, Contractor shall within forty-eight (48) hours return City's Data in an agreed-upon machine readable format. Once Contractor has received written confirmation from City that City's Data has been successfully transferred to City, Contractor shall within thirty (30) calendar days clear, purge or physically destroy all City Data from its hosted servers or files and provide City with written certification within five (5) calendar days that such clear, purge and/or physical destruction has occurred. Secure disposal shall be accomplished by "clearing," "purging" or "physical destruction," in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88 or most current industry standard.

8.4 **Transition Services and Disposition of City Data.** Upon expiration or termination of the SaaS Services under this Agreement:

8.4.1 Contractor may immediately discontinue the SaaS Services and City shall immediately cease accessing the SaaS Application and Services. City controls City data and can export data at any time. Upon written request by City within 45 days after termination or expiration of the Subscription Service, Contractor/Supplier will provide any City Data including

those in tables and associated records, and custom codes & scripts as it relates to the Subscription Services in their respective retrievable/native format and payloads (Digital, platform independent, machine readable). Supplier's obligation to return City Data is set forth in the Supplier Terms and Conditions, in particular Public Sector Subscription Terms of Service, Section 2.2, Protection and Return of Customer Data, attached as Appendix A.

8.4.2 Contractor/Supplier shall provide to City and/or Successor Service Provider assistance requested by City to affect the orderly transition of the SaaS Services, in whole or in part, to City or to Successor Service Provider. Service will be based on an executed Statement of Work between City and Contractor that details what requirements will be fulfilled for a total fee. The transition will be made during the active Subscription term. Such Transition Services shall be provided on a time and materials basis if the City opts to return to its own servers or City chooses a Successor Service Provider. Transition costs may include: (a) developing a plan for the orderly transition of the terminated SaaS Services from Contractor to Successor Service Provider; (b) if required, transferring the City Data to Successor Service Provider; (c) using commercially reasonable efforts to assist City in acquiring any necessary rights to legally and physically access and use any third-party technologies and documentation then being used by Contractor in connection with the Services; (d) using commercially reasonable efforts to make available to City, pursuant to mutually agreeable terms and conditions, any third-party services then being used by Contractor in connection with the SaaS Services; and, (e) such other activities upon which the Parties may agree.

8.5 **Remedies.** All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.6 **Notice of Default.** Any notice of default must be sent by registered mail to the address set forth in Section 11.1, "Notices to the Parties."

8.7 **Non-Waiver of Rights.** The omission by either Party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other Party at the time designated, shall not be a waiver of any such default or right to which the Party is entitled, nor shall it in any way affect the right of the Party to enforce such provisions thereafter.

## 8.8 **Survival**

8.8.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services	8.9	Data Rights
3.3.7(a)	Grant Funded Contracts - Disallowance		
3.4	Audit and Inspection of Records		
3.5	Submitting False Claims	11.6	Dispute Resolution Procedure



4.6	Independent Contractor; Payment of Employment Taxes and Other Expenses	11.7	Agreement Made in California; Venue
Article 5	Insurance; Indemnity and Warranties	11.8	Construction
6.1	Liability of City	11.9	Entire Agreement
6.3	Liability for Incidental and Consequential Damages	11.10	Compliance with Laws
Article 7	Payment of Taxes	11.11	Severability
8.4	Transition Services and Disposition of Content	13.2.1	Proprietary or Confidential Information of City
8.7	Non-Waiver of Rights	13.2.5	Notification of Legal Requests

**8.9 Data Rights.** The City shall have the unrestricted right to use the Deliverable Data and delivered Project Data, including all Preexisting Data provided as a Deliverable under this Agreement.

#### **Article 9 Rights In Deliverables**

**9.1 Reserved (Ownership of Results).**

**9.2 Reserved (Works for Hire).**

#### **Article 10 Additional Requirements Incorporated by Reference**

**10.1 Laws Incorporated by Reference.** The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at [http://www.amlegal.com/codes/client/san-francisco\\_ca/](http://www.amlegal.com/codes/client/san-francisco_ca/) .

**10.2 Conflict of Interest.** By executing this Agreement, Contractor certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*). Contractor further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

**10.3 Prohibition on Use of Public Funds for Political Activity.** In performing its duties and obligations under this Agreement, Contractor shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Contractor is subject to the enforcement and penalty provisions in Chapter 12G.

**10.4 Consideration of Salary History.** Contractor shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." Contractor is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance

of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Contractor is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>. Contractor is required to comply with all of the applicable provisions of 12K, irrespective of the listing of obligations in this Section.

## **10.5 Nondiscrimination Requirements.**

**10.5.1 Non Discrimination in Contracts.** Contractor shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

**10.5.2 Nondiscrimination in the Provision of Employee Benefits.** Contractor does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

## **10.6 Reserved (Local Business Enterprise and Non-Discrimination in Contracting Ordinance).**

**10.7 Minimum Compensation Ordinance.** Contractor shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P, including a minimum hourly gross compensation, compensated time off, and uncompensated time off. Contractor is subject to the enforcement and penalty provisions in Chapter 12P. Information about and the text of the Chapter 12P is available on the web at <http://sfgov.org/olse/mco>. Contractor is required to comply with all of the applicable provisions of 12P, irrespective of the listing of obligations in this Section. By signing and executing this Agreement, Contractor certifies that it complies with Chapter 12P.

**10.8 Health Care Accountability Ordinance.** Contractor shall comply with the requirements of Chapter 12Q. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission. Information about and the text of the Chapter 12Q, as well as the Health Commission's minimum standards, is available on the web at <http://sfgov.org/olse/hcao>. Contractor is subject to the enforcement and penalty provisions in Chapter 12Q. Any Subcontract entered into by Contractor shall require any Subcontractor with 20 or more employees to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section.

**10.9 First Source Hiring Program.** Contractor must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Contractor is subject to the enforcement and penalty provisions in Chapter 83.

**10.10 Alcohol and Drug-Free Workplace.** City reserves the right to deny access to, or require Contractor to remove from, City facilities personnel of any Contractor or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

**10.11 Limitations on Contributions.** By executing this Agreement, Contractor acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

**10.12 Reserved (Slavery Era Disclosure).**

**10.13 Reserved (Working with Minors).**

**10.14 Consideration of Criminal History in Hiring and Employment Decisions.**

10.14.1 Contractor agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. Contractor is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this

Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

10.14.2 The requirements of Chapter 12T shall only apply to a Contractor's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

**10.15 Reserved (Public Access to Nonprofit Records and Meetings).**

**10.16 Reserved (Food Service Waste Reduction Requirements).**

**10.17 Reserved (Distribution of Beverages and Water).**

**10.18 Tropical Hardwood and Virgin Redwood Ban.** Pursuant to San Francisco Environment Code Section 804(b), the City urges Contractor not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

## **Article 11 General Provisions**

**11.1 Notices to the Parties.** Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To City: City and County of San Francisco  
Department of Technology, Contracts Administration  
Attn: Contracts Manager  
One South Van Ness Avenue, 2nd Floor  
San Francisco, CA 94103  
[dtcontracts@sfgov.org](mailto:dtcontracts@sfgov.org)

To Contractor: Carahsoft Technology Corporation  
Contracts Administration  
Attn: Director of Contracts  
11493 Sunset Hills Road, Suite 100  
Reston, VA 20190  
[contracts@carahsoft.com](mailto:contracts@carahsoft.com)

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

**11.2 Compliance with Americans with Disabilities Act.** Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled

persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement. Contractor shall adhere to the requirements of the Americans with Disabilities Act of 1990 (ADA), as amended (42 U.S.C. Sec. 1201 et seq.) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), Web Content Accessibility Guidelines (WCAG) 2.0 Levels A and AA; and WCAG 1.0 Level AA, to the extent these guidelines include additional requirements that are not included in and are not inconsistent with WCAG 2.0 Levels A and AA and WCAG 2.1, as updated from time to time.

**11.3 Incorporation of Recitals.** The matters recited above are hereby incorporated into and made part of this Agreement.

**11.4 Sunshine Ordinance.** Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

**11.5 Modification of this Agreement.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of CMD any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

**11.6 Dispute Resolution Procedure.**

**11.6.1 Negotiation; Alternative Dispute Resolution.** The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Contractor may submit to the Contracting Officer a written request for administrative review and documentation of the Contractor's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Contractor of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Contractor shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

**11.6.2 Government Code Claim Requirement.** No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall

operate to toll, waive or excuse Contractor's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

**11.6.3 Reserved (Health and Human Service Contract Dispute Resolution).  
Procedure.**

**11.7 Agreement Made in California; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

**11.8 Construction.** All paragraph captions are for reference only and shall not be considered in construing this Agreement.

**11.9 Entire Agreement.** This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, "Modification of this Agreement."

**11.10 Compliance with Laws.** Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

**11.11 Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

**11.12 Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of City and Contractor, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

**11.13 Order of Precedence.** Contractor agrees to perform the services described below in accordance with the terms and conditions of this Agreement, the Appendices hereto, and implementing task orders. If the Appendices to this Agreement include any standard terms from the Contractor or Supplier, Contractor agrees that in the event of discrepancy, inconsistency, gap, ambiguity, or conflicting language between the City's terms and Contractor's or Supplier's standard terms attached, the City's terms shall take precedence.

**Article 12 Department Specific Terms**

**12.1 U.S. Based Products and Services.** Contractor will ensure that certain products and services requested by City Departments listed in Appendix E, Calculation of Charges, are hosted in the continental United States; and will procure additional Supplier SAAS Services ordered by the City under the terms and pricing in Appendix E. Contractor shall provide the City with a dedicated account manager responsible for the procurement and support of the City's products

and services that can only be provided within the Continental United States within seven days of the effective date of the agreement. The City and Contractor shall use their best efforts to maintain the same Project Manager for the duration of the Agreement. Notwithstanding the foregoing, the Parties have the right to appoint temporary account manager in connection with short term unavailability, sick leave or reasonable vacations. Parties shall notify each other in advance of any such temporary appointments. City may require Contractor to replace its account manager, by giving Contractor notification thereof and City's objective reasons therefor.

## **Article 13 Data and Security**

### **13.1 City Data**

**13.1.1 Ownership of City Data.** The Parties agree that, as between them, all rights, including all intellectual property rights, in and to the City Data and any derivative works of the City Data is the exclusive property of the City

**13.1.2 Use of City Data.** Contractor agrees to hold City Data received from, or created or collected on behalf of, the City in strictest confidence and to ensure that Supplier complies with this requirement as set forth in the Supplier Terms and Conditions. Neither Contractor nor Supplier may use or disclose City's Data except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Access to City's Confidential Information must be strictly controlled and limited to Contractor's and Supplier's staff assigned to this project on a need-to-know basis only. Contractor and Supplier are provided a limited non-exclusive license to use the City Data solely for performing its obligations under the Agreement and not for Contractor's or Supplier's own purposes or later use. Nothing herein shall be construed to confer any license or right to the City Data, including user tracking and exception City Data within the system, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data by Contractor, Supplier, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase "unauthorized use" means the data mining or processing of data, stored or transmitted by the service, for unrelated commercial purposes, advertising or advertising-related purposes, or for any purpose that is not explicitly authorized other than security or service delivery analysis.

**13.1.3 Access to and Extraction of City Data.** City shall have access to City Data 24-hours a day, seven days a week. Contractor and Supplier warrant that City shall be able to extract City Data from the SaaS Application on demand, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees to Contractor).

**13.1.4 Backup and Recovery of City Data.** As a part of the SaaS Services, Contractor is responsible for ensuring that Supplier is maintaining a backup of City Data and for an orderly and timely recovery of such data in the event of data corruption or interruption of the SaaS Services as set forth in the Supplier Terms and Conditions. Supplier does full backups weekly and differential backups daily. Supplier maintains four weekly backups and a rolling six days of differential backups (the seventh day of the week would be the full backup). Contractor's or Supplier's backup of City Data shall not be considered in calculating storage used by City.

**13.1.5 Data Breach; Loss of City Data.** In the event of any Data Breach, act, SaaS Software Error, omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of City Data or the physical, technical,

administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of City Data, Contractor or Supplier shall, as applicable:

(a) **Contractor/Supplied Obligations.** Contractor/Supplier will notify City of any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, City Data (a “Breach”) without undue delay following determination by Contractor/Supplier that a Breach has occurred. Contractor/Supplier’s report will be made to the City security contract(s) designated in Supplier’s Support Portal (or if no such contact(s) are designated, to the primary technical contact designated by City in the portal). As information is collected or otherwise becomes available, Contractor/Supplier shall provide without undue delay any further information regarding the nature and consequences of the Breach to allow City to notify relevant parties, including affected individuals, government agencies, and data protection authorities in accordance with applicable Data Protection Laws. The report will include the name and contact information of the Supplier contact from whom additional information may be obtained. Supplier shall inform City of the measures that Supplier will adopt to mitigate the cause of the Breach and to prevent future Breaches. Refer to ServiceNow Data Security Addendum (DSA), section 5.1 (Monitoring, Management and Notification) for details.

(b) **City Obligations.** City will cooperate with Supplier by providing any information that is reasonably requested by Supplier to resolve any security incident, including any Breaches, identify its root cause(s), and prevent a recurrence. City is solely responsible for determining whether to notify the relevant supervisory or regulatory authorities and impacted Data Subjects and for providing such notice. These obligations are specified in Data Security Addendum, Section 5, Monitoring and Incident Management, attached as Appendix B.

### 13.2 **Proprietary or Confidential Information.**

13.2.1 **Proprietary or Confidential Information of City.** Contractor understands and agrees that, in the performance of the work or services under this Agreement may involve access to City Data that is Confidential Information. Contractor shall ensure that Supplier, and any subcontractors or agents shall use Confidential Information only in accordance with all applicable local, state and federal laws restricting the access, use and disclosure of Confidential Information and only as necessary in the performance of this Agreement. Contractor’s or Supplier’s failure to comply with any requirements of local, state or federal laws restricting access, use and disclosure of Confidential Information shall be deemed a material breach of this Agreement, for which City may terminate the Agreement. In addition to termination or any other remedies set forth in this Agreement or available in equity or law, the City may bring a false claim action against Contractor pursuant to Chapters 6 or 21 of the Administrative Code, or debar Contractor. Contractor agrees to include all of the terms and conditions regarding Confidential Information contained in this Agreement in all subcontractor or agency contracts providing services under this Agreement.

13.2.2 **Obligation of Confidentiality.** Subject to San Francisco Administrative Code Section 67.24(e), any state open records or freedom of information statutes, and any other applicable laws, Contractor agrees to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third-parties other than its employees, agents, or authorized subcontractors who have a need to know in connection with this Agreement or to use such Confidential Information



for any purposes whatsoever other than the performance of this Agreement. Contractor agrees to advise and require its respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential.

**13.2.3 Nondisclosure.** Contractor agrees and acknowledges that it shall have no proprietary interest in any proprietary or Confidential Information and will not disclose, communicate or publish the nature or content of such information to any person or entity, nor use, except in connection with the performance of its obligations under this Agreement or as otherwise authorized in writing by the disclosing Party, any of the Confidential Information it produces, receives, acquires or obtains from the disclosing Party. Contractor shall take all necessary steps to ensure that the Confidential Information is securely maintained. Contractor's obligations set forth herein shall survive the termination or expiration of this Agreement. In the event Contractor becomes legally compelled to disclose any of the Confidential Information, it shall provide the City with prompt notice thereof and shall not divulge any information until the City has had the opportunity to seek a protective order or other appropriate remedy to curtail such disclosure. If such actions by the disclosing Party are unsuccessful, or the disclosing Party otherwise waives its right to seek such remedies, the receiving Party shall disclose only that portion of the Confidential Information that it is legally required to disclose.

**13.2.4 Litigation Holds.** Contractor shall ensure that Supplier retains and preserves City Data in accordance with the City's instruction and requests, including without limitation any retention schedules and/or litigation hold orders provided by the City to Contractor, independent of where the City Data is stored.

**13.2.5 Notification of Legal Requests.** Contractor shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests ("Legal Requests") related to City's Data under this Agreement, or which in any way might reasonably require access to City's Data, and in no event later than 24 hours after it receives the request. Contractor shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Contractor shall retain and preserve City Data in accordance with the City's instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the City to Contractor, independent of where the City Data is stored.

**13.2.6 Cooperation to Prevent Disclosure of Confidential Information.** Contractor shall use its best efforts to assist the City in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, Contractor shall advise the City immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will cooperate with the City in seeking injunctive or other equitable relief against any such person.

**13.2.7 Remedies for Breach of Obligation of Confidentiality.** Contractor acknowledges that breach of its obligation of confidentiality by Contractor or Supplier may give rise to irreparable injury to the City, which damage may be inadequately compensable in the form of monetary damages. Accordingly, City may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal

remedies that may be available, to include, at the sole election of City, the immediate termination of this Agreement, without liability to City.

**13.2.8 Surrender of Confidential Information upon Termination.** Upon termination of this Agreement, including but not limited to expiration of the term, early termination or termination for convenience, Contractor shall, within five calendar days from the date of termination, return to City any and all Confidential Information received from the City, or created or received by Contractor on behalf of the City, which are in Contractor's possession, custody, or control, and shall ensure that Supplier does the same. The return of Confidential Information to City shall follow the timeframe and procedure described further in this Agreement (Article 8).

**13.2.9 Data Security.** To prevent unauthorized access of City Data,

(a) Contractor shall ensure that Supplier at all times during the Term provide and maintain up-to-date security with respect to (a) the Services, (b) Contractor's Website, (c) Contractor's physical facilities, (d) Contractor's infrastructure, and (e) Contractor's networks.

(b) Contractor shall ensure that Supplier provides security for its networks and all Internet connections consistent with industry best practices, and will promptly install all patches, fixes, upgrades, updates and new versions of any security software it employs.

(c) Contractor will ensure that Supplier maintains appropriate safeguards to restrict access to City's Data to those employees, agents or service providers of Contractor who need the information to carry out the purposes for which it was disclosed to Contractor.

(d) For information disclosed in electronic form, Contractor agrees that appropriate safeguards include electronic barriers (e.g., most current industry standard encryption for transport and storage, such as the National Institute of Standards and Technology's Internal Report 7977 or Federal Information Processing Standards [FIPS] 140-2 [Security Requirements for Cryptographic Modules] or FIPS-197 or successors, intrusion prevention/detection or similar barriers) and secure authentication (e.g., password protected) access to the City's Confidential Information and hosted City Data that the City owns, manages, and controls. The City is responsible for encrypting Customer Data at the appropriate security level to meet City requirement. Encryption tools are available for review and purchase by City, if requested.

**13.2.10 Data Privacy and Information Security Program.** Without limiting Contractor's obligation of confidentiality as further described herein, Contractor shall ensure that Supplier establishes and maintains a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (i) ensure the security and confidentiality of the City Data; (ii) protect against any anticipated threats or hazards to the security or integrity of the City Data; (iii) protect against unauthorized disclosure, access to, or use of the City Data; (iv) ensure the proper disposal of City Data; and, (v) ensure that all of Contractor's employees, agents, and subcontractors, if any, comply with all of the foregoing.

**13.2.11 City's Right to Termination for Deficiencies.** City reserves the right, at its sole election, to immediately terminate this Agreement, without limitation and without liability, if City reasonably determines that Contractor or Supplier fails or has failed to meet its obligations under this Article 13.

**13.2.12 Data Transmission.** Contractor/Supplier shall ensure that no City Data of any kind shall be copied, modified, destroyed, deleted, transmitted, exchanged or otherwise passed to other vendors or interested parties except on a case-by-case basis as specifically agreed to in writing by City.

**13.3 Reserved (American Institute of Certified Public Accounts (AICPA) Audit Reports).**

**13.4 Reserved (Payment Card Industry ("PCI") Requirements).**

**13.5 Protected Health Information.** Contractor, Supplier, all subcontractors, all agents and employees of Contractor, and any subcontractor shall comply with all federal and state laws regarding the transmission, storage and protection of all private health information disclosed to Contractor by City in the performance of this Agreement. Contractor agrees that any failure of Contractor or Supplier to comply with the requirements of federal and/or state and/or local privacy laws shall be a material breach of the Contract. In the event that the City pays a regulatory fine, and/or is assessed civil penalties or damages through private rights of action, based on an impermissible use or disclosure of protected health information given to Contractor or its subcontractors or agents by City, Contractor shall indemnify City for the amount of such fine or penalties or damages, including costs of notification. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Agreement.

**13.6 Business Associate Agreement.** The Parties acknowledge that City is a Covered Entity as defined in the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA") and is required to comply with the HIPAA Privacy Rule governing the access, use, disclosure, transmission, and storage of protected health information (PHI) and the Security Rule under the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"). Contractor shall ensure that Supplier complies with the Health Insurance Portability and Accountability Act (HIPAA) Business Associate Addendum ("Addendum") terms and conditions, attached and incorporated as though fully set forth herein as an attachment to Appendix A.

## **Article 14 Force Majeure**

**14.1 Liability.** No Party shall be liable for delay in the performance of its obligations under this Agreement if and to the extent such delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, or any other cause beyond the reasonable control of such Party (a "Force Majeure Event"). In the case of a Force Majeure Event, Contractor shall immediately commence disaster recovery services as described in Section 14.4.

**14.2 Duration.** In a Force Majeure Event, the non-performing Party shall be excused from further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such Party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any Party so delayed in its performance shall immediately notify the Party to whom performance is due by telephone (to be confirmed in writing within two days of the inception of such delay) and describe at a reasonable level of detail the circumstances causing such delay.

**14.3 Effect.** If a Force Majeure Event substantially prevents, hinders, or delays performance of the Services as critical for more than fifteen consecutive days, then at City's option: (i) City may terminate any portion of this Agreement so affected and the charges payable hereunder shall

be equitably adjusted to reflect those terminated Services; or (ii) City may terminate this Agreement without liability to City or Contractor as of a date specified by City in a written notice of termination to Contractor. Contractor shall not have the right to any additional payments from City for costs or expenses incurred by Contractor as a result of any force majeure condition that lasts longer than three days.

**14.4 Disaster Recovery.** In the event of a disaster, as defined below, Contractor shall ensure that Supplier provides disaster recovery services in accordance with the provisions of the disaster recovery plan attached as Appendix F, Disaster Recovery Plan, or as otherwise set forth in this Agreement or any Statement of Work. Notwithstanding Section 14.1, a Force Majeure Event shall not excuse Contractor of its obligations for performing disaster recovery services as provided in this Section. In the event that a disaster occurs and Contractor fails to restore the hosting services within 24 hours of the initial disruption to Services, City may, in its discretion, deem such actions to be a material default by Contractor incapable of cure, and City may immediately terminate this Agreement. For purposes of this Agreement, a “disaster” shall mean an interruption in the hosting services or the inability of Contractor to provide City with the SaaS Application and hosting services for any reason that could not be remedied by relocating the SaaS Application and hosting services to a different physical location outside the proximity of its primary Data Center.

## **Article 15            Appendices**

**15.1 Additional Appendices.** The following appendices are hereby attached and incorporated into this Agreement as though fully set forth herein and together form the complete Agreement between the Parties:

- A.     ServiceNow Public Sector Subscription Terms of Service and Business Associate Addendum
- B.     ServiceNow Data Security Addendum
- C.     ServiceNow Data Processing Addendum
- D.     ServiceNow Customer Support Addendum
- E.     Calculation of Charges
- F.     Disaster Recovery Plan

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

**CITY**

Recommended by:

DocuSigned by:

*Linda Gerull*

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Linda Gerull

City Chief Information Officer  
Department of Technology

**CONTRACTOR**

Carahsoft Technology Corporation

DocuSigned by:

*Kristina Smith*

4B6EF8383AD346C...  
Kristina Smith

Director of Contracts  
11493 Sunset Hills Road  
Suite 100  
Reston, VA 20190

Approved as to Form:

David Chiu  
City Attorney

City Supplier Number: 0000023400

DocuSigned by:

*William Sanders*

By:

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William K. Sanders  
Deputy City Attorney

Approved:

Sailaja Kurella  
Director of the Office of Contract Administration, and  
Purchaser

DocuSigned by:

*Taraneh Moayed*

By:

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Taraneh Moayed



## Appendix A

### ServiceNow Public Sector Subscription Terms of Service

#### PUBLIC SECTOR SUBSCRIPTION TERMS OF SERVICE

THESE PUBLIC SECTOR SUBSCRIPTION TERMS OF SERVICE (“**TERMS OF SERVICE**”) APPLY ONLY IF THE CUSTOMER IS AN EXECUTIVE AGENCY OR DEPARTMENT OF THE U.S. FEDERAL, STATE, OR LOCAL GOVERNMENT (“**GOVERNMENT ENTITY**”). THESE TERMS OF SERVICE SHALL BE INCORPORATED IN ANY ORDER ISSUED BY SUCH CUSTOMER. IF THE CUSTOMER IS NOT A GOVERNMENT ENTITY, THEN SERVICENOW’S SUBSCRIPTION SERVICE AGREEMENT (LOCATED AT [HTTPS://WWW.SERVICENOW.COM/UPGRADE-SCHEDULES.HTML](https://www.servicenow.com/upgrade-schedules.html)) APPLIES.

These Terms of Service include the General Terms and Conditions, Customer Support Addendum (“CSA”), Data Security Addendum (“DSA”), Data Processing Addendum (“DPA”), and the ServiceNow Store Terms of Use (collectively, “Operational Terms”), and any other terms expressly referenced herein, all of which are expressly incorporated in these Terms of Service and attached by this reference. References to the “Agreement” in the Operational Terms shall generally mean these Terms of Service, and references to an agreement between ServiceNow and Customer shall mean the Ordering Document or Reseller Order (as defined below) executed between the Customer and Reseller, or ServiceNow and Reseller, respectively, and as appropriate based on context. References to a “Use Authorization” or “Order Form” in the Operational Terms shall mean the Ordering Document.

Pursuant to a separate transaction between the customer entity (“**Customer**”) and ServiceNow’s authorized reseller (“**Reseller**”), Customer has purchased from Reseller certain services to be delivered by ServiceNow. These Terms of Service specify the terms and conditions under which those services will be provided by ServiceNow, apart from price, payment and other terms specified in the separate agreement between Customer and Reseller.

#### 1. DEFINITIONS

##### GENERAL TERMS AND CONDITIONS

**1.1 “Ancillary Software”** means software licensed by ServiceNow to Customer that is typically deployed on Customer’s machines to enable access to and use of the Subscription Service. Ancillary Software may include or be provided with code licensed under third-party license agreements, including open source software.

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

**1.3 “Confidential Information”** means: **(1)** ServiceNow Core Technology (which is ServiceNow’s Confidential Information); **(2)** Customer Data and Customer Technology (which is Customer’s Confidential Information); **(3)** any of a party’s information that, due to the nature of the information or circumstances of disclosure, the receiving party should reasonably understand it to be confidential and **(4)** to the extent permitted by Law, the specific terms of these Terms of Service, and any amendment or attachment (which will be deemed Confidential Information of both parties). Confidential Information excludes any information that: **(a)** is or becomes generally publicly known without fault or breach by receiving party; **(b)** that receiving party



obtains (rightfully and without restriction on use or disclosure) from a third party entitled to make the disclosure; or (c) that is independently developed by receiving party without using disclosing party's Confidential Information.

**1.4 “Customer Data”** means electronic data that is uploaded by or for Customer or its agents, employees, or contractors, and processed in the Subscription Service, excluding ServiceNow Core Technology.

**1.5 “Customer Technology”** means software, methodologies, templates, business processes, documentation, or other material originally authored, invented, or otherwise created by or for Customer (but not by ServiceNow) for use with the Subscription Service, excluding ServiceNow Core Technology.

**1.6 “Deliverable”** means anything created for Customer in performance of Professional Services other than Newly Created IP (applicable only to the extent that Customer procures Professional Services).

**1.7 “Documentation”** means the then-current ServiceNow documentation for the Subscription Service or Ancillary Software at <https://docs.servicenow.com>. Documentation includes solely technical program or interface documentation, user manuals, operating instructions, and release notes.

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

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

**1.10 “Newly Created IP”** means IPR in the inventions or works of authorship that are made by ServiceNow specifically for Customer in the course of performing Professional Services for Customer that are expressly identified as “Newly Created IP” in an SOW, excluding ServiceNow Core Technology (applicable only to the extent that Customer procures Professional Services).

**1.11 “Ordering Document”** means a written agreement entered into solely between Reseller and Customer specifying the ServiceNow services that Customer has purchased, along with the term and scope of the authorized use thereof, subject to these Terms of Service. An Ordering Document is not binding on ServiceNow.

**1.12 “Product Overview”** means ServiceNow's published description of its products and the functionality of such products, solely to the extent attached to or expressly referenced in the Ordering Document.

**1.13 “Professional Services”** means any consulting, development, or educational services provided by or for ServiceNow pursuant to an agreed SOW or Service Description (applicable only to the extent that Customer procures Professional Services).

**1.14 “Reseller Order”** means the supporting order executed by ServiceNow and Reseller or ServiceNow's authorized distributor, as applicable.

**1.15 “Service Description”** means the written description for a packaged Professional Service, attached to or referenced in an Ordering Document (applicable only to the extent that Customer procures Professional Services).

**1.16 “ServiceNow Core Technology”** means: (1) the Subscription Service, Ancillary Software, Documentation, and technology and methodologies (including products, software



tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects, and documentation) created by or for, or licensed to, ServiceNow; and (2) updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related documentation.

**1.17 “SOW”** means a statement of work or work order that describes scoped Professional Services by and between ServiceNow and Reseller or ServiceNow’s authorized distributor, as applicable (applicable only to the extent that Customer procures Professional Services).

**1.18 “Subscription Service”** means the ServiceNow software-as-a-service offering ordered by Customer under an Ordering Document.

**1.19 “Subscription Term”** means the period of authorized access to and use of the Subscription Service, as set forth in an Ordering Document.

## 2. SERVICENOW RESPONSIBILITIES

**2.1 PROVISION OF THE SUBSCRIPTION SERVICE; COMPLIANCE WITH LAWS.** During the Subscription Term, ServiceNow will: (1) make the Subscription Service available to Customer pursuant to these Terms of Service, and (2) provide Customer Support, an Availability SLA, Upgrades and Updates, and ServiceNow’s Insurance Coverage disclosure as described in the Customer Support Addendum (“CSA”) at <https://www.servicenow.com/upgrade-schedules.html>; and (3) provide the Subscription Service in accordance with all Laws applicable to ServiceNow’s provision of the products and services to its general customer base (i.e., without regard to Customer’s particular use of the Subscription Service or Laws not applicable to ServiceNow as a lower-tier supplier).

**2.2 PROTECTION AND RETURN OF CUSTOMER DATA.** During the Subscription Term, ServiceNow will maintain a written Security Program that includes policies, procedures and controls aligned to ISO27001, or a substantially equivalent standard, that includes industry-standard practices designed to protect Customer Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access as described in the data security addendum (“DSA”) at <https://www.servicenow.com/upgrade-schedules.html>. The terms of the data processing addendum at <https://www.servicenow.com/upgrade-schedules.html> (“DPA”) shall apply to ServiceNow’s Processing of Personal Data (as defined in the DPA). Upon written request by Customer within 45 days after termination or expiration of the Subscription Service, ServiceNow will provide any Customer Data in the Subscription Service to Customer in ServiceNow’s standard database export format at no additional charge to the Reseller under the applicable Reseller Order. After such 45 day period, ServiceNow shall have no obligation to maintain or provide any Customer Data and will, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control, delete Customer’s instances of the Subscription Service, and upon written request, provide confirmation of such deletion.

**2.3 UPDATES.** The CSA, DSA and DPA in effect as of the date of the Ordering Document will apply to the Subscription Services specified on such Ordering Document. ServiceNow may update the CSA, the DSA and the DPA, however, in no event will any update be effective until the end of the applicable Subscription Term.





### **3. ACCESS AND USE RIGHTS; RESTRICTIONS; PROFESSIONAL SERVICES**

**3.1 ACCESS AND USE RIGHTS.** For each Subscription Term, ServiceNow grants the access and use rights set forth in this Section 3 to the ServiceNow Core Technology described in the applicable Ordering Document.

**3.1.1. SUBSCRIPTION SERVICE.** ServiceNow authorizes Customer to access and use the Subscription Service during the Subscription Term in the applicable Ordering Document, solely for its internal business purposes in accordance with the Documentation.

**3.1.2. ANCILLARY SOFTWARE.** ServiceNow grants Customer a limited, personal, worldwide, non- sublicensable, non-transferable (except as set forth in Section 11.1), non-exclusive, royalty-free license during the Subscription Term to install and execute Ancillary Software on Customer's machines, solely to facilitate Customer's authorized access to and use of the Subscription Service.

**3.2 RESTRICTIONS.** With respect to the ServiceNow Core Technology, Customer will not (and will not permit others to): **(1)** use it in excess of contractual usage limits (including as set forth in the Ordering Document), or in a manner that circumvents use limits or technological access control measures; **(2)** license, sub-license, sell, re-sell, rent, lease, transfer, distribute, time share, or otherwise make any of it available for access by third-parties, except as may otherwise be expressly stated herein or in a Ordering Document; **(3)** access it for purposes of developing or operating products or services for third- parties in competition with the ServiceNow Core Technology; **(4)** disassemble, reverse engineer, or decompile it; **(5)** copy, create derivative works based on, or otherwise modify it, except as may be otherwise expressly stated in these herein; **(6)** remove or modify a copyright or other proprietary rights notice in it; **(7)** use it in violation of Law (including those applicable to collection and processing of Customer Data through the Subscription Service); **(8)** use it to reproduce, distribute, display, transmit, or use material protected by copyright or other I P R (including the rights of publicity) without first obtaining the owner's permission; **(9)** 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 **(10)** access or disable any ServiceNow or third-party data, software, or network (other than Customer's instance of the Subscription Service). Customer will notify ServiceNow at legalnotices@servicenow.com 30 days before it engages in any of the foregoing acts that it believes it may be entitled to and provide reasonably requested information to allow ServiceNow to assess Customer's claim. ServiceNow may, in its discretion, provide alternatives that reduce adverse impacts on ServiceNow's I P R or other rights.

**3.3 PROVISION OF PROFESSIONAL SERVICES** (applicable only to the extent that Customer procures Professional Services). Customer and Reseller may enter into one or more SOWs in an Ordering Document which may incorporate one or more Service Descriptions for the provision of Professional Services by ServiceNow. ServiceNow will perform the Professional Services, subject to the fulfillment of any Customer responsibilities and payments due, as stated in the Ordering Document.

### **4. ORDERING**

**4.1 RESELLER ORDERS.** Customer shall order and purchase the Subscription Service and Professional Services directly from Reseller pursuant to an agreement specifying price, payment, and other commercial terms reflected in an Ordering Document. ServiceNow is not a



party to the Ordering Document, but will provide the purchased services pursuant to a Reseller Order and these Terms of Service. Reseller is not authorized to make any changes to these Terms of Service or bind ServiceNow to any additional or different terms or conditions, except as ServiceNow may expressly agree in writing in a

Reseller Order or any agreed SOW attached thereto. Subsequent or additional orders for ServiceNow products or services may be placed by Customer through Reseller.

**4.2 USE VERIFICATION.** ServiceNow or Reseller may remotely review the scope of Customer's use of the Subscription Service, and on ServiceNow or Reseller's written request, Customer will provide reasonable assistance to verify Customer's compliance with these Terms of Service with respect to access to and use of the Subscription Service. If ServiceNow or Reseller determines that Customer has exceeded its permitted access and use rights to the Subscription Service, ServiceNow or Reseller will notify Customer, and Customer will within 30 days, either: **(1)** disable any unpermitted use, or **(2)** purchase additional subscriptions commensurate with Customer's actual use. If Customer fails to regain compliance within such thirty (30) day period, Customer will stop accessing, and ServiceNow and Reseller will stop providing access to, the Subscription Service, in addition to any other available rights or remedies.

## **5. INTELLECTUAL PROPERTY**

**5.1 SERVICENOW OWNERSHIP.** As between the parties, ServiceNow and its licensors exclusively own all right, title, and interest in and to all I P R in the ServiceNow Core Technology, notwithstanding anything in an Ordering Document or other documents purportedly to the contrary. Except for the access and use rights, and licenses expressly granted in Section 3, ServiceNow, on behalf of itself and its licensors, reserves all rights in the ServiceNow Core Technology and does not grant Customer any rights except those expressly set forth herein. Any ServiceNow Core Technology delivered to Customer, or to which Customer is given access has been licensed, not sold, even if, for convenience, ServiceNow or Reseller makes reference to words such as "sale" or "purchase" in the applicable Ordering Document or other documents.

**5.2 CUSTOMER OWNERSHIP.** As between the parties, Customer and its licensors will retain all right, title, and interest in and to all I P R in Customer Data and Customer Technology. Customer grants to ServiceNow a royalty-free, fully-paid, non-exclusive, non-transferrable (except under Section 11.1, worldwide, right to use Customer Data and Customer Technology solely to provide and support the ServiceNow Subscription Service.

**5.3 FEEDBACK.** If Customer provides suggestions, proposals, ideas, recommendations, or other feedback regarding improvements to the Subscription Service (collectively, "**Feedback**") Customer grants to ServiceNow a royalty-free, fully paid, sub-licensable, transferable (notwithstanding Section 11.1), non-exclusive, irrevocable, perpetual, worldwide right and license to use, license, and commercialize Feedback (including by incorporation of such Feedback into ServiceNow Core Technology) without restriction.

**5.4 PROFESSIONAL SERVICES** (applicable only to the extent that Customer procures Professional Services)). Subject to this Section 5.4, ServiceNow assigns (and in the future is deemed to have assigned) to Customer any Newly Created IP upon receipt of payment in full to ServiceNow under the SOW that specifies the creation of Newly Created IP. If any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable (except under Section 11.1), non-sublicensable worldwide license to use such ServiceNow Core Technology in connection with the use of



Subscription Service under these Terms of Service during the applicable Subscription Term. Nothing in these Terms of Service may be construed to limit ServiceNow's right to perform (and to assign employees or contractors 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.

## **6. WARRANTIES; DISCLAIMER OF WARRANTIES**

**6.1** **SERVICENOW WARRANTIES.** ServiceNow warrants that: (1) during the Subscription Term, Customer's production instance of the Subscription Service will materially conform to the Product Overview; and (2) Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements in the applicable SOW or Service Description (applicable only to the extent that Customer procures Professional Services).

### **6.2** **REMEDIES.**

**6.2.1. SUBSCRIPTION SERVICE.** If any non-conformity to the Product Overview (excluding any non-conformity caused by a modification to the Subscription Service made by Customer or a third-party acting at Customer's direction), persists without relief more than 30 days after Customer's notice to the Reseller of the non-conformity, then upon ServiceNow's timely receipt of such notice from Reseller, as Customer's exclusive remedy (and ServiceNow's sole liability in connection with this warranty), ServiceNow may terminate the affected Subscription Service immediately, and ServiceNow will refund to Reseller any prepaid subscription fees covering the remainder of the applicable Subscription Term for the non-conforming Subscription Service after the date of termination, whereupon Customer may submit to Reseller a claim for refund of any amounts paid for the same. This Section 6.2.1 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with this warranty.

**6.2.2. PROFESSIONAL SERVICES** (applicable only to the extent that Customer procures Professional Services). If within 30 days after performance of any non-conforming Professional Services Customer notifies Reseller of a breach then, upon ServiceNow's timely receipt of notice from Reseller, ServiceNow at its option will, as Customer's exclusive remedy (and ServiceNow's sole liability in connection with this warranty) either use commercially reasonable efforts to re-perform the Professional Services in conformance with the material requirements of the applicable SOW or Service Description or terminate the affected Professional Services and refund to Reseller any amounts paid for the nonconforming Professional Services, whereupon Customer may submit to Reseller a claim for refund of any amounts paid for the same. This Section 6.2.2 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with this warranty.

**6.3** **DISCLAIMER.** Except for the warranties expressly stated in this Section 6, to the maximum extent allowed by Law, ServiceNow disclaims all warranties of any kind (express, implied, statutory, or otherwise, oral or written, including warranties of merchantability, accuracy, title, non-infringement, or fitness for a particular purpose, and any warranties arising from usage of trade, course of dealing, or course of performance). Without limiting the above, ServiceNow does not warrant that the Subscription Service: (1) will meet the requirements of Customer or others; or (2) will be accurate or operate without interruption or error; or (3) is designed for any purpose requiring fail-safe performance for which failure



could result in death, personal injury or severe physical, property, or environmental damage.

## **7. CONFIDENTIAL INFORMATION**

**7.1 RIGHTS AND OBLIGATIONS.** To the extent permitted by law, the recipient of Confidential Information will:

(1) 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 less than reasonable care; and (2) not use it except to the extent necessary to exercise rights and obligations under the Ordering Document or these Terms of Service. Each party will limit the disclosure of the other's Confidential Information to those of its employees and contractors with a need to know such Confidential Information to exercise its rights and obligations under the Ordering Document and these Terms of Use, and then only to employees and contractors subject to binding disclosure and use restrictions at least as protective as those in these Terms of Service. Each party's obligations under this Section 7 will remain in effect during, and for 3 years after termination of the Subscription Term. Receiving party will, at disclosing party's request, return all originals, copies, reproductions, and summaries of Confidential Information and other tangible materials and devices provided to receiving party as Confidential Information, or at disclosing party's option, certify destruction of the same. Provisions for return of Customer Data are set forth in Section 11.2 (Return of Customer Data).

**7.2 THIRD PARTY REQUESTS.** These Terms of Service will not prevent receiving party from disclosing the other party's Confidential Information to a court, or governmental body pursuant to a valid court order, Law, subpoena, or regulation, but only if receiving party: (1) gives prompt notice (or the maximum notice permitted under Law) before making the disclosure, unless prohibited by Law; (2) to the extent permitted by law, reasonably assists disclosing party, at disclosing party's cost, in its lawful efforts to resist or limit such disclosure; and (3) discloses only that portion of disclosing party's Confidential Information that is legally required to be disclosed.

## **8. INDEMNIFICATION**

### **8.1 BY SERVICENOW.**

**8.1.1. OBLIGATION.** Subject to this Section 8, ServiceNow will: (1) defend Customer, and its and their officers, directors, and employees against any Claim to the extent alleging any: (a) ServiceNow Core Technology used in accordance with these Terms of Service infringes any IPR of any unaffiliated third-party ("IPR Claim"); or (b) ServiceNow 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 (2) pay any settlement amount or court-ordered damages award, under the forgoing clauses (1)(a) or (1)(b) to the extent arising from such Claim.

**8.1.2. MITIGATION.** In connection with any IPR Claim, ServiceNow may: (1) contest the Claim; (2) obtain claimant's permission for Customer's continued use of the applicable Subscription Service or ServiceNow Core Technology; (3) replace Customer's access to or use of the applicable Subscription Service or ServiceNow Core Technology with substantially similar functionality that avoids the Claim; or, (4) if ServiceNow determines the foregoing clauses (1), (2), and (3) are commercially impracticable, terminate Customer's access to and use of the affected Subscription Service on 60-days' prior notice, whereupon Customer may submit to Reseller a



claim for a refund of any prepaid subscription fees covering that part of the applicable Subscription Term for such Subscription Service remaining after the effective date of termination.

**8.1.3. LIMITATIONS.** Notwithstanding the above, ServiceNow has no obligation or liability for any Claim under Section 8.1.1(1)(a) to the extent arising from: **(1)** use of any ServiceNow Core Technology not expressly authorized under these Terms of Service, to the extent the Claim would have been avoided without such access or use; **(2)** Customer Data or Customer Technology; or **(3)** use of ServiceNow Core Technology: **(a)** in violation of Law; **(b)** after termination under Section 8.1.2(4); or **(4)** modification to the ServiceNow Core Technology to Customer's specifications or by anyone other than ServiceNow or its contractors, or if combined with anything not provided by ServiceNow, if the Claim would have been avoided but for such modifications or combinations.

**8.2 CUSTOMER WARRANTY.** Customer warrants that: (1) Customer Data, (2) Customer Technology, and (3) a modification to any ServiceNow Core Technology made to Customer's specifications or otherwise made by or on behalf of Customer by any person other than ServiceNow or a person acting at ServiceNow's direction (but only if the Claim would have been avoided by use of the unmodified ServiceNow Core Technology), does not infringe any IPR, or violates any third-party privacy rights.

**8.3 PROCESS.** ServiceNow's duty to indemnify under Section 8.1 is subject to Customer **(1)** notifying ServiceNow promptly of any actual or threatened Claim, **(2)** except where prohibited by Law, giving ServiceNow sole control of the defense of such Claim and of any related settlement negotiations, and **(3)** cooperating and, at ServiceNow's reasonable request and expense, allowing ServiceNow to assist in such defense. Neither party will stipulate, acknowledge, or admit fault or liability on the other's part without the other's prior, written consent. ServiceNow will not publicize any settlement without the Customer's prior, written consent.. **To the extent the parties perform as required, this Section 8 states ServiceNow's entire liability and the Customer's exclusive remedy for third-party claims and third-party actions.**

## **9. LIMITATION OF LIABILITY**

**9.1 LIMITED LIABILITY.** ServiceNow shall have no liability for any refund that, in accordance with these Terms of Service, is to be paid by Reseller. To the extent permitted by Law, ServiceNow's total, cumulative liability arising out of or related to these Terms of Service and the products and services provided under it and the Ordering Document, whether based on contract, tort (including negligence), or any other legal or equitable theory, will be limited to two times (2x) the amounts received for the Subscription Service or the provision of Professional Services giving rise to the claim during the 12-month period preceding the first event giving rise to liability. Multiple claims will not enlarge this limit.

**9.2 EXCLUDED DAMAGES.** To the extent permitted by Law, neither ServiceNow nor Customer will be liable to the other or any third party for lost profits (direct or indirect), for loss of use or data, or for any 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.

**9.3 APPLICABILITY.** The limits in Section 9.1 and exclusions in Section 9.2 do not apply: **(1)** obligations to pay for products, services, or taxes; **(2)** obligations to pay third





parties under Section 8; (3) IPR infringement, or (4) an action in tort, separate or distinct from a cause of action for breach of these Terms of Service, for the party's gross negligence or willful misconduct.

## 10. TERM AND TERMINATION

**10.1** GENERALLY. The Subscription Term for the Subscription Service shall begin on the Term Start Date and continue until the Term End Date indicated in the Reseller Order. Professional Services (to the extent that Customer procures Professional Services) are separately ordered from the Subscription Service and are not required for use of the Subscription Service. A party's breach of its Professional Services obligations will not by itself constitute a breach by that party of its Subscription Service obligations, even if the services are enumerated in the same Ordering Document.

**10.2** SUBSCRIPTION SERVICE. On termination of an Ordering Document, Reseller Order, or expiration of a Subscription Term, Customer will stop accessing and using, and ServiceNow will stop providing, the Subscription Service and all related rights granted to Customer in these Terms of Service terminate immediately, automatically, and without notice. Customer will, within 30 days after the effective date of termination by Customer for ServiceNow's breach, submit to Reseller a claim for refund for any prepaid fees paid to Reseller covering that part of the Subscription Term for the affected Subscription Service, if any, remaining after the effective date of termination.

**10.3** SURVIVAL. Sections 3.3 (Restrictions), 5(Intellectual Property), 6(Warranties; Disclaimer of Warranties) (solely in accordance with its terms), 7 (Confidential Information) through 9 (Limitation of Liability, 10(Term and Termination) (solely in accordance with its terms), and 11 (General Provisions), together with any other terms required for their construction or enforcement, will survive termination or expiration of the Subscription Service.

## 11. GENERAL PROVISIONS

**11.1** ASSIGNMENT. Neither party may assign or novate its rights or obligations under these Terms of Service, by operation of law or otherwise (collectively, "Assign"), without the other party's prior written consent. Notwithstanding the foregoing, on notice and without consent: **(1)** either party may in connection with a merger, reorganization, or sale of all or substantially all of such party's assets or equity, Assign these Terms of Service in its entirety to such party's successor; and **(2)** ServiceNow may Assign these Terms of Service in its entirety to any ServiceNow affiliate. Any attempted or purported Assignment in violation of this Section 11.1 is null and void. Subject to the foregoing, these Terms of Service bind and inure to the benefit of the parties, their respective successors, and permitted assigns.

**11.2** EXPORT. The Subscription Service is subject to U.S. and international laws, restrictions, and regulations that may govern the import, export, and use of the Subscription Service ("Export Laws"). Customer agrees to comply with Export Laws that apply to Customer's use of the Subscription Service. Without limiting the foregoing, Customer agrees it will not: **(1)** export, re-export, transfer, or otherwise use the Subscription Service in any country subject to an embargo or other sanctions by the U.S. (currently including Cuba, Iran, North Korea, Sudan, Syria, and Crimea Region of Ukraine); **(2)** export, re-export, or transfer, either directly or indirectly, to a person or entity barred by the applicable Export Laws from participating in export activities; and **(3)** use the Subscription Service for any purpose prohibited by Export Laws, including the



design, development, or production of nuclear, chemical, or biological weapons, or rocket systems, space launch vehicles, sounding rockets, or unmanned air vehicle systems.

**11.3 US GOVERNMENT RIGHTS.** The Subscription Service and Professional Services are commercial items, and any software therein is commercial computer software (per Federal Acquisition Regulation (“**FAR**” 12.211 and 12.212 and Department of Defense FAR Supplement (“**DFARS**”) 227.7202, as applicable). Government Customers shall only have those rights in technical data, computer software, and computer software documentation (collectively, “**data**”) set forth in these Terms of Service except that Department of Defense Customers may acquire additional rights in technical data pursuant to DFARS 252.227-7015(b). This provision applies in lieu of any FAR, DFARS, or other data rights clause or provision.

**11.4 FORCE MAJEURE.** ServiceNow is not, and may not be construed to be, in breach of these Terms if performance is prohibited or delayed by acts outside of ServiceNow’s reasonable control, including strikes, lock-outs, or other industrial disputes, or government action; failure of Internet connectivity or backbone or other telecommunications failures, in each case outside of ServiceNow’s local network; fire, flood, natural disaster, extreme adverse weather, or other acts of God (each a “**Force Majeure Event**”). ServiceNow will use reasonable efforts to mitigate the effects of such Force Majeure Event.

**11.5 WAIVER; AMENDMENT.** Failure by ServiceNow to enforce any part of these Terms of Service will not be deemed a waiver of future enforcement of that or any other provision. Only written waivers signed by an authorized representative of the waiving party are effective.

**11.6 SEVERABILITY.** If any term of these Terms of Service is held invalid, unenforceable, or void by a court of competent jurisdiction, it will be enforced to the maximum extent permissible, and it will be deemed amended or replaced by a valid and enforceable term matching the intent of the original language as closely as possible.

**11.7 LAW; JURISDICTION AND VENUE.** The Terms of Service shall be subject to the laws of the State of California, and in the event of a dispute arising from or in relation to these Terms of Service, the parties consent to the exclusive jurisdiction of, and venue in, a court of competent jurisdiction within the City and County of San Francisco. To the extent permitted by applicable Law, the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Notwithstanding the foregoing, either party, may at any time, and without waiving any other rights under these Terms of Service, seek appropriate legal or equitable relief, including but not limited to, emergency interim and/or injunctive relief, in any court of competent jurisdiction to protect its I P R.

**11.8 CONSTRUCTION.** ServiceNow may provide Subscription Service only in the English language, unless otherwise agreed in writing. The parties have expressly requested that these Terms of Service and all related documents be drafted in English. Section headings are for convenience only and are not to be used in interpreting these Terms of Service. These Terms of Service will be interpreted fairly and in accordance with its terms and without any strict construction in favor of or against any party. URLs are understood to also refer to successor URLs, URLs for localized content, and information or resources linked from within the websites at such URLs.

**11.9 ENTIRETY; EXECUTION.** These Terms of Service (1) are the parties’ entire agreement regarding its subject and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings, negotiations, letters of intent, and proposals, with respect to that subject; excludes any other terms Customer seeks to impose or incorporate or that



may be implied by trade, custom, practice, or course of dealing. Customer has not relied on any statement, promise, or representation not expressly included in these Terms of Service, including related to any possible future functionality that ServiceNow may provide or offer.

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## BUSINESS ASSOCIATE ADDENDUM

Pursuant to HIPAA (as defined below), this Business Associate Addendum ("Addendum") is made between ServiceNow, Inc. ("Business Associate") and City and County of San Francisco, Department of Technology ("Covered Entity"). This Addendum is incorporated into the ServiceNow Public Sector Subscription Terms applicable to the Covered Entity's purchase of the Subscription Service (as defined below) with an effective date of September 1, 2022 (for purposes of this Addendum only, "Agreement") ("Effective Date"), and is subject to all of the terms and conditions of the Agreement. Covered Entity acknowledges that the Addendum and the obligations set forth herein shall only apply to Business Associate to the extent the services provided by Business Associate are covered by HIPAA.

1. **Definitions.** Unless otherwise defined below, capitalized terms in this Addendum shall have the same meanings as set forth in HIPAA and the regulations thereunder, or the Agreement.

(a) **"Breach"** has the meaning set forth in 45 C.F.R. § 164.402.

(b) **"Custom Application"** means any application created by Covered Entity or a third party on behalf of Covered Entity on the ServiceNow platform.

(c) **"Customer Data"** means the electronic data submitted or otherwise made available by Customer or its authorized users to the information systems provided by ServiceNow as part of the Subscription Service.

(d) **"Designated Record Set"** has the meaning set forth in 45 C.F.R. § 164.501.

(e) **"Electronic Media"** has the meaning set forth in 45 C.F.R. § 160.103.

(f) **"ePHI"** means PHI that is transmitted by or maintained in Electronic Media.

(g) **"HHS"** means the United States Secretary of Health and Human Services.

(h) **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, codified at 42 U.S.C. § 300gg, 29 U.S.C. § 1181 et seq., and 42 U.S.C. § 1320d et seq., and the regulations promulgated thereunder, and any subsequent, updated, amended or revised provisions, including but not limited to, the Privacy and Security Rules. For purposes of this Addendum, HIPAA is also defined to include the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), Title XIII, subtitle D, of the American Recovery and Reinvestment Act of 2009, codified at 42 U.S.C. § 17921 et seq., and the final Omnibus HIPAA/HITECH Rules published on January 25, 2013 at 78 Fed. Reg. 5566.

(i) **"PHI"** means Protected Health Information (as defined under HIPAA) received from, or created or received by Business Associate on behalf of, Covered Entity, under the Agreement.

(j) **"Privacy Rule"** means the Privacy Rule as defined by the Department of Health



and Human Services and set forth in the regulations at 45 C.F.R. § 160 and Subparts A and E of §164, including all amendments thereto.

(k) **"Security Rule"** means the Standards for Security of Electronic Protected Health information at 45 C.F.R. § 160 and Subparts A and C of §164, including all amendments thereto.

(l) **"Security Incident"** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Customer Data or interference with system operations in an information system, except it shall not include any attempts of bypassing Business Associate's security infrastructure including, but not limited to, port-scans, probes, unsuccessful log on attempts, password-based attacks, pings, and other firewall attacks that do not result in the unauthorized access, use, disclosure, modification or destruction of Customer Data.

(m) **"Subcontractor"** means any third party entity that creates, receives, maintains, or transmits PHI on behalf of Business Associate.

(n) **"Subscription Service"** means the ServiceNow applications and platform delivered as a software-as-a-service offering via web access designated by Business Associate and made available by Business Associate to Covered Entity as purchased by Covered Entity under the Agreement.

(o) **"Unsecured PHI"** means PHI that has not been rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology as may be specified from time to time by HHS.

## 2. General Provisions

2.1. This Addendum is intended to ensure that Business Associate has established and implemented appropriate safeguards to protect any PHI in accordance with HIPAA.

2.2. This Addendum also Implements certain notification requirements applicable under HIPAA in the event of a Security Incident and/or a Breach of Unsecured PHI.

2.3. The parties agree to amend this Addendum as necessary to comply with the Privacy Rule, the Security Rule, and such other regulations promulgated by HHS pursuant to HIPAA, to the extent applicable to the Subscription Service provided by Business Associate under the Agreement.

2.4. Covered Entity acknowledges that Business Associate does not review or analyze the content of the Customer Data in the ordinary course of operating the Subscription Service. Therefore, Covered Entity agrees that it shall be solely responsible for complying with any obligations under HIPAA that require any review or analysis of such content. To the extent Business Associate expressly agrees to carry out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164 pursuant to a mutually agreed upon written amendment to this Addendum, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.



2.5. Notwithstanding anything to the contrary, Business Associate shall not be liable under this Addendum, to the extent that Covered Entity fails to comply with Section 6 (Obligations of Covered Entity) and/or to the extent that any Breach is caused by a Custom Application, Modifications (as defined below) Configuration or Customization to the Subscription Service by Customer or a third party acting on behalf of Customer. "Modification" means an addition or deletion to the Subscription Service by directly altering software code via a means other than the user interface.

### **3. Scope of Use and Disclosure**

3.1. Business Associate agrees not to access, use or disclose PHI other than as necessary to provide the Subscription Service or as otherwise permitted or required under this Addendum; provided that the use or disclosure would not violate the Privacy Rule, including 45 C.F.R. §164.504(e), if the use or disclosure would be done by Covered Entity, except for the specific access, uses or disclosures set forth below.

3.2. Business Associate hereby agrees that Customer Data will be hosted in a data center located in the United States pursuant to the applicable Order Form. Notwithstanding the foregoing, Covered Entity acknowledges and agrees that Business Associate provides 24 hours per day, 7 days per week support for the Subscription Service with support personnel located outside of the United States and such personnel may be provided access to, or may be provided, Customer data for the purpose of providing support for the Subscription Service. Business Associate shall be liable for the acts and omissions of any Business Associate support personnel to the same extent as If the acts or omissions were performed by Business Associate.

3.3. Business Associate may use or disclose PHI:

(a) To carry out Business Associate's obligations under the Agreement;

(b) As necessary for the proper management or administration of Business Associate, or to carry out any legal responsibilities of Business Associate, provided that Business Associate may disclose PHI for these purposes only If Business Associate is required to do so by law, or If Business Associate obtains reasonable assurances from the recipient of the information (1) that It will be held confidentially, and used or further disclosed only as required by law or for the purpose for which It was disclosed to the recipient, and (2) that the recipient will notify Business Associate of any instances of which the recipient is aware in which the confidentiality of the information is breached; and/or

(c) As otherwise required by law.

3.4. Prohibited Uses and Disclosures. Business Associate shall not use or disclose PHI other than as permitted or required by the Agreement and this Addendum, or as required by law. Business Associate shall not use or disclose PHI for fundraising or marketing purposes. Business Associate shall not disclose PHI to a health plan for payment or health care operations purposes If the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates, and Covered Entity provides Business Associate notice of such restriction [42 U.S.C. Section 17935(a) and 45 C.F.R. Section 164.522(a)(1)(vi)]. Business



Associate shall not directly or indirectly receive remuneration in exchange for PHI, except with the prior written consent of Covered Entity and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2), and the HIPAA regulations, 45 C.F.R. Section 164.502(a)(5)(ii); however, this prohibition shall not affect payment by Covered Entity to Business Associate for services provided pursuant to the Agreement.

3.5. Subcontractors. Business Associate agrees to: (I) impose on subcontractors, obligations consistent with the terms of this Addendum; and I) ensure that subcontractors comply with the Addendum. Business Associate's use or any subcontractor will not relieve, waive, or diminish any obligation Business Associate has under this Addendum. Business Associate is solely responsible for the acts or omissions of subcontractors.

3.6. Minimum Necessary. Business Associate, its subcontractors shall access, use or disclose only the minimum amount of Customer Data reasonably necessary to accomplish the intended purpose of such access, use, or disclosure.

3.7. Data Ownership, Business Associate acknowledges that Business Associate has no ownership rights with respect to Customer Data or PHI contained In Customer Data.

#### 4. Subcontractors

To the extent Business Associate employs a Subcontractor that creates, receives, maintains or transmits PHI on behalf of Business Associate. Business Associate shall ensure that Subcontractor agrees to the same restrictions and conditions that apply to Business Associate with respect to such PHI. Business Associate's use or any Subcontractor will not relieve, waive, or diminish any obligation Business Associate has under this Addendum.

#### 5. Additional Obligation of Business Associate

In accordance with the Security Rule and Privacy Rule, Business Associate agrees to:

(a) Implement and maintain the appropriate security standards set forth at 45 C.F.R. § 164.306, administrative safeguards set forth at 45 C.F.R. § 164.308, the physical safeguards set forth at 45 C.F.R. § 164.310, the technical safeguards set forth al 45 C F.R. § 164.312. and the policies and procedures set forth at 45 C.F.R. § 164.316 and otherwise comply with the HIPAA Security Rule, to the extent applicable to Business Associate, to prevent the use or disclosure of any ePHI of the Covered Entity's Customer Data other than as set forth in this Addendum.

(b) Make Business Associate's internal practices, books and records relating to the use and disclosure of PHI available to HHS for the purpose of determining the Covered Entity's compliance with the Privacy Rule.

(c) Upon the Covered Entity's request, make PHI in a Designated Record Set available to Covered Entity in order for Covered Entity to comply with its obligations with 45 C.F.R. § 164.524, it being understood that (i) Business Associate will only be required to make available such PHI to Covered Entity as part of Customer Data in the ordinary course of providing the Subscription Services In accordance with the Agreement, and (ii) Covered Entity



will be solely responsible for identifying the relevant Designated Record Set and PHI and for complying with any request made by individuals under 45 C.F.R. § 164.524.

(d) Upon the Covered Entity's request, make PHI in a Designated Record Set available to Covered Entity for amendment, in order for Covered Entity to comply with its obligations with 45 C.F.R. § 164.526, it being understood that (i) Business Associate shall make available such PHI to Covered Entity as part of Customer Data in the ordinary course of providing the Subscription Services in accordance with the Agreement, and (ii) Covered Entity will be solely responsible for Identifying the relevant Designated Record Set and PHI and making the necessary amendments(s) to comply with any request made by individuals under 45 C.F.R. § 164.526.

(e) Upon the Covered Entity's request, make available the information reasonably required to provide an accounting of disclosures or PHI of which Business Associate is aware in accordance with 45 C.F.R. § 164.528, provided that Covered Entity will be solely responsible for identifying the relevant Individuals and associated PHI and for complying with any request made by Individuals under 45 C.F.R. § 164.528. If an Individual or an Individual's representative submits a request for an accounting directly to Business Associate Business Associate shall refer the Individual to contact Covered Entity's system administrator directly. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its subcontractors for at least six (6) years prior to the request. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure [45 C.F.R. 164.528(b)(2)].

(f) Pursuant to 42 U.S.C. Section 17934(b) and 45 C.F.R. Section 164.504(e)(1)(iii), If the Business Associate knows of a pattern of activity or practice of a subcontractor of Business Associate that constitutes a material breach or violation of the subcontractor's obligations under this Addendum, the Business Associate must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the Business Associate must terminate the contractual arrangement with its subcontractor, if feasible. Business Associate shall provide written notice to Covered Entity of any pattern of activity or practice of a subcontractor of Business Associate that Business Associate believes constitutes a material breach or violation of the subcontractor's obligations under this Addendum within ten (10) calendar days of discovery and shall meet with Covered Entity to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.

## **6. Obligations of Covered Entity**

6.1. Covered Entity shall be solely responsible for responding to any requests for PHI made by individuals in accordance with 45 C.F.R. § 164.524, 45 C.F.R. § 164.526, and 45 C.F.R. § 164.528. In the event Business Associate receives a request from an individual the parties agree that Business Associate shall refer the individual to contact Covered Entity's system administrator directly.





6.2. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy and Security Rule if done by Covered Entity.

6.3. Covered Entity shall restrict the access and use of the Subscription Service to its authorized users only. Covered Entity shall be responsible for ensuring all Covered Entity's users, or anyone to whom Covered Entity shall provide access, maintain the security of any passwords, username, or other form of authentication involved in obtaining access to the Subscription Service. Usernames and passwords must be uniquely assigned to a specific individual and may not be shared by multiple Individuals at any one time or transferred.

6.4. Covered Entity shall use the Subscription Service's column-level encryption feature on all Covered Entity-created fields for all Customer Data containing PHI.

## 7. **Security Incident and Breach Notification**

Business Associate agrees to the following breach notification requirements:

(a) Business Associate shall within thirty (30) calendar days report to Covered Entity any Security Incident of which it becomes aware Involving Covered Entity's Customer Data in accordance with 45 C.F.R. § 164.314(a)(2)(i)(C)).

(b) Unless notification is delayed by a law enforcement agency, Business Associate shall within ten (10) calendar days of discovery report to Covered Entity any Breach of Covered Entity's Unsecured PHI contained in Customer Data in accordance with 45 C.F.R. § 164.410. Business Associate shall provide information reasonably requested by Covered Entity for purposes of investigating the Breach and any other information that Covered Entity is required to Include in the notification to the individual under 45 C.F.R. § 164.404(c) to the extent such information is available in Business Associate's ordinary course of operating the Subscription Service. Business Associate shall inform Covered Entity of the measures that it will adopt to mitigate the cause of the Breach and to prevent future Breaches.

## 8. **Termination**

This Addendum shall be in effect as of the Effective Date and shall continue until the Agreement has expired or been terminated. Upon expiration or termination of this Addendum, Covered Entity shall request the return of Customer Data in accordance with the procedure set forth in the Agreement, and Business Associate shall make available such Customer Data in accordance with such procedure. If return or destruction is not feasible, Business Associate shall continue to extend the protections and satisfy the obligations of this Addendum to such information, and limit further use and disclosure of such PHI to those purposes that make the return or destruction of the information infeasible [45 C.F.R. Section 164.504 {e}(2)(ii)(J)]. If destruction of the PHI is selected, upon Covered Entity's written request, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

Notwithstanding any provision In the Agreement, each individual department of Covered Entity, that has ordered Subscription Services pursuant to an Order Form between Business Associate and the individual department, may terminate the Subscription Service that this Addendum



applies to within their individual department, upon written notice If the Business Associate materially breaches this Addendum with respect to that individual department and does not cure the breach within thirty (30) days after receiving written notice thereof from Covered Entity. Business Associate shall within thirty (30) days following the effective date of a termination by such individual department for Business Associates material uncured breach refund to the terminating individual department all prepaid fees received by Business Associate covering the remaining portion of the Subscription Term for the affected Subscription Service after the date of the termination.

9. Business Associate understands and agrees that it is subject to civil or criminal penalties applicable to Business Associate for unauthorized use, access or disclosure of PHI in accordance with the HIPAA Regulations and the HITECH Act including, but not limited to, 42 U.S.C. 17934 (c).

#### 10. Indemnification

**In the event of a Breach caused solely by Business Associate's failure to implement and maintain appropriate administrative, physical and technical safeguards with respect to ePHI as set forth in Section 5 (a) and subject to the Covered Entity's compliance with this Addendum, including without limitation Section 6.4, Business Associate shall (i) defend Covered Entity, its officers, directors and employees against any third party suit, claim, action or demand ("Claim"); (ii) pay any court-ordered award of damages or settlement amounts payable to third party with respect to the applicable Claim and (iii) reimburse Covered Entity for the following: (A) costs incurred by Covered Entity to notify individuals affected by such Breach to the extent such notification is required under applicable laws; (B) costs incurred by Covered Entity to provide identity protection services to individuals affected by a Breach to the extent the provision of such services is required under applicable laws; and (C) government or regulatory fines paid by Covered Entity solely due to such Breach. The obligations in subsections (i) and (ii) above are conditioned on Covered Entity (a) notifying Business Associate promptly in writing of any actual or threatened Claim, (b) giving Business Associate sole control of the defense thereof and any related settlement negotiations, and (c) cooperating and, at Business Associate's request and expense, assisting in such defense. Business Associate's cumulative and aggregated liability at all times arising out of or related to this Addendum shall be subject to the limitations of liability set forth in Sections 9.1 – Limited Liability of the Appendix A – Public Sector Subscription Service Terms.**



## Appendix B

### ServiceNow Data Security Addendum

#### DATA SECURITY ADDENDUM

All capitalized terms not defined in this Data Security Addendum (“**DSA**”) have the meaning given to them in other parts of the Agreement.

#### 1. SECURITY PROGRAM

While providing the Subscription Service, ServiceNow will maintain a written information security program of policies, procedures and controls aligned to ISO27002, or substantially equivalent standard, governing the processing, storage, transmission and security of Customer Data (the “**Security Program**”). The Security Program includes industry-standard practices designed to protect Customer Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access. ServiceNow updates the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, although no such update will materially reduce the commitments, protections or overall level of service provided to Customer as described herein.

**1.1 SECURITY ORGANIZATION.** ServiceNow shall designate a Chief Information Security Officer responsible for coordinating, managing, and monitoring ServiceNow’s information security function, policies, and procedures.

**1.2 POLICIES.** ServiceNow’s information security policies shall be (i) documented; (ii) reviewed and approved by management, including after material changes to the Subscription Service; and (iii) published, and communicated to personnel, contractors, and third parties with access to Customer Data, including appropriate ramifications for noncompliance.

**1.3 RISK MANAGEMENT.** ServiceNow shall perform information security risk assessments as part of a risk governance program that is established with the objective to regularly test, assess and evaluate the effectiveness of the Security Program. Such assessment shall be designed to recognize and assess the impact of risks and implement identified risk reduction or mitigation strategies to address new and evolving security technologies, changes to industry standard practices, and changing security threats. ServiceNow shall have the risk program audited annually by an independent third party in accordance with Section 2.1 (Certifications and Attestations) of this Data Security Addendum (“**DSA**”).

#### 2. CERTIFICATIONS AND AUDITS

**2.1 CERTIFICATIONS AND ATTESTATIONS.** ServiceNow shall establish and maintain sufficient controls to meet certification and attestation for the objectives stated in ISO 27001, ISO 27018, SSAE 18 / SOC 1 and SOC 2 Type 2 (or equivalent standards) for the Security Program supporting the Subscription Service. At least once per calendar year, ServiceNow shall obtain an assessment against such standards and audit methodologies by an independent third-party auditor and make the executive reports available to the Customer

**2.2 AUDIT.** ServiceNow shall allow for and contribute to audits that include inspections by granting Customer (either directly or through its representative(s); provided that such representative(s) shall enter into written obligations of confidentiality and non-disclosure directly with ServiceNow), access to all reasonable and industry recognized documentation evidencing ServiceNow’s policies and procedures governing the security and privacy of Customer Data and its Security Program through ServiceNow’s self-access documentation portal (“**ServiceNow CORE**”) and at no additional costs (“**Audit**”). The information available in ServiceNow CORE





will include documentation evidencing ServiceNow's Security Program, as well as ServiceNow's privacy policies and procedures regarding personal information processed within the Subscription Service, copies of certifications and attestation reports (including audits) listed above.

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

### **3. PHYSICAL, TECHNICAL, AND ORGANIZATIONAL SECURITY MEASURES**

#### **3.1 PHYSICAL SECURITY MEASURES.**

**3.1.1. DATA CENTER FACILITIES.** The data center facilities include (1) physical access restrictions and monitoring that shall include a combination of any of the following: multi-zone security, man-traps, appropriate perimeter deterrents (e.g. fencing, berms, guarded gates), on-site guards, biometric controls, CCTV, and secure cages; and (2) fire detection and fire suppression systems both localized and throughout the data center floor.

**3.1.2. SYSTEMS, MACHINES AND DEVICES.** The systems, machines and devices include (1) physical protection mechanisms; and (2) entry controls to limit physical access.

**3.1.3. MEDIA.** ServiceNow shall use NIST 800-88 industry standard (or substantially equivalent) destruction of sensitive materials, including Customer Data, before such media leaves ServiceNow's data centers for disposition.

#### **3.2 TECHNICAL SECURITY MEASURES.**

**3.2.1. ACCESS ADMINISTRATION.** Access to the Subscription Service by ServiceNow employees and contractors is protected by authentication and authorization mechanisms. User authentication is required to gain access to production and sub-production instances. Individuals are assigned a unique user account. Individual user accounts shall not be shared. Access privileges are based on job requirements using the principle of least privilege access and are revoked upon termination of employment or consulting relationships. Access entitlements are reviewed by management quarterly. Infrastructure access includes appropriate user account and authentication controls, which will include the required use of VPN connections, complex passwords with expiration dates, account lock-out enabled, and a two-factor authenticated connection.

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

**3.2.3. LOGGING AND MONITORING.** The production infrastructure log activities are centrally collected, are secured in an effort to prevent tampering, and are monitored for anomalies by a trained security team. ServiceNow shall provide a logging capability in the platform that captures login and actions taken by users in the ServiceNow application. Customer has full access to application audit logs within its instance(s), including successful and failed access attempts to Customer's instance(s). Customer is responsible for exporting application audit logs to Customer's syslog server through available built-in platform features.

**3.2.4. FIREWALL SYSTEM.** An industry-standard firewall is installed and managed to protect ServiceNow systems by residing on the network to inspect all ingress connections routed to the ServiceNow environment. ServiceNow managed firewall rules are reviewed quarterly. Customer shall be responsible for reviewing any Customer managed firewall rules on its instance(s).

**3.2.5. VULNERABILITY MANAGEMENT.** ServiceNow conducts quarterly 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.

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

**3.2.7. CHANGE CONTROL.** ServiceNow evaluates changes to platform, applications, and production infrastructure to minimize risk and such changes are implemented following ServiceNow's standard operating procedure.

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

**3.2.9. CONFIGURATION MANAGEMENT.** ServiceNow shall implement and maintain standard hardened configurations for all system components within the Subscription Service. ServiceNow shall use industry standard hardening guides, such as guides from the Center for Internet Security, when developing standard hardening configurations.

**3.2.10. DATA ENCRYPTION IN TRANSIT.** ServiceNow shall use industry standard encryption to encrypt Customer Data in transit over public networks to the Subscription Service.

**3.2.11. DATA ENCRYPTION AT REST.** ServiceNow shall provide encryption at rest capability for column level encryption, which Customer may enable at its sole discretion. Customer may purchase additional data-at-rest encryption capabilities if offered by ServiceNow during the Subscription Term.

**3.2.12. SECURE SOFTWARE DEVELOPMENT.** ServiceNow shall implement and maintain secure application development policies and procedures aligned with industry standard practices such as the OWASP Top Ten (or a substantially equivalent standard). All personnel responsible for secure application design and development will receive appropriate training regarding ServiceNow's secure application development practices.

**3.2.13. SECURE CODE REVIEW.** ServiceNow shall perform a combination of static and dynamic testing of code prior to the release of such code to Customers. Vulnerabilities shall be addressed in accordance with its then current software vulnerability management program. Software patches are regularly made available to Customers to address known vulnerabilities.

**3.2.14. ILLICIT CODE.** The Subscription Service shall not contain viruses, malware, worms, date bombs, time bombs, shut-down devices, that may result in, either: (a) any inoperability of the Subscription Service; or (b) any interruption, interference with the operation of the Subscription Service (collectively, "**Illicit Code**"). If the Subscription Service is found to contain any Illicit Code that adversely affects the performance of the Subscription Service or causes a material security risk to Customer Data, ServiceNow shall, as Customer's exclusive remedy, use commercially reasonable efforts to remove the Illicit Code or to advise and assist Customer to remove such Illicit Code.

### **3.3 ORGANIZATIONAL SECURITY MEASURES.**

**3.3.1. DATA CENTER INSPECTIONS.** ServiceNow performs routine reviews of data centers to confirm that the

data centers continue to maintain appropriate security controls necessary to comply with the Security Program.

**3.3.2. PERSONNEL SECURITY.** ServiceNow performs background screening on all employees and all contractors

who have access to Customer Data in accordance with ServiceNow's then-current applicable standard operating procedure and subject to Law.

**3.3.3. SECURITY AWARENESS AND TRAINING.** ServiceNow maintains a security and privacy awareness program that includes appropriate training and education of ServiceNow personnel, including any contractors or third parties that may access Customer Data. Such



training is conducted at time of hire and at least annually throughout employment at ServiceNow.

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

**3.3.5. SOFTWARE AND ASSET INVENTORY.** ServiceNow shall maintain an inventory of all software components (including, but not limited to, open source software) used in the Subscription Service, and inventory all media and equipment where Customer Data is stored.

**3.3.6. WORKSTATION SECURITY.** ServiceNow shall implement and maintain security mechanisms on personnel workstations, including firewalls, anti-virus, and full disk encryption. ServiceNow shall restrict personnel from disabling security mechanisms.

## **4. SERVICE CONTINUITY**

**4.1 DATA MANAGEMENT; DATA BACKUP.** ServiceNow will host the purchased instances of the Subscription Service in a pair of data centers that attained SSAE 18 Type 2 attestations or have ISO 27001 certifications (or equivalent or successor attestations or certifications) acting in an active/active capacity for the Subscription Term. Each data center includes full redundancy (N+1) and fault tolerant infrastructure for electrical, cooling and network systems. The deployed servers are enterprise scale servers with redundant power to ensure maximum uptime and service availability. The production database systems 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 DISASTER RECOVERY.** ServiceNow shall (i) maintain a disaster recovery ("DR") related plan that is consistent with industry standards for the Subscription Service; (ii) test the DR plan at least once every year; (iii) make available summary test results which will include the actual recovery point and recovery times; and (iv) document any action plans within the summary test results to promptly address and resolve any deficiencies, concerns, or issues that prevented or may prevent the Subscription Service from being recovered in accordance with the DR plan.

**4.3 BUSINESS CONTINUITY.** ServiceNow shall maintain a business continuity plan ("BCP") to minimize the impact to its provision and support of the Subscription Service from an event. The BCP shall: (i) include processes for protecting personnel and assets and restoring functionality in accordance with the time frames outlined therein; and (ii) be tested annually and updated based on any deficiencies, identified during such tests.

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

## **5. MONITORING AND INCIDENT MANAGEMENT**

### **5.1 MONITORING, MANAGEMENT AND NOTIFICATION.**

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

**5.1.2. BREACH NOTIFICATION.** ServiceNow will report to Customer any accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Data



(a “**Breach**”) without undue delay (up to a period of no more than **48 hours**) following determination by ServiceNow that a Breach has occurred.

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

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

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

## **6. PENETRATION TESTS**

**6.1 BY A THIRD-PARTY.** ServiceNow contracts with third-party vendors to perform a penetration test on the ServiceNow application per family release to identify risks and remediation options that help increase security. ServiceNow shall make executive reports from the penetration testing available to Customer in ServiceNow CORE.

**6.2 BY CUSTOMER.** No more than once per calendar year Customer may request to perform, at its own expense, an application penetration test. Additional tests within a Release Family may be requested and if allowed, shall be subject to a fee. Prior to conducting any penetration test, Customer shall notify ServiceNow by submitting a request to schedule such a test using the Support Portal per ServiceNow’s then-current penetration testing policy and procedure, including entering into ServiceNow’s penetration test agreement. Customer shall not perform a penetration test without ServiceNow’s express written authorization. In the event Customer authorized penetration testing identifies vulnerabilities that ServiceNow is able to reproduce, ServiceNow shall, consistent with industry-standard practices, use commercially reasonable efforts to promptly make any necessary changes to improve the security of the Subscription Service. ServiceNow’s approval for a Customer to perform a penetration test as set forth in this Section 6.2 includes the ability for Customer to retest the detected vulnerabilities from the initial penetration test.

## **7. SHARING THE SECURITY RESPONSIBILITY**

**7.1 PRODUCT CAPABILITIES.** The Subscription Service allows Customer to: (a) authenticate users before accessing the Customer’s instance; (b) integrate with SAML solutions (c) encrypt passwords; (d) allow users to manage passwords; and (e) prevent access by users with an inactive account. Customer manages each user’s access to and use of the Subscription Service by assigning to each user a credential and user type that controls the level of access to the Subscription Service. Customer is solely responsible for reviewing ServiceNow’s Security Program and making an independent determination as to whether it meets Customer’s



requirements, taking into account the type and sensitivity of Customer Data that Customer processes within the Subscription Service. Customer shall be responsible for implementing encryption and access control functionalities available within the Subscription Service for protecting all Customer Data containing sensitive data, including credit card numbers, social security and other government-issued identification numbers, financial and health information, Personal Data (including any data deemed sensitive or “special categories of personal data” under Data Protection Laws). Customer is solely responsible for its decision not to encrypt such Customer Data and ServiceNow will have no liability to the extent that damages would have been mitigated by Customer’s use of such encryption measures. Customer is responsible for protecting the confidentiality of each user’s login and password and managing each user’s access to the Subscription Service. Customer shall be responsible for implementing ServiceNow’s documented best practices and hardening guidelines for securing its ServiceNow instances.

**7.2 SECURITY CONTACT.** In accordance with Section 1.4.2 (Customer Responsibilities), of the Customer Support Policy ([www.servicenow.com/upgrade-schedules.html](http://www.servicenow.com/upgrade-schedules.html)), Customer agrees to identify and maintain appropriate security contact(s) for all information security incident and information security-related communication within the Support Portal.

**7.3 LIMITATIONS.** Notwithstanding anything to the contrary in this DSA or other parts of the Agreement, ServiceNow’s obligations herein are only applicable to the Subscription Service. This DSA does not apply to: (a) information shared with ServiceNow that is not Customer Data; (b) data in Customer’s VPN or a third-party network; and (c) any data processed by Customer or its users in violation of the Agreement or this DSA.





## Appendix C

### ServiceNow Data Processing Addendum

#### DATA PROCESSING ADDENDUM

All capitalized terms not defined in this Data Processing Addendum (“**DPA**”) have the meaning given to them in other parts of the Agreement.

#### 1. DEFINITIONS

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

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

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

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

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

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

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

**1.8 “Professional Services”** means any consulting or development services provided by or on behalf of ServiceNow pursuant to an agreed statement of work or packaged professional services described or referenced in a signed ordering document.

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

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

#### 2. SCOPE OF THE PROCESSING

**2.1 COMMISSIONED PROCESSOR.** Data Controller appoints Data Processor to Process Personal Data on behalf of Data Controller as described in the Agreement and in accordance with the Instructions.

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



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

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

### **3. DATA CONTROLLER**

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

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

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

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

**3.2 SECURITY RISK ASSESSMENT.** Data Controller agrees that in accordance with Data Protection Laws and before submitting any Personal Data to the Subscription Service, Data Controller will perform an appropriate risk assessment to determine whether the security measures within the Subscription Service provide an adequate level of security, taking into account the nature, scope, context and purposes of the processing, the risks associated with the Personal Data and the applicable Data Protection Laws. Data Processor shall provide Data Controller reasonable assistance by providing Data Controller with information requested by Data Controller to conduct Data Controller's security risk assessment. Data Controller is solely responsible for determining the adequacy of the security measures within the Subscription



Service in relation to the Personal Data Processed. As further described in the Agreement, the Subscription Service includes, without limitation, column level encryption functionality and role-based access control, which Data Controller may use in its sole discretion to ensure a level of security appropriate to the risk of the Personal Data. For clarity, Data Controller may influence the scope and the manner of Processing of its Personal Data by its own implementation, configuration (i.e., different types of encryption) and use of the Subscription Service, including any other products or services offered by ServiceNow and third-party integrations.

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

#### **4. DATA PROCESSOR**

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

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

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

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

**4.3.2. LOGGING AND MONITORING.** The production infrastructure log activities are centrally collected, are secured in an effort to prevent tampering, and are monitored for anomalies by a trained security team. ServiceNow shall provide a logging capability in the platform that captures login and actions taken by users in the ServiceNow application. Customer has full access to application audit logs within its instance(s), including successful and failed access attempts to Customer’s instance(s). Customer is responsible for exporting application audit logs to Customer’s syslog server through available built-in platform features.





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

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

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

**4.4 DELETION OF PERSONAL DATA.** Upon termination or expiration of the Agreement, Data Processor shall return and delete Customer Data, including Personal Data contained therein, as described in the Agreement. ServiceNow shall use NIST 800-88 industry standard (or substantially equivalent) destruction of sensitive materials, including Customer Data, before such media leaves ServiceNow's data centers for disposition.

**4.5 DATA PROCESSOR ASSISTANCE.** Data Processor will assist Data Controller in ensuring compliance with Data Controller's obligations pursuant to Data Protection Laws taking into account the nature of Processing by providing Data Controller with reasonable information requested pursuant to the terms of this DPA, including information required to conduct Data Controller's data protection impact assessments and prior consultations with supervisory authorities, where required. For clarity, Data Controller is solely responsible for carrying out its obligations under Data Protection Laws and this DPA. Data Processor shall not undertake any task that can be performed by Data Controller.

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

## **5. REQUESTS MADE FROM DATA SUBJECTS AND AUTHORITIES**

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

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

**5.3 REQUESTS FROM AUTHORITIES.** In the case of a notice, audit, inquiry, or investigation by a government body, data protection authority, or law enforcement agency regarding the Processing of Personal Data, Data Processor shall promptly notify Data Controller unless prohibited by applicable law. Each party shall cooperate with the other party by providing



all reasonable information requested in the event the other party is required to produce such information to a data protection authority.

## 6. BREACH NOTIFICATION

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

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

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

## 7. CUSTOMER MONITORING RIGHTS

**7.1 CERTIFICATIONS AND ATTESTATIONS.** ServiceNow shall establish and maintain sufficient controls to meet certification and attestation for the objectives stated in ISO 27001, ISO 27018, SSAE 18 / SOC 1 and SOC 2 Type 2 (or equivalent standards) for the Security Program supporting the Subscription Service. At least once per calendar year, ServiceNow shall obtain an assessment against such standards and audit methodologies by an independent third-party auditor and make the executive reports available to the Customer.

**7.2 AUDIT.** Data Processor shall allow for and contribute to audits that include inspections by granting Customer (either directly or through its representative(s); provided that such representative(s) shall enter into written obligations of confidentiality and non-disclosure directly with ServiceNow), access to all reasonable and industry recognized documentation evidencing ServiceNow’s policies and procedures governing the security and privacy of Customer Data and its Security Program through ServiceNow’s self-access documentation portal (“**ServiceNow CORE**”) and at no additional costs (“**Audit**”). The information available in ServiceNow CORE will include documentation evidencing ServiceNow’s Security Program, as well as ServiceNow’s privacy policies and procedures regarding personal information processed within the Subscription Service, copies of certifications and attestation reports (including audits) listed above.



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

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

## **8. SUB-PROCESSORS**

**8.1 USE OF SUB-PROCESSORS.** Data Controller authorizes Data Processor to engage Sub-Processors appointed in accordance with this Section 8.

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

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

**8.2 RIGHT TO OBJECT.** Data Controller may object to Data Processor's proposed use of a new Sub-Processor by notifying Data Processor within 10 days after receipt of Data Processor's notice if Data Controller reasonably determines such Sub-Processor is unable to Process Personal Data in accordance with the terms of this DPA ("**Objection Notice**"). In the event Data Controller submits its Objection Notice, Data Processor shall reasonably consider such objection and will notify Data Controller if it intends to provide the applicable Subscription Service or Professional Services with the use of the Sub-Processor at issue ("**Processor Notice**"). Customer may terminate the applicable Order Form(s), Use Authorization(s) with respect to the Professional Service or Subscription Service requiring use of the Sub-Processor at issue upon written notice to ServiceNow within 10 days of the date of Processor Notice ("**Termination Period**"). ServiceNow will, as Customer's sole and exclusive remedy, refund to Customer any unused prepaid fees following the effective date of termination for the terminated services. For clarity, Data Processor will not engage the new Sub-Processor at issue until the expiration of the Termination Period.



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

## **9. INTERNATIONAL DATA TRANSFERS**

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

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APPENDIX 1 DETAILS OF PROCESSING

1. Duration of Processing

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

2. Data Subjects

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

- clients and other business contacts;
- employees and contractors;
- subcontractors;
- consultants;

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For purposes of this DPA, Data Controller is Customer and, where applicable, its Affiliates either permitted by Customer to submit Personal Data to the Subscription Service or whose Personal Data is Processed in the Subscription Service.</div><div>1.2 "Data Processor" means the natural or legal person, public authority, agency, or other body which Processes Personal Data on behalf of the Data Controller. For purposes of this DPA, Data Processor is the ServiceNow entity that is a party to the Agreement.</div><div>1.3 "Data Protection Laws" means all applicable laws and regulations regarding the Processing of Personal Data.</div><div>1.4 "Data Subject" means an identified or identifiable natural person.</div><div>1.5 "Instructions" means Data Controller's documented data Processing instructions issued to Data Processor in compliance with this DPA.</div><div>1.6 "Personal Data" means any information relating to a Data Subject uploaded by or for Customer or Customer's agents, employees, or contractors to the Subscription Service as Customer Data.</div><div>1.7 "Process" or "Processing" means any operation or set of operations which is performed upon Personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure or destruction.</div><div>1.8 "Professional Services" means any consulting or development services provided by or on behalf of ServiceNow pursuant to an agreed statement of work or packaged professional services described or referenced in a signed ordering document.</div><div>1.9 "Sub-Processor" means any legal person or entity engaged in the Processing of Personal Data by Data Processor. For the avoidance of doubt, ServiceNow's colocation datacenter facilities are not Sub-Processors under this DPA.</div><div>1.10 "Subscription Service" means the ServiceNow software as a service (SaaS) offering ordered by Customer under an Order Form, Use Authorization or other signed ordering document between ServiceNow and Customer.</div></div><div><div>2. SCOPE OF THE PROCESSING</div><div><div>2.1 <u>COMMISSIONED PROCESSOR</u>. Data Controller appoints Data Processor to Process Personal Data on behalf of Data Controller as described in the Agreement and in accordance with the Instructions.</div><div>2.2 <u>INSTRUCTIONS</u>. The Agreement constitutes Data Controller's initial written Instructions to Data Processor for Processing of Personal Data. Data Controller may issue additional or alternate Instructions provided that such Instructions are: (a) consistent with the purpose and the scope of the Agreement; and (b) confirmed in writing by Data Controller. For the avoidance of doubt, Data Controller shall not use additional or alternate Instructions to alter the scope of the Agreement. Data Controller is responsible for ensuring its Instructions to Data Processor comply with Data Protection Laws.</div><div>2.3 <u>NATURE, SCOPE AND PURPOSE OF THE PROCESSING</u>. Data Processor shall only Process Personal Data in accordance with Data Controller's Instructions and to the extent necessary for providing the Subscription Service and the Professional Services, each as described in the Agreement. Data Controller acknowledges all Personal Data it instructs Data Processor to Process for the purpose of providing the Professional Services must be limited to the Customer Data Processed within the Subscription Service.</div></div></div></div></div>	<div><div>en to them in other parts</div><div>of which is</div><div>her body which, alone or poses of this DPA, Data mit Personal Data to the</div><div>er body which Processes erviceNow entity that is a</div><div>essing of Personal Data.</div><div>ued to Data Processor in</div><div>Customer or Customer's</div><div>med upon Personal Data, , storage, adaptation or king available, alignment</div><div>on behalf of ServiceNow iced in a signed ordering</div><div>Personal Data by Data ocessors under this DPA. dered by Customer under stomer.</div><div>ersonal Data on behalf of</div><div>ons to Data Processor for ied that such Instructions y Data Controller. For the scope of the Agreement. ection Laws.</div><div>Process Personal Data in scription Service and the inal Data it instructs Data Customer Data Processed</div><div>DS:</div><div>Page 1 of 6 (version 2021JAN11)</div></div>
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## Appendix D

### ServiceNow Customer Support Addendum

#### CUSTOMER SUPPORT ADDENDUM

All capitalized terms not defined in this Customer Support Addendum will have the meaning given to them in other parts of the Agreement.

#### 1. CUSTOMER SUPPORT

**1.1 SCOPE.** Customer support is provided to resolve defects causing a nonconformity in the Subscription Service as compared to the Product Overview (“**Customer Support**”). A resolution to a defect may consist of a fix, workaround, or other relief, as ServiceNow deems reasonable. Customer Support does not include performing the following:

- implementation, configuration, integration or customization services;
- training or assistance with administrative functions;
- resolving immaterial defects or defects due to modifications of the Subscription Service made by any person other than ServiceNow or a person acting at ServiceNow’s direction; or
- resolving defects on any instance of the Subscription Service not in conformance with Section 3 (Upgrades and Updates).

**1.2 ACCESS.** Customer Support is available 24 hours a day, 7 days a week, including all holidays by phone as indicated at <http://servicenow.com/support/contact-support.html> or via the support portal <https://hi.service-now.com/> (“**Support Portal**”).

#### 1.3 INCIDENT PRIORITY; RESPONSE TIME; LEVEL OF EFFORT:

Priority	Definition	Target Response Times	Target Level of Effort
P1	Any defect that causes an instance not to be Available.	30 minutes	Continuously, 24 hours per day, 7 days per week
P2	Any defect that causes a critical function to fail.	2 hours	As appropriate 24 hours per day, 7 days per week
P3	Any defect that significantly impedes work or progress.	1 business day	As appropriate during normal business hours





P4	Any defect that does not significantly impede work or progress.	2 business days	As appropriate during normal business hours
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#### 1.4 CUSTOMER RESPONSIBILITIES

**1.4.1.** Customer will receive from ServiceNow communications via email, phone, or through the Support Portal

regarding the Subscription Service and acknowledges that access to the Support Portal may require multi-factor authentication by Customer.

**1.4.2.** Customer will appoint a reasonable number of contacts (“**Customer Authorized Contacts**”) to engage Customer Support for questions and technical issues and Customer must maintain current contact information for the following authorized contacts in the Support Portal who have been trained to administer the Subscription Service:

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

## 2. AVAILABILITY SLA

If Customer’s production instance of the Subscription Service is Available less than 99.8% during a calendar month, Customer’s exclusive remedy is to request ServiceNow issue a service credit (“**Service Credit**”) to Customer for the dollar value of the number of minutes the Subscription Service was not Available in the month. Service Credits are determined at the deemed per-minute rate ServiceNow charges to Customer for Customer’s use of the affected Subscription Service. Customer may request ServiceNow apply a Service Credit to the next invoice for subscription fees. Customer must request all Service Credits in writing to ServiceNow within 30 days of the end of the month in which the Availability SLA was not met. ServiceNow may delay issuing service credits until such amounts reach \$1,000 USD or equivalent currency specified in the applicable Order Form.

“**Available**” means the production instance of the Subscription Service can be accessed by authorized users during a calendar month, excluding Excused Downtime.

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

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



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

**"Maintenance Time"** means the time the Subscription Service is not Available due to an Infrastructure Modification, Upgrade, or Update.

### 3. UPGRADES AND UPDATES

**"Upgrades"** are new Release Families applied by ServiceNow to Customer's instances of the Subscription Service at no additional fee during the Subscription Term. A **"Release Family"** is a complete solution with new features or enhancements to the Subscription Service, including previously released Updates, if applicable. **"Updates"** are ServiceNow's releases (including patches and hotfixes) of the Subscription Service applied by ServiceNow to Customer's instances of the Subscription Service at no additional fee during the Subscription Term that provide problem fixes or other changes, but do not generally include new functionality. ServiceNow may provide new functionality either: **(a)** as an Upgrade, or **(b)** as different software or service for a separate fee. ServiceNow determines whether and when to develop, release, and apply any Upgrade or Update to Customer's instances of the Subscription Service. ServiceNow's current Upgrade Policy can be found at ([www.servicenow.com/upgrade-schedules.html](http://www.servicenow.com/upgrade-schedules.html)). ServiceNow shall use reasonable efforts to give Customer 30 days' prior notice of any Upgrade to the Subscription Service. ServiceNow shall use reasonable efforts to give Customer 10 days' prior notice of any Update. Notwithstanding the foregoing, ServiceNow may provide Customer with a shorter or no notice period of an Upgrade or Update if, in the reasonable judgment of ServiceNow it is necessary to: **(i)** maintain the availability, security, or performance of the Subscription Service; **(ii)** comply with Law; or **(iii)** avoid infringement or misappropriation of any third-party IPR. ServiceNow is not responsible for defects on any instance of the Subscription Service not in conformance with this Section 3.



## Appendix E

### Calculation of Charges

The following are the agreed-upon ordering terms which shall only apply to Quotations placed under the Agreement by Carahsoft Technology for resale to CCSF entities for ServiceNow offerings under CCSF Contract 1000026636 (“**CCSF Prime Contract**”). The terms of use for the applicable CCSF entities shall be pursuant to the terms of the ServiceNow Public Sector Subscription Terms, the Customer Support Addendum, the Data Security Addendum, and the Data Processing Addendum as incorporated into Appendices A through D of the CCSF Prime Contract (“**ServiceNow Subscription Service Terms**”).

#### A. Effective Date of CCSF Ordering Terms

The term of the CCSF Ordering Terms begins on December 1, 2022, and, subject to the Agreement remaining in effect, continues for **three (3) years** (“**Initial CCSF Term**”), unless earlier terminated by mutual written agreement of the Parties. Before the end of the Initial CCSF Term, Carahsoft and CCSF will discuss in good faith the possible renewal of the CCSF Ordering Terms.

During the Initial CCSF Term, subscriptions to the ServiceNow products will be available for purchase by CCSF entities that are Eligible Customers as defined below.

#### B. Subscription Term

Each of the CCSF entities will have a unique subscription term based on the duration between the Term Start Date and Term End Date (“**Subscription Term**”) as set forth in the applicable Quotation between Carahsoft and each CCSF entity. All Subscription Terms must be for a minimum of one (1) year. No purchase may extend beyond the term of this Agreement.

#### C. CCSF Quote Terms

##### 1. Definitions

“**Eligible Customers**” shall mean CCSF entities who are (a) ServiceNow Customers as of or after the Effective Date of this Agreement and (b) agencies and departments of the government of City and County of San Francisco.

“**Existing Products**” shall mean existing ServiceNow subscription products enumerated in **Table 1**, which is hereby incorporated by reference.

##### 2. Price Holds for Eligible Customers

- a. During the Contract Term, for orders placed by Eligible Customers for each Subscription Term, CCSF may purchase additional units of the Existing Products at the subscription fee rate as specified in **Table 1.A** pursuant to a mutually agreed Quotation. CCSF shall be entitled to the specified price, provided that (i) the Existing Product continues to be made commercially available by ServiceNow and, if not, then the order shall be for ServiceNow’s then available subscription product that is substantially equivalent to the Existing Product; and (ii) the pricing model for the Existing Product continues to be made commercially available by ServiceNow at the time of the subsequent order. CCSF agrees that the pricing for the additional units is limited to the additional units only and shall not affect units of the Subscription Service that are already purchased.

For the avoidance of doubt, the **Discount Table A** under Section 5 does not apply to orders of Existing Products.

- b. Notwithstanding the foregoing in subsection 2(a), the following shall apply for orders placed by the CCSF entities the District Attorney's Office (DAT) and the Human Services Agency (HSA): Participant may purchase additional units of the subscription products in the initial 2022 Carahsoft Quotation (for this subsection (b), "**Special Agency Existing Product**") at the subscription fee rate as specified in Table 1.A pursuant to a mutually agreed Quotation. CCSF shall be entitled to the specified price provided that (i) the Special Agency Existing Product continues to be made commercially available by ServiceNow and, if not, then the order shall be for ServiceNow's then available subscription product that is substantially equivalent to the Special Agency Existing Product; and (ii) the pricing model for the Special Agency Existing Product continues to be made commercially available by ServiceNow at the time of the subsequent order. Participant agrees that the pricing for the additional units is limited to the additional units only and shall not affect units of the Subscription Service that are already purchased. **Table 1.A** includes pricing for each product purchased by HSA and DAT.
- c. To the extent that a Quotation to a specific Eligible Customer includes Subscription Products purchased at the net monthly price of zero dollars ("One-Time Migration Products"), Carahsoft shall include in the applicable Quotation a provision that is substantially similar to the following:

The Subscription Products purchased in this Quotation at the net monthly price of zero dollars and included in **Table 2** - ("One-Time Migration Products") and **Table 2.A** (total allowed per existing Eligible Customer) are included in Customer's purchase under this Agreement solely as a one-time migration for the specific Eligible Customer. During the Contract Term of this Agreement, Customer may purchase additional units of the One-Time Migration Products at the corresponding monthly Net Price in the table below to the specific End Customer listed above. The purchase of additional units of the One-Time Migration Products shall be pursuant to an additional mutually agreed Quotation and co-termed to the Term End Date set forth in this Agreement.

For the avoidance of doubt, One-Time Migration Products are provided to CCSF entities individually and the Total Migration Quantities do not reflect a total quantity that can be re-allocated amongst CCSF entities. Should a CCSF entity need to purchase additional quantities of One-Time Migration Products, such purchase would be pursuant to Section 5.

### 3. Orders for Net New Products

Participant may purchase subscription products that are not listed in the Existing Product Table above ("Net New Products") subject to the discounts in Section 5 below (**Discount Table A**). For the avoidance of doubt, these discounts shall not apply to the purchase of Impact offerings, professional services, training or events, or any Support Account Management or Success product/service offering. No purchase may extend beyond the term of this Agreement.

ServiceNow must approve available products for resale to CCSF. Once approved, they can be found on the NASPO ValuePoint website for Carahsoft's NASPO contract at <https://www.naspovaluepoint.org/portfolio/cloud-solutions-2016-2026/carahsoft-technology-corporation/>.

To locate the latest posting of ServiceNow products and services: Select "Pricing Documents"; Select "Carahsoft Price File" and request the Excel price list.

### 4. Renewals

The following shall apply to any renewal orders between Carahsoft and CCSF entities:

(a) Upon expiration of the Subscription Term of an Order executed under the terms of the CCSF Ordering Terms ("Initial Order"), for two (2) immediately subsequent mutually agreed renewal order (the "Renewal Order"), Carahsoft shall not increase the subscription fee rate for each Subscription Product on Initial Order ("Renewal Product") by more than zero percent (0%) of the subscription fee rate of each Renewal Product, provided that (i) the Renewal Product continues to be made commercially available by ServiceNow at the time of the Renewal Order; and if not, then the Renewal Order shall be for ServiceNow's then available product that is substantially equivalent to the Renewal Product; (ii) the pricing model for the Renewal Product continues to be made available by ServiceNow at the time of the Renewal Order; (iii) all Renewal Products are purchased in quantities that are equal to or greater than the sum of all the units for all such Renewal Products in all the orders placed for the particular Eligible Customer up to the expiration of the Subscription Term on Initial Order; (iv) the Renewal Order is for a 12-month subscription term; and (v) Participant places the Renewal Order before the expiration of the Subscription Term on Initial Order. For clarity, the foregoing does not apply to, without limitation, Impact offerings, professional services (pursuant to either a Statement of Work or Service Description), training, events, or any Support Account Management or Success product/service offering.

(b) For the avoidance of doubt, if CCSF purchased the same subscription product in both an Initial Order and an add-on order at different prices: (1) the subscription fee rate for the Initial Order shall apply to the quantity purchased in the Initial Order; and (2) the subscription fee rate for the add-on order shall apply to the quantity of the same product purchased at the add-on.

## 5. Discount Table A

For commercially available Subscription Products not in the Existing Product Table ordered by an Eligible Customer, Carahsoft shall apply a discount in accordance with the List Price Discount Matrix below, which shall decrease the subscription fee rate for ServiceNow's then-current list price by the applicable discount percentage ("List Discount") for Net New Transaction Size in accordance with the table below, where the list price is as solely determined by ServiceNow, and the subscription fee rate for the units shall be prorated to the Contract Term End Date. Eligible Customer agrees that the subscription fee rate for the additional units is limited to the additional units only and shall not affect units of the Subscription Service that are already purchased, including the subscription fee rate at renewal for units of the Subscription Service already purchased. For clarity, the foregoing does not apply to, without limitation, professional services (pursuant to either a Statement of Work or Service Description), Impact offerings, training, events, or any Support Account Management or Success product/service offering. For avoidance of doubt, this discount level is based on the per transaction value. The parties are not precluded from negotiating further discounts pursuant to a mutually agreed order form on a per transaction basis.

List Price Discount Matrix for Net New Transactions	
Eligible Customer Net New Transaction Size	Total Minimum Discount from ServiceNow List Price
\$53,000-\$529,999	24.5%
\$530,000-\$1,587,299	37.5%
\$1,587,300-\$3,174,999	45.5%
≥ \$3,175,000	51.5%

For purpose of this Section 5, "**Net New Transaction**" shall mean: (a) the purchase of products that are not Existing Products listed in **Table 1** or Special Agency Existing Products; or (b) the purchase of additional quantities of One-Time Migration Products above the quantities listed in the

One-Time Migration Products under Section 2.c.

For avoidance of doubt, should an Order include both Net New Transactions and purchase of Existing Products, such as a renewal, the discounts under the **Discount Table A** shall apply only to the portion of the Order that constitutes the Net New Transaction. Purchases of Existing Products shall not count towards the Net New Transaction Size.

## **6. Migrated Products**

CCSF has migrated from the products listed in **Table 3**. These are not available for purchase.

## **D. Modification of CCSF Ordering Terms**

The CCSF Ordering Terms set forth in this Agreement may be modified by mutual agreement of the parties in writing and may not be modified orally. The above pricing terms under this Agreement shall apply only if no Order results in any decrease to the cumulative annual contract value of orders placed by CCSF entities.

## **E. Cancellation and Termination of CCSF Ordering Terms**

Each Party shall have the right to terminate the CCSF Ordering Terms via written notice to the other Party. In the event of such termination, any active Orders will remain in effect until they expire or are terminated as set forth in the applicable Orders and the Agreement.

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
PROD00065	Additional Non-Production Instance - US Data Center (Monthly)	Instance	\$885.50	Additional non-production 4TB storage limit instance in ServiceNow's data center.
PROD00827	Additional Production Environment - US Data Center (Monthly)	Instance	\$2,059.76	One (1) additional production 4TB storage limit instance and one (1) non-production 4TB storage limit storage limit instance in ServiceNow's data center.
PROD01627	Performance Analytics - Enterprise – Application (Monthly)	% Of total net subscription product contract value	20%	<p>Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics that companies can use to proactively optimize business services, improve processes, and align with organizational goals.</p> <p>Performance Analytics - Enterprise.</p> <p>Performance Analytics use rights apply to all Subscription Products.</p> <p>The annual subscription fee for Performance Analytics ("PA Subscription Fee") is based on the total of the annual subscription fees of all Subscription Products subscribed to by Customer. As Customer exceeds capacity of purchased Subscription Products, or if Customer purchases additional Subscription Products, additional PA Subscription Fees shall apply.</p>
PROD18250	IntegrationHub Starter v2 – Transactions (Monthly)	Transactions	\$0	<p>Provides additional capabilities to allow Flow Designer or Workflow to integrate and automate systems outside of a Customer's instance.</p> <p>IntegrationHub Starter includes entitlement for up to 500,000 IntegrationHub Transactions annually (unused Transactions expire annually).</p> <p>IntegrationHub Starter includes Protocols and Spokes as set forth in the IntegrationHub Overview on <a href="http://www.servicenow.com/upgrade-schedules.html">www.servicenow.com/upgrade-schedules.html</a> which IS EXPRESSLY DEEMED INCORPORATED HEREIN BY THIS REFERENCE. Customer may request printed copies of the documents incorporated herein by reference by emailing us at <a href="mailto:legal.request@servicenow.com">legal.request@servicenow.com</a>.</p> <p>An Integration Hub Transaction is defined as any outbound call originating from Integration Hub, FlowDesigner, Remote Tables and/or Orchestration. This includes any operation, action, orchestration from Integration Hub, Remote Tables or Orchestration resulting in an outbound call.</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				Additional annual Transactions require the purchase of a separate IntegrationHub package.
PROD11780	Password Reset Limited - Transaction Pack (Monthly)	Transaction Pack	\$1,745.33	<p><b>Included Application:</b> Password Reset</p> <p><b>Password Reset</b> - Provides the capability to reset user passwords that are stored and pre-authenticated in a supported credential store separate from Customer's instance of the subscription service, such as Microsoft Active Directory.</p>
PROD12015	Application Portfolio Management - APM User (Monthly)	APM User	\$436.33	<p><b>Included Applications:</b> Application Portfolio Management; Predictive Intelligence; and Performance Analytics</p> <p><b>Application Portfolio Management:</b> Provides capabilities for organizations to inventory and manage application portfolios in a single central location, capturing relevant information such as costs, risk, projects, lifecycle dates, ownership, and health assessments. This inventory facilitates the identification of business benefits of each application and helps organizations make informed decisions on reducing costs, improving agility, and facilitating business alignment with the IT application portfolio.</p> <p><b>Predictive Intelligence:</b> Provides the capability to use supervised machine learning to train solutions with Customer's historic ServiceNow data to predict an outcome, such as a field value in a record.</p> <p><b>Performance Analytics:</b> Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics that companies can use to proactively optimize business services, improve processes, and align with organizational goals.</p> <p>Usage is limited to the number of APM Users. An APM User is defined as any User with the right to access Application Portfolio Management and may perform any or all functions within Application Portfolio Management.</p> <p>Performance Analytics and Predictive Intelligence: Use rights apply only to Application Portfolio Management and included Bundled Custom Tables.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each APM User the right to access those Custom Tables.</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
PROD12492	Agile Team (Monthly)	Module	\$0	<p><b>Included Applications:</b> Agile Development and Test Management</p> <p><b>Agile Development:</b> Provides capabilities to manage the software development process including story definition, backlog management, sprint planning, test planning, enhancement requests, defect prioritization and definition of release content.</p> <p><b>Test Management:</b> Provides a user acceptance testing framework to help project teams and business users align on project deliverables and provides visibility into the status of the project testing when used in conjunction with Project Portfolio Management and Agile Development. Project Portfolio Management and Agile Development are separately authorized.</p> <p>_____ All Users may use the above applications.</p>
PROD13074	App Engine - Fulfiller (Monthly)	Fulfiller User	\$82.13	<p>Provides the capability to create custom tables or develop new applications utilizing the Now Platform contextual development environment, App Engine Studio, platform features and shared system data.</p> <p><b>Included Applications:</b> App Engine Studio; Mobile Publishing; Performance Analytics; Virtual Agent; Universal Request Pro and Predictive Intelligence</p> <p><b>App Engine Studio:</b> Provides a guided, low-code tool for developing applications to store information and automate business processes. Provides an environment for app creation using app templates for pre-built or custom solutions.</p> <p><b>Mobile Publishing:</b> Provides the capabilities to deliver customer-branded versions of ServiceNow mobile applications and secure distribution of mobile applications through the utilization of security SDKs</p> <p><b>Performance Analytics:</b> Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics that companies can use to proactively optimize business services, improve processes and align with organizational goals.</p> <p><b>Virtual Agent:</b> Provides capabilities for Users to interact with a chat agent (bot or human) through the ServiceNow Service Portal, mobile environments and various messaging services.</p>



**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p><b>Universal Request Pro:</b> Provides capabilities for Universal Request to connect and expand functionality with Predictive Intelligence and Virtual Agent.</p> <p><b>Predictive Intelligence:</b> Provides the capability to use supervised machine learning to train solutions with Customer's historic ServiceNow data to predict an outcome, such as a field value in a record.</p> <hr/> <p>App Engine provides the Customer with the right to deploy Custom Tables in a production instance.</p> <p>Each Fulfiller User has the right to access an unlimited number of Custom Tables to perform the actions of a Fulfiller User.</p> <p>Notwithstanding the definition of Fulfiller User above, an External App Engine Requester is defined as Customer's external contacts, including, but not limited to Customer's accounts, consumers, households, partners or other contacts. Customer may grant External App Engine Requesters the right to access App Engine as Requester Users. External App Engine Requesters are not included in the App Engine Fulfiller User count and are not subject to App Engine Subscription Product fees.</p> <p>Performance Analytics, Virtual Agent and Predictive Intelligence use rights apply only to App Engine.</p>
PROD14995	ITOM Operator Professional - Subscription Unit v2 (Monthly)	Subscription Unit	\$14.02	<p><b>Included Applications:</b> ITOM Visibility; ITOM Health; and Performance Analytics</p> <p><b>ITOM Visibility</b> - Provides visibility into IT resources, configuration characteristics, and their relationship to application services.</p> <p><b>ITOM Health</b> – Provides the capability to gain visibility and track the availability of Customer's critical application services.</p> <p><b>Performance Analytics</b> - Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics that companies can use to proactively optimize business services, improve processes, and align with organizational goals.</p> <hr/> <p>Includes entitlement for up to the number of Subscription Units purchased.</p> <p>A Subscription Unit is a unit of measure applied to Managed</p>



**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p>IT Resources using Defined Ratios. A list of Managed IT Resources, Defined Ratios for a Subscription Unit, and included Protocols and Spokes are set forth in the IT Operations Management (ITOM) - ServiceNow Subscription Unit Overview on <a href="http://www.servicenow.com/upgrade-schedules.html">www.servicenow.com/upgrade-schedules.html</a> and ARE EXPRESSLY DEEMED INCORPORATED HEREIN BY THIS REFERENCE. Customer may request printed copies of the documents incorporated herein by reference by emailing us at <a href="mailto:legal.request@servicenow.com">legal.request@servicenow.com</a>.</p> <p>Protocols and Spokes require IntegrationHub Transactions which are not included in the ITOM Operator Professional Subscription Product.</p> <p>Performance Analytics: Use rights apply only to ITOM Operator Professional Applications and included Bundled Custom Tables.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each User the right to access those Custom Tables as an Unrestricted User. An Unrestricted User is every User that is assigned a unique username and has a user profile in the Subscription Service designated as "active".</p>
PROD14997	IT Operations Management Visibility - Subscription Unit v2 (Monthly)	Subscription Unit	\$2.57	<p><b>Included Applications:</b> ITOM Visibility</p> <p><b>ITOM Visibility:</b> Provides visibility into IT resources, configuration characteristics, and their relationship to application services.</p> <p>Includes entitlement for up to the number of Subscription Units purchased.</p> <p>A Subscription Unit is a unit of measure applied to Managed IT Resources using Defined Ratios. A list of Managed IT Resources and Defined Ratios for a Subscription Unit are set forth in the IT Operations Management (ITOM) - ServiceNow Subscription Unit Overview on <a href="http://www.servicenow.com/upgrade-schedules.html">www.servicenow.com/upgrade-schedules.html</a> and ARE EXPRESSLY DEEMED INCORPORATED HEREIN BY THIS REFERENCE. Customer may request printed copies of the documents incorporated herein by reference by emailing us at <a href="mailto:legal.request@servicenow.com">legal.request@servicenow.com</a>.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each User the right to access those Custom Tables as an Unrestricted User. An Unrestricted User is every User that is</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				assigned a unique username and has a user profile in the Subscription Service designated as “active”.
PROD15000	ITOM Discovery - Subscription Unit v2 (Monthly)	Subscription Unit	\$6.97	<p><b>Included Applications:</b> Discovery</p> <p>Discovery: Locates physical and virtual devices connected to an enterprise network. When Discovery locates a device, it explores its configuration, status, software, and relationships to other connected devices, and updates the CMDB.</p> <p>Includes entitlement for up to the number of Subscription Units purchased.</p> <p>A Subscription Unit is a unit of measure applied to Managed IT Resources using Defined Ratios. A list of Managed IT Resources and Defined Ratios for a Subscription Unit are set forth in the IT Operations Management (ITOM) - ServiceNow Subscription Unit Overview on <a href="http://www.servicenow.com/upgrade-schedules.html">www.servicenow.com/upgrade-schedules.html</a> and ARE EXPRESSLY DEEMED INCORPORATED HEREIN BY THIS REFERENCE. Customer may request printed copies of the documents incorporated herein by reference by emailing us at <a href="mailto:legal.request@servicenow.com">legal.request@servicenow.com</a>.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each User the right to access those Custom Tables as an Unrestricted User. An Unrestricted User is every User that is assigned a unique username and has a user profile in the Subscription Service designated as “active”.</p>
PROD15073	Safe Workplace Professional - Safe Workplace User (Monthly)	Safe Workplace User	\$2.41	<p><b>Included Applications:</b> Employee Readiness Surveys; Employee Health Screening; Health and Safety Testing; Workplace PPE Inventory Management; Workplace Safety Management; Workplace Reservation; Workplace Space Mapping; Workplace Visitor Management; Contact Tracing; Vaccination Status; Employee Travel Safety; Predictive Intelligence; Virtual Agent; and Performance Analytics</p> <p><b>Employee Readiness Surveys:</b> Provides the capability for Customer to define and measure preparedness of its workforce through surveys.</p> <p><b>Employee Health Screening:</b> Provides the capability to define and record the health criteria required of employees before entering the workplace and view data and trends on the health criteria and return of employees.</p> <p><b>Health and Safety Testing:</b> Provides the capabilities to manage employee health testing requests to meet employer health and safety requirements.</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p><b>Workplace PPE Inventory Management:</b> Provides the capability to manage the personal protective equipment inventory levels across Customer's locations and facilities.</p> <p><b>Workplace Safety Management:</b> Provides the capability to reserve workspaces with configurable shifts for a managed return to work process including cleaning schedules and tasks to create an audit trail for employee return.</p> <p><b>Workplace Reservation:</b> Provides capabilities to manage reservations for rooms, desk, parking, and additional workplace services.</p> <p><b>Workplace Space Mapping:</b> Provide the capability to import and view Mappedin floor plans.</p> <p><b>Workplace Visitor Management:</b> Provides capabilities to request services for internal and external visitors to a workplace location.</p> <p><b>Contact Tracing:</b> Provides the capability to identify employees that may have been exposed to an individual with a confirmed infectious disease by correlating information from work shifts, workspace locations, badge scans and employee daily contact logs. Includes the capability to manage the response process tasks related to these events.</p> <p><b>Vaccination Status:</b> Provides the capability to track the status of employee vaccinations.</p> <p><b>Employee Travel Safety:</b> Provides capabilities to authorize business travel for employees based on the safety status of the destination</p> <p><b>Predictive Intelligence:</b> Provides the capability to use supervised machine learning to train solutions with Customer's historic ServiceNow data to predict an outcome, such as a field value in a record.</p> <p><b>Virtual Agent:</b> Provides capabilities for Users to interact with a chat agent (bot or human) through the ServiceNow Service Portal, mobile environments and various messaging services.</p> <p><b>Performance Analytics:</b> Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics that companies can use to proactively optimize business</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p>services, improve processes and align with organizational goals.</p> <p>Usage is limited to the number of Safe Workplace Users. A Safe Workplace User is defined as any User with the right to access the included applications in any way or Users receiving services supported within a Safe Workplace included application. This includes, but is not limited to, the following: make requests through a portal or mobile application, receive and respond to surveys, request or receive PPE, receive a health screen, or receive any other services managed by the included applications. Visitors that do not meet the definition of "User" are not included in the Safe Workplace User count and are not subject to Safe Workplace Subscription Product fees.</p> <p>A Virtual Agent Conversation Transaction is defined as any structured conversation between a chatbot and user on a pre-built or custom topic.</p> <p>Performance Analytics, Virtual Agent and Predictive Intelligence: use rights apply only to Safe Workplace Professional Applications and included Bundled Custom Tables.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each Safe Workplace Professional User the right to access those Custom Tables.</p>
PROD15338	AI Search Starter – Documents (Monthly)	Documents	\$0	<p>Provides the capabilities to extend and automate search functionality within Service Portal, Now Mobile, and Virtual Agent.</p> <p>AI Search Starter includes entitlement to search and index up to 500,000 external Documents for a 12-month period (unused external Documents expire after a 12-month period).</p> <p>A Document is any item with a unique identifying field associated to it.</p> <p>Additional Document search and index capacity requires the purchase of an AI Search Document pack.</p>
PROD15404	HR Service Delivery Professional - HR User v3 (Monthly)	HR User	\$6.81	<p><b>Included Applications:</b> Case and Knowledge Management; Employee Center Pro; Lifecycle Events; Continual Improvement; Communities; Mobile Publishing; Universal Request Pro; Performance Analytics; Predictive Intelligence; and Virtual Agent</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p><b>Case and Knowledge Management:</b> In support of HR Service Delivery, provides capabilities to document and manage interactions between employees and HR. Also allows for the fulfillment of advanced case requests across various HR centers of excellence, supported by an HR Knowledge Base.</p> <p><b>Employee Center Pro:</b> Provides the capability to access a unified portal for multi- department service delivery, enabling organizations to scale their service solutions across IT, HR, Workplace, Legal, and Procurement. Employee Center Pro expands the portal experience beyond service delivery with employee communication and engagement tools including content publishing and campaigns, content experiences, and employee communities.</p> <p><b>Lifecycle Events:</b> Provides the capability to configure a collection of predefined activities for personal and professional employee life cycle events within the HR product.</p> <p><b>Continual Improvement:</b> Provides capabilities to define improvement initiatives and measure success by creating phases and tasks to meet performance goals and track progress</p> <p><b>Communities:</b> Enables Customer's users to engage with peers to ask questions and provide answers on areas of their interest. Helps organizations to reduce support costs through crowd sourcing of knowledge and self-service enablement. Includes the following key features – forums and user management, personalized subscriptions, user community profile, and moderation.</p> <p><b>Mobile Publishing:</b> Provides the capabilities to deliver customer-branded versions of ServiceNow mobile applications and secure distribution of mobile applications through the utilization of security SDKs.</p> <p><b>Universal Request Pro:</b> Empowers customers in their journey towards Enterprise Service Management (ESM) or Global Business Services (GBS) by allowing agents to resolve cases seamlessly across the enterprise to provide a better employee experience.</p> <p><b>Performance Analytics:</b> Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p>that companies can use to proactively optimize business services, improve processes and align with organizational goals.</p> <p><b>Predictive Intelligence:</b> Provides the capability to use supervised machine learning to train solutions with Customer's historic ServiceNow data to predict an outcome, such as a field value in a record.</p> <p><b>Virtual Agent:</b> Provides capabilities for Users to interact with a chat agent (bot or human) through the ServiceNow Service Portal, mobile environments and various messaging services.</p> <p>Usage of the HR Service Delivery Professional Applications is limited to the number of HR Users active in the ServiceNow HR Profile table. An HR User is defined as any active User in the ServiceNow HR Profile table that is within their employment start and end date, including full-time employees, part-time employees, contractors, and contingent workers. Customer may grant applicants and alumni that are outside of their employment start and end date the right to access HR Service Delivery Professional as Users and these Users do not require an HR User subscription.</p> <p>Lifecycle Event usage is limited to events that remain within the HR domain and explicitly excludes onboarding, offboarding, and transfers.</p> <p>Performance Analytics, Virtual Agent and Predictive Intelligence use rights apply only to HR Professional Applications and App Engine Starter 15 Custom Tables.</p> <p>App Engine Starter 15: Customer is granted the right to create or install up to 15 Custom Tables and to grant each HR User the right to access those Custom Tables.</p>
PROD15405	HR Service Delivery Enterprise - HR User v4 (Monthly)	HR User	\$6.72	<p><b>Included Applications:</b> Case and Knowledge Management; Employee Center Pro; Lifecycle Events; Enterprise Onboarding and Transitions; Employee Journey Management; Continual Improvement; Communities; Mobile Publishing; Universal Request Pro; Predictive Intelligence; Virtual Agent; and Performance Analytics</p> <p><b>All HR Service Delivery Professional applications (see above) plus these additional applications:</b></p> <p><b>Enterprise Onboarding and Transitions:</b> In support of HR Service Delivery, provides a mechanism for HR to configure</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p>complex employee processes that span departments, such as onboarding, offboarding, transfers, and other employee lifecycle events.</p> <p><b>Employee Journey Management:</b> Provides the capability to deliver personalized cross departmental employee journeys with intelligent workflows including the capability to accelerate employee journeys with templates that allow managers to personalize employee transition plans, deliver tailored learning experiences, and create surveys to capture feedback and gain insights to improve the employee experience.</p> <p>Usage of the HR Service Delivery Enterprise Applications is limited to the number of HR Users active in the ServiceNow HR Profile table. An HR User is defined as any active User in the ServiceNow HR Profile table that is within their employment start and end date, including full-time employees, part-time employees, contractors, and contingent workers. Customer may grant applicants and alumni that are outside of their employment start and end date the right to access HR Service Delivery Enterprise as Users and these Users do not require an HR User subscription.</p> <p>Performance Analytics, Virtual Agent and Predictive Intelligence use rights apply only to HR Enterprise Applications and App Engine Starter 15 Custom Tables.</p> <p>App Engine Starter 15: Customer is granted the right to create or install up to 15 Custom Tables and to grant each HR User the right to access those Custom Tables.</p>
PROD17243	IT Service Management Standard - Fulfiller User v3 (Monthly)	Fulfiller User	\$75.43	<p><b>Included Applications:</b> Incident Management; Problem Management; Change Management; Release Management; Asset Management; Request Management; Cost Management; Walk-Up Experience; Digital Portfolio Management and Universal Request</p> <p><b>Incident Management</b> - Facilitates the process of restoring normal IT operations by providing capabilities to record, classify, distribute, and manage incidents through to resolution. Includes Performance Analytics limited to 15 key performance indicators (KPIs), one dashboard, and 90 days of data captured by Incident Management</p> <p><b>Problem Management</b> - Facilitates the process of identifying the root causes of errors in the IT infrastructure by providing capabilities to record, escalate, and manage problems through to resolution.</p>



**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				<p><b>Change Management</b> - Allows repeatable methods and procedures to be used for introducing change into the IT infrastructure by providing capabilities for creating, assessing, approving, and executing changes.</p> <p><b>Release Management</b> - Facilitates the planning, design, build, configuration, testing, and release of hardware and software into the IT infrastructure.</p> <p><b>Asset Management</b> - Provides capabilities to track and manage the physical, contractual, and financial aspects of assets.</p> <p><b>Request Management</b> - Provides capabilities to approve and fulfill requests for goods and services defined and presented in the Service Catalog.</p> <p><b>Cost Management</b> - Provides capabilities to track one-time and recurring costs of configuration items used by IT, and to allocate those costs to business units using allocation rules</p> <p><b>Walk-up Experience</b> - Provides the capability to create and manage a requester queue at an onsite walk-up venue where requests are resolved in person. Provides capabilities to create and manage a requester queue at an onsite IT walk-up venue where requests and issues are fulfilled and solved by IT technicians in real time and in person.</p> <p><b>Universal Request</b> - Provides capabilities to approve and fulfill requests for goods and services defined and presented in the Service Catalog.</p> <p><b>Digital Portfolio Management:</b> Provides the capability to view services, applications, and products through the full lifecycle of plan, build, run, and optimize. Provides the capability to view roadmap planning for portfolio of services and applications, the status of ongoing projects and releases and operational impacts, and identify opportunities to optimize services and applications in a consolidated view.</p> <hr/> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.  Usage is limited by the number of purchased Fulfiller Users.  Universal Request use rights apply only to IT Service Management Standard applications and App Engine Starter 25 Custom Tables  App Engine Starter 25: Customer is granted the right to create or install up to 25 Custom Tables</p>

**Table 1: Existing Products**

Product #	Product Name	Type	Ceiling Price	Additional Descriptions
				and to grant each Fulfiller User the right to access those Custom Tables and perform the actions granted to that User Type. The following Application(s) became available according to the release indicated below. San Diego - Digital Portfolio Management

**Table 1.A: Existing Product Pricing Per Entity**

Product #	Included Product Name	Ceiling Price	Included Price per Entity							
			AIR	DAT	DHR	DPH	DPW	HSA	PUC	TIS
PROD00065	Additional Non-Production Instance - US Data Center (Monthly)	\$885.50	NA	NA	NA	\$885.50	NA	\$1,090.21	NA	\$885.50
PROD00827	Additional Production Environment - US Data Center (Monthly)	\$2,059.76	NA	NA	NA	\$2,059.76	NA	NA	NA	NA
PROD01627	Performance Analytics - Enterprise – Application (Monthly)	20%	NA	NA	NA	NA	11%	NA	NA	11%
PROD18250	IntegrationHub Starter v2 – Transactions (Monthly)	\$0	\$0	\$0	NA	\$0	\$0	\$0	\$0	\$0
PROD11780	Password Reset Limited - Transaction Pack (Monthly)	\$1,745.33	NA	NA	NA	\$1,745.33	NA	NA	NA	NA
PROD12015	Application Portfolio Management - APM User (Monthly)	\$436.33	NA	NA	NA	\$436.33	NA	NA	NA	\$412.33
PROD12492	Agile Team (Monthly)	\$0	\$0	NA	NA	\$0	\$0	\$0	\$0	\$0
PROD13074	App Engine - Fulfiller (Monthly)	\$82.13	\$82.13	NA	NA	NA	NA	NA	NA	NA
PROD14995	ITOM Operator Professional - Subscription Unit v2 (Monthly)	\$14.02	NA	NA	NA	NA	NA	NA	NA	\$14.02
PROD14997	IT Operations Management Visibility - Subscription Unit v2 (Monthly)	\$2.57	\$2.57	NA	NA	NA	NA	NA	NA	NA

PROD15000	ITOM Discovery - Subscription Unit v2 (Monthly)	\$6.97	NA	NA	NA	NA	NA	NA	\$6.97	NA
PROD15073	Safe Workplace Professional - Safe Workplace User (Monthly)	\$2.41	NA	NA	NA	NA	NA	NA	\$2.41	NA
PROD15338	AI Search Starter – Documents (Monthly)	\$0	\$0	NA	NA	NA	NA	NA	\$0	NA
PROD15404	HR Service Delivery Professional - HR User v3 (Monthly)	\$6.81	\$6.81	NA	\$1.99	NA	NA	NA	NA	NA
PROD15405	HR Service Delivery Enterprise - HR User v4 (Monthly)	\$6.72	NA	NA	NA	NA	NA	NA	\$6.72	NA
PROD17243	IT Service Management Standard - Fulfiller User v3 (Monthly)	\$75.43	\$75.43	\$66.38	NA	\$75.43	\$67.26	\$49.54	\$75.43	\$57.10

**Table 2: Included Products (see Table 2.A for quantities allowed per Entity)**

Product #	Product Name	Type	Net Price	Migration Quantities
PROD11655	Grandfathered Custom Tables - Custom Tables (Monthly)	Custom Table	\$0	302
Existing custom tables in use on the contract origination date only.				
PROD12008	ITBM Standard (Monthly)	ITBM User	\$0	1195
<p><b>Included Applications:</b> Project Portfolio Management; Demand Management; Resource Management; Financial Planning; Innovation Management; and Performance Analytics</p> <p><b>Project Portfolio Management:</b> Provides capabilities to plan, organize, and manage projects and project portfolios including associated tasks and resources.</p> <p><b>Demand Management:</b> Provides capabilities to consolidate IT requests in a Service Catalog and route them through a Workflow to stakeholders who gather additional information to prioritize investment decisions.</p> <p><b>Resource Management:</b> Provides a view of projects and the availability, allocation, and capacity of assigned resources.</p> <p><b>Financial Planning:</b> Provides the capability to assist in the automation of budget and forecast planning of projects to increase efficiency and simplify the enterprise planning process.</p> <p><b>Innovation Management:</b> Provides the capability to gather and evaluate ideas for implementation.</p> <p><b>Performance Analytics:</b> Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics that companies can use to proactively optimize business services, improve processes, and align with organizational goals.</p> <p>Usage is limited to the number of ITBM Users. An ITBM User is defined as any User with the right to access one or more of the IT Business Management Applications above and may perform any or all functions within the IT Business Management Applications.</p>				

**Table 2: Included Products (see Table 2.A for quantities allowed per Entity)**

Product #	Product Name	Type	Net Price	Migration Quantities
Performance Analytics use rights apply only to IT Business Management Standard Applications and included Bundled Custom Tables.				
Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each ITBM User the right to access those Custom Tables.				
PROD12492	Agile Team (Monthly)	Module	\$0	6
<b>Included Applications:</b> Agile Development and Test Management  <b>Agile Development:</b> Provides capabilities to manage the software development process including story definition, backlog management, sprint planning, test planning, enhancement requests, defect prioritization and definition of release content.  <b>Test Management:</b> Provides a user acceptance testing framework to help project teams and business users align on project deliverables and provides visibility into the status of the project testing when used in conjunction with Project Portfolio Management and Agile Development. Project Portfolio Management and Agile Development are separately authorized.  All Users may use the above applications.				
PROD13011	GRC Legacy ITSA - GRC Operator (Monthly)	GRC Operator	\$0	1195
<b>Included Applications:</b> Policy and Compliance Management; Risk Management; and Audit Management  <b>Policy and Compliance Management:</b> Provides a centralized process for creating and managing policies, standards, and internal control procedures that are cross-mapped to external regulations and best practices. Additionally, provides structured Workflows for the identification, assessment, and continuous monitoring of control activities.  <b>Risk Management:</b> Provides an executive view into risk to allow risk managers to quickly identify at-risk assets, perform assessments, and continuously monitor risk exposure.  <b>Audit Management:</b> Provides a centralized process for internal audit teams to automate the complete audit lifecycle by providing the capability to plan, scope, and execute integrated, risk-based audit plans.  A GRC Operator is any User who contributes to, or is part of, a Governance, Risk and Compliance (GRC) application workflow or process in any way, including the receipt of an attestation request. A GRC Operator may perform any or all functions within the GRC Applications.  GRC purchase does not include access to Unified Compliance Framework (UCF) which Customer must purchase separately.				
PROD13055	Field Service Management Standard - FSM User (Monthly)	FSM User	\$0	60
<b>Included Applications:</b> Field Service Management (FSM); Cost Management for FSM; Planned Maintenance for FSM; Asset Management for FSM; and Contractor Management				

**Table 2: Included Products (see Table 2.A for quantities allowed per Entity)**

Product #	Product Name	Type	Net Price	Migration Quantities
<p><b>Field Service Management (FSM):</b> Provides capabilities to create work orders and tasks for the repair and service of equipment; schedule and assign work to technicians; manage parts requirements; and inventory, manage, and complete work orders.</p> <p><b>Cost Management for FSM:</b> Provides capabilities to track one-time and recurring costs of configuration items used by IT, and to allocate those costs to business units using allocation rules.</p> <p><b>Planned Maintenance for FSM:</b> Provides the capability to automatically create work orders and work order tasks via schedules that are triggered based on meters, usage, and/or duration.</p> <p><b>Asset Management for FSM:</b> Provides capabilities to track and manage the physical, contractual, and financial aspects of assets.</p> <p><b>Contractor Management:</b> Provides capabilities to track one-time and recurring costs of configuration items used by IT, and to allocate those costs to business units using allocation rules.</p> <p>An FSM User is any User with the right to access one or more of the FSM included Applications and may perform any or all functions as defined in the User Type Definition section above.</p> <p>Notwithstanding the above, Users subscribed to a Customer Service Management or IT Service Management product may create and view FSM work orders and appointments. External CSM Users may create and view FSM work orders and appointments of their own or related accounts.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each FSM User the right to access those Custom Tables.</p>				
PROD15368	Field Service Management Standard (Monthly)	Fulfiller	\$0	145
<p><b>Included Applications:</b> Field Service Management (FSM); Cost Management for FSM; Planned Maintenance for FSM; Asset Management for FSM; Universal Request and Contractor Management</p> <p><b>Field Service Management (FSM):</b> Provides capabilities to create work orders and tasks for the repair and service of equipment; schedule and assign work to technicians; manage parts requirements; and inventory, manage, and complete work orders.</p> <p><b>Cost Management for FSM:</b> Provides capabilities to track one-time and recurring costs of configuration items used by IT, and to allocate those costs to business units using allocation rules.</p> <p><b>Planned Maintenance for FSM:</b> Provides the capability to automatically create work orders and work order tasks via schedules that are triggered based on meters, usage, and/or duration.</p> <p><b>Asset Management for FSM:</b> Provides capabilities to track and manage the physical, contractual, and financial aspects of assets.</p> <p><b>Universal Request:</b> Empowers customers in their journey towards Enterprise Service Management (ESM) or Global Business Services (GBS) by allowing agents to resolve cases seamlessly across the enterprise to provide a better employee experience.</p>				

**Table 2: Included Products (see Table 2.A for quantities allowed per Entity)**

Product #	Product Name	Type	Net Price	Migration Quantities
<p><b>Contractor Management:</b> Provides the capability to collaborate with third-party contractors on field service tasks through a contractor portal.</p> <p>Usage is limited by the number of purchased Fulfiller Users. Requester Users are not included in the Fulfiller User count and are not subject to Field Service Management Standard Subscription Product fees.</p> <p>Notwithstanding the above, External Users subscribed to a Customer Service Management product may create and view FSM work orders and appointments of their own or related accounts.</p> <p>App Engine Starter 5: Customer is granted the right to create or install up to 5 Custom Tables and to grant each Fulfiller User, Requester User and External User the right to access those Custom Tables and perform the actions granted to that User Type as defined in the User Type Definition.</p>				
PROD17225	Field Service Management Legacy - Fulfiller User (MIGRATION ONLY) (Monthly)	Fulfiller User	\$0	990
<p><b>Included Applications:</b> Field Service Management (FSM)</p> <p><b>Field Service Management (FSM):</b> Provides capabilities to create work orders and tasks for the repair and service of equipment; schedule and assign work to technicians; manage parts requirements; and inventory, manage, and complete work orders.</p> <p>Usage is limited by the number of purchased Fulfiller Users. Requester Users are not included in the Fulfiller User count and are not subject to Field Service Management Legacy Subscription Product fees.</p> <p>Notwithstanding the above, External Users subscribed to a Customer Service Management product may create and view FSM work orders and appointments of their own or related accounts.</p>				

**Table 2.A: Included Products Quantities allowed per Entity**

Product #	Included Product Name	Type	PUC	TIS	DPH	AIR	DPW	DAT	HSA	Total Migration Quantities
PROD11655	Grandfathered Custom Tables - Custom Tables (Monthly)	Custom Table	0	112	11	142	0	0	37	302
PROD12008	ITBM Standard (Monthly)	ITBM User	60	385	415	190	50	0	95	1195
PROD12492	Agile Team (Monthly)	Module	1	1	1	1	1	0	1	6
PROD13011	GRC Legacy ITSA - GRC Operator (Monthly)	GRC Operator	60	385	415	190	50	0	95	1195
PROD13055	Field Service Management Standard - FSM User (Monthly)	FSM User	60	0	0	0	0	0	0	60
PROD15368	Field Service Management Standard (Monthly)	Fulfiller	0	0	0	0	50	0	95	145
PROD17225	Field Service Management Legacy - Fulfiller User (MIGRATION ONLY) (Monthly)	Fulfiller User	0	385	415	190	0	0	0	990



**Table 3: ServiceNow Products CCSF has migrated from: (not available for purchase)**

Product #	Description
<b>PROD00528</b>	<p><b>ITSA Unlimited - Fulfiller User</b> Incident Management; Problem Management; Change Management; Release Management; Asset Management; Request Management; Cost Management; Field Service Management (Work Management); Project Portfolio Management; Resource Management; Demand Management; Scaled Agile Framework; Agile Development (Software Development Lifecycle); Test Management; Financial Planning; Policy and Compliance Management; Audit Management (Governance, Risk and Compliance); Risk Management; and Walk-Up Experience.</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.</p>
<b>PROD01160</b>	<p><b>Governance, Risk and Compliance Suite - Fulfiller User</b> Policy and Compliance Management and Audit Management (Governance, Risk and Compliance); and Risk Management.</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.</p>
<b>PROD01164</b>	<p><b>ITSA Unlimited (Including Platform Runtime) - Fulfiller User</b> Incident Management; Problem Management; Change Management; Release Management; Asset Management; Request Management; Cost Management; Field Service Management (Work Management); Project Portfolio Management; Resource Management; Demand Management; Scaled Agile Framework; Agile Development (Software Development Lifecycle); Test Management; Innovation Management; Financial Planning; Policy and Compliance Management; Audit Management (Governance, Risk and Compliance); Risk Management; Walk-Up Experience and Platform Runtime (CreateNow Development Suite).</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.</p> <p>Notwithstanding the Custom Table Creation and Installation language above, Platform Runtime provides the Customer with the right to deploy custom applications in a production instance.</p>
<b>PROD01173</b>	<p><b>ServiceWatch Insight (Discovery, Service Mapping and Event Management included) - Node</b> Discovery, Service Mapping and Event Management applications.</p> <p>Discovery application includes discovery of all supported Configuration Item (CI) types and entitlement for up to the number of purchased Nodes. Node is any physical or virtual server that is: (i) discovered by the Discovery application; and (ii) assigned as a configuration item by Configuration Management (CMDB).</p> <p>Service Mapping application includes service mapping of all supported CI types and entitlement for up to the number of purchased Nodes. Node is any physical or virtual server CI that is mapped by Service Mapping in the CMDB. Notwithstanding the User Type Definitions above, when Service Mapping is purchased, all Users, including Requester Users, may be assigned a sm_user role solely for read only access rights to the Service Mapping application.</p> <p>Event Management application includes entitlement for up to the number of purchased Nodes. A Node is a physical or virtual server for which events can be reported on (directly or indirectly) to the Event Management application.</p>
<b>PROD12028</b>	<p><b>IT Operations Management Visibility - Subscription Unit</b> Included Applications: ITOM Visibility</p>

	<p>Includes entitlement for up to the number of Subscription Units purchased.</p> <p>A Subscription Unit is a unit of measure applied to Managed IT Resources using Defined Ratios. A list of Managed IT Resources and Defined Ratios for a Subscription Unit are set forth in Section 1 (IT Operations Management) of the ServiceNow Subscription Unit Overview on <a href="http://www.servicenow.com/upgradeschedules.html">www.servicenow.com/upgradeschedules.html</a> and ARE EXPRESSLY DEEMED INCORPORATED HEREIN BY THIS REFERENCE.</p> <p>Customer may request printed copies of the documents incorporated herein by reference by emailing us at <a href="mailto:legal.request@servicenow.com">legal.request@servicenow.com</a>.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each User the right to access those Custom Tables as an Unrestricted User. An Unrestricted User is every User that is assigned a unique username and has a user profile in the Subscription Service designated as "active".</p>
<b>PROD13080</b>	<p><b>Business Stakeholder User V2</b></p> <p>A Business Stakeholder User may approve requests, view all records and view and drill through reports within the IT Business Management, IT Service Management, or Now Platform® App Engine - Fulfiller User Subscription Products to which the Customer is subscribed.</p> <p>Use of Business Stakeholder right with Custom Tables requires: (i) use of the ServiceNow created approvals module; and (ii) creation of a read role on the Custom Table associated with the Business Stakeholder role.</p> <p>IT Service Management (formerly: Service Management Suite; IT Service Automation) IT Business Management (formerly: Service Strategy) Now Platform® App Engine - Fulfiller User (formerly: CreateNow; Platform Runtime)</p>
<b>PROD02226</b>	<p><b>IT Business Management - Analyst</b></p> <p>Demand Management; Resource Management; Project Portfolio Management; Scaled Agile Framework; Agile Development (Software Development Lifecycle); Release Management; Test Management; Financial Planning; Financial Modeling; Application Portfolio Management; Innovation Management; and Financial Charging</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section. The following application(s) became available or were updated according to the release indicated below.</p> <p>Financial Planning - Geneva Agile Development - Helsinki Application Portfolio Management - Istanbul Financial Reporting renamed to Financial Charging – Kingston Cost Transparency renamed to Financial Modeling - Kingston Scaled Agile Framework - London Innovation Management - New York</p>
<b>PROD02225</b>	<p><b>IT Business Management - Planner</b></p> <p>Demand Management; Resource Management; Project Portfolio Management; Scaled Agile Framework; Agile Development (Software Development Lifecycle); Release Management; Test Management; Financial Planning; Innovation Management; and Financial Charging</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section for the applications listed above. In addition, the Customer is granted rights to Application Portfolio Management only to create configurations for specific applications managed and modify any associated record, and to Financial Modeling only to view reports.</p> <p>Usage of the Application Portfolio Management and Financial Modeling rights requires IT Business Management – Analyst.</p>
<b>PROD01293</b>	<p><b>Service Strategy - Planner</b></p>

	<p>Demand Management, Resource Management, Project Portfolio Management, Scaled Agile Framework; Agile Development (Software Development Lifecycle), Release Management, Test Management, Financial Planning, and Innovation Management.</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.</p>
<b>PROD01294</b>	<p><b>Service Strategy - Analyst</b></p> <p>Demand Management, Resource Management, Project Portfolio Management, Scaled Agile Framework; Agile Development (Software Development Lifecycle), Release Management, Test Management, Financial Planning, Cost Transparency, and Innovation Management.</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.</p>
<b>PROD00528</b>	<p><b>ITSA Unlimited - Fulfiller User</b></p> <p>Incident Management; Problem Management; Change Management; Release Management; Asset Management; Request Management; Cost Management; Field Service Management (Work Management); Project Portfolio Management; Resource Management; Demand Management; Scaled Agile Framework; Agile Development (Software Development Lifecycle); Test Management; Financial Planning; Policy and Compliance Management; Audit Management (Governance, Risk and Compliance); Risk Management; and Walk-Up Experience.</p> <p>Customer is granted the rights for Fulfiller User as defined in the User Type Definitions Section.</p>

## **Appendix F**

### **Disaster Recovery Plan**

Contractor/Supplier shall maintain a high availability configuration in the primary data center, with a mirrored instance of the City production system and supporting infrastructure in the secondary data center. Contractor/Supplier shall maintain a standard procedure that governs the management of business continuity events. A disaster recovery test plan must be reviewed and exercised at least annually. Upon reasonable notice from City, disaster recovery testing documentation shall be made available to the City. Contractor/Supplier will provide City's Chief Information Security Officer with access to review business continuity and disaster recovery plan.

Contractor/Supplier shall provide City with a business continuity strategy and disaster recovery plan and procedures that can be implemented in the event of a catastrophic failure at the primary hosting site. Such a strategy should provide how quickly the secondary site will be available to Authorized Users. The business continuity strategy must include drills and exercises to test the readiness to execute the disaster recovery plan. If requested, the first drill must happen within six months of contract signing and then once per year thereafter. The drill plans, action items and project plan for follow-ups must be shared with the City.