AMENDMENT #8 TO QUILT CONTRACT NUMBER MSA-05012019-F

THIS AMENDMENT (the "Amendment"), is entered into this _24_ day of May, 2021 (the "Amendment Effective Date"), by and between The Quilt ("Quilt"), a national coalition of regional networks located at 2442 NW Market Street, #68, Seattle, Washington, 98107, and Carahsoft Technology Corporation ("Aggregator" or Carahsoft"), located at 11493 Sunset Hills Rd, Suite 100, Reston, Virginia 20190. This Amendment amends the contract between Quilt and Carahsoft, contract number MSA-05012019-F, executed by the parties on or about __May_____, 2021 (the "Agreement").

WHEREAS, for the promises contained herein and for other valuable consideration, Quilt and Carahsoft now wish to further amend the Agreement as follows:

1. The parties agree to amend agreement to allow for industry and technology advances, and to add products and services to Exhibit B of this Agreement as mutually agreed in writing from time to time. Should Quilt and provider reach mutual agreement regarding pricing and/or discounts for any/all new products and/or services then the parties will add them to this Agreement by written amendment.

2. Pricing.
   a. The parties have mutually agreed to add the following manufacturers as an authorized manufacturer under Exhibit B "Products and Services". These services can be delivered through any platform, as required by the manufacturer & needed by the Quilt Members.

1. Armored Things	6. Keralia Tech	11. OutSystems
2. Box	7. MobileMind	12. PagerDuty
3. CyberReef	8. Mulesoft	13. Platcore
4. Granicus	9. Nuance	14. Sailpoint
5. GitLab	10. Nuvolo	15. UX Storm

   b. The parties have also mutually agreed to amend the pricing for the following manufacturers to reflect the new discounts shown in Exhibit B.

1. Informatica

3. Ratification.
    a. All other terms and conditions of the Agreement shall remain unchanged and shall continue in full force and effect.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Amendment to the Amended and Restated Agreement.

The Quilt   Carahsoft Technology Corporation

By: _Jennifer Leasure_   By: _Tim Boltz_

Name: _Jennifer Leasure_   Name: _Tim Boltz_

Title: _President and CEO_   Title: _Director of Sales_

Date: _May 24, 2021_   Date: _5/25/2021_

Exhibit B

Carahsoft Pricing Schedule

Vendor	Armored Things	Box	CyberReef	Granicus	GitLab	Informatica	Keralia Tech	MobileMind	Mulesoft	Nuance	Nuvolo	OutSystems	PagerDuty	Platcore	Sailpoint	UX Storm
Product Cagegory																
Software Licenses:																
1 Year Subscription	8%	5%	3%	2%		0.50%	3%	0.50%	1%		3%	5%	3%	3%		3%
2 Year Subscription						0.50%						5%				
3 Year Subscription						0.50%						5%				
4 Year Subscription						0.50%						5%				
5 Year Subscription						0.50%						5%				
Support (SnS)																
1 Year Subscription		5%		2%	2%	0.50%			1%	2%		5%			30%	
2 Year Subscription					2%	0.50%				2%		5%			35%	
3 Year Subscription					2%	0.50%				2%		5%			40%	
4 Year Subscription					2%	0.50%				2%		5%			40%	
5 Year Subscription					2%	0.50%				2%		5%			40%	
Managed Services						2%				2%						
End User Computing						2%				2%						
Cloud Subscription Services	8%	5%			2%	0.50%		0.50%		2%					40%	
Training:																
Level 1 (0-150cr)		5%		2%	2%	0.50%	3%	0.50%	1.0%	2%	3%	5%	3%	3%		3%
Level 2 (151-600cr)					2%	0.50%				2%		5%				
Level 3 (601-1200cr)					2%	0.50%				2%		5%				
Level 4 (1201+cr)					2%	0.50%				2%		5%				
Professional Services:																
Level 1 (0-150cr)		5%	3%	2%	2%		3%	0.50%	1.0%	2%	3%	5%	3%	3%	2%	3%
Level 2 (151-600cr)					2%					2%		5%			2%	
Level 3 (601-1200cr)					2%					2%		5%			2%	
Level 4 (1201+cr)					2%					2%		5%			2%	
Hardware:					2%					2%						

The Quilt Product Discount Matrix

Discount Matrix applies to New Sales and Renewals

*For more information including all Manufacturer's Terms and Conditions for Support and Subscription Services "SnS" please see below and additional attachments:

CyberReef - https://www.cyberreef.com/terms-and-conditions/
OutSystems - https://www.carahsoft.com/buy/gsa-schedule-contracts/gsa-schedule-70/eula2/fileDownload/152853/11223
Sailpoint - https://www.carahsoft.com/buy/gsa-schedule-contracts/gsa-schedule-70/eula2/fileDownload/152853/6029

<u>Exhibit C</u>

<u>Administrative Procedures</u>

Provider will establish a Provider Team dedicated to servicing the Quilt Agreement and Quilt Authorized Buyers. The Provider Team will have a lead person that will be the primary contact for non-technical issues.

The Provider Team may directly contact Quilt Authorized Buyers regarding their Services, both in a sales mode and an on-going customer management mode.

Quilt Approved Buyers may directly contact the Provider Team to get information about Services.

The Quilt will establish a dedicated liaison (Quilt Liaison) to be the administrative point of contact for the oversight, management, and administration of the Quilt Agreement. The Quilt Liaison will be a point of contact for Quilt Authorized Buyers to get information about processes and procedures associated with purchases made through the Quilt Agreement. They will also be available as a point of escalation in the event of unresolved problems with Services from Provider.

The Provider Team is responsible for providing information to the Quilt Liaison and Quilt President and CEO to ensure the Quilt Agreement is being implemented correctly. The Provider or "AQP" is requested to deliver to the Quilt Liaison a report on the volume of AQB activity related to the agreement on a regular interval.

Non-technical Problem resolution:

Quilt Authorized Buyers will use the Provider Team to address and handle problems as a first point of contact. If response is lacking or not acceptable, the Quilt Authorized Buyer should notify and work with the Quilt Liaison to get resolution.

Technical Problem resolution:

Quilt Authorized Buyers will be provided with full contact to technical problem reporting Services through the Provider. Provider trouble tickets will be issued to the Quilt Authorized Buyer's approved contacts in accordance with Providers fault management procedures. In the event that Quilt Authorized Buyers do not get appropriate technical response/resolution, the Quilt Authorized Buyer may contact the Provider Team Primary Contact. If they still do not get appropriate response, the Quilt Authorized Buyer should next inform the Quilt Liaison to assist in getting a response.

PROVIDER TEAM

Primary Contact

Name	Martin Gavin
Title	Program Manager
Organization	Carahsoft
Address	1860 Michael Faraday Dr.
	Suite 100
City	Reston
State	VA
Zip	20148
Phone	(703) 673-3518
Email	Martin.Gavin@Carahsoft.com

Backup Contact

Name	Tim Boltz
Title	Sales Director
Organization	Carahsoft
Address	1860 Michael Faraday Dr.
	Suite 100
City	Reston
State	VA
Zip	20148
Phone	(703) 230-7402
Email	Tim.Boltz@Carahsoft.com

Primary Technical Contact

Name	Nick Wager
Title	VMware Pre-Sales Technical Lead
Organization	Carahsoft
Address	1860 Michael Faraday Dr.
	Suite 100
City	Reston
State	VA
Zip	20148
Phone	(703) 581-6615
Email	Nick.Wager@Carahsoft.com

Quilt Liaison

Name	Jennifer Griffin
Title	Program Coordinator
Organization	The Quilt
Address	2442 NW Market Street
	#68
City	Seattle
State	Washington
Zip	98107
Phone	303.909.4687
Email	griffin@thequilt.net
Cell Phone	303-909-4687

GitLab Subscription Agreement

This Subscription Agreement ("Agreement") is between GitLab Inc. with offices at 268 Bush Street, Suite 350, San Francisco, CA 94104 (or, if a different corporate entity is listed as "GitLab" on an Order Form [as defined below], ("GitLab"), and the individual or entity signing or electronically accepting this Agreement, or any Order Form that references this Agreement ("Customer"). This Agreement is entered into on the earlier of, (a) Customer clicking "Agree" or "Yes" to the terms of this Agreement to gain initial access to, or use of, the Software, (b) GitLab and Customer agreeing to an Order Form referencing this Agreement, or (c) Customer is given access to the Software ("Effective Date").

- Individual Signing on Behalf of Company. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF AN ENTERPRISE OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTERPRISE AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTERPRISE AND ITS AFFILIATES.

- Individual Not Authorized to Sign on Behalf of Company. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES OR SOFTWARE.

- Individual Signing on Behalf of Individual But Using Company Email. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING THIS AGREEMENT ON HIS OR HER OWN BEHALF BUT USING AN ENTERPRISE EMAIL ADDRESS TO DO SO, SUCH INDIVIDUAL ACKNOWLEDGES AND AGREES THAT USE OF SUCH ENTERPRISE EMAIL ADDRESS WILL ESTABLISH A GITLAB ACCOUNT THAT WILL BE ASSOCIATED WITH THE APPLICABLE ENTERPRISE, AND CAN AND WILL BE TRANSFERRED ENTIRELY (BOTH CONTROL AND DATA/INFORMATION WITHIN THE ACCOUNT) TO SUCH ENTERPRISE UPON SUCH COMPANY'S REQUEST WITHOUT NOTICE OR LIABILITY TO THE INDIVIDUAL. AS SUCH, TO ENSURE NO LOSS OF PERSONAL CONTENT, GITLAB STRONGLY RECOMMENDS ESTABLISHING A GITLAB ACCOUNT TIED TO A PERSONAL EMAIL ADDRESS.

1. DEFINITIONS

"Acceptance" of an Order Form shall occur at the earliest of the following: (a) execution of an Order Form, (b) reference to an Order Form Quote No. within a purchase order or similar document, or (c) the use of Software.

"Add-On User(s)" are additional Users in excess of those that have been purchased under a Subscription via an executed Order Form or web-portal purchase.

"Affiliate" means any entity(ies) controlling, controlled by, and/or under common control with a party hereto, where "control" means the ownership of more than 50% of the voting securities in such entity.

"Appendix" are inclusions in this Agreement that state the terms by which Software is offered to Customer. The Appendices shall be considered part of the Agreement.

"Authorized Partner" is a reseller or distributor that is enabled and authorized to sell Software.

"Community Edition Software" means the publicly available, community-developed open-source software and components which may be provided with the Software. Community Edition Software is provided as Free Software (as defined herein).

"Contractors" are defined as third parties that Customer has engaged to manage, or otherwise use the Software, solely on behalf of Customer.

"Controlled Subject Matter" is the Software or any software or anything related thereto or any direct product thereof, collectively.

"Customer Content" is all software, information, content and data provided by or on behalf of Customer or made available or otherwise distributed through the use of the Software.

"Customer Records" collectively means books, records, contracts and accounts relating to the payments due GitLab under this Agreement.

"Customer Support" means technical support of the Software provided by GitLab.

"Designated National" is any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders.

"Embargoed Countries" refers collectively to countries to which the United States maintains an embargo.

"Enterprise" means the organization, company, corporation and/or other type of entity which procures the Software to be used on its behalf pursuant to the terms of this Agreement.

"Fees" are those fees set forth within the Order Form, or, fees due immediately when purchasing via the web-portal.

"Free Software" means a feature-limited version of Software provided to a Customer, User, end user, partner, or any other third party at no (or a greatly reduced cost) including but not limited to, the lowest tier offering of Software as made available by Gitlab.

"Individual" means a person who uses the Software on their own behalf, and not an Enterprise. An Individual must be over the age of thirteen (13) years old.

"Order Form" is a transactional document agreed to between the parties which states the Software and/or Supplemental Services being purchased, term of use, price, and other applicable transaction details. For the avoidance of doubt, the parties acknowledge and

agree the terms and conditions stated within this Agreement and an executed Order Form shall govern with respect to all matters contemplated herein.

"Purchase Order" is a Customer's processing document, or similar record, which is used by Customer to demonstrate internal approval and /or record of a purchase. Any terms stated within a Purchase Order shall be null and void and are expressly rejected by the parties.

"Software" means software, and other branded offerings made available by GitLab or its Affiliate(s), including but not limited to, GitLab's "DevOps Lifecycle Application Platform.

"Subscription" refers to the applicable services, support and function(s) of the Software as provided. Subscriptions are provided in tiers / levels as described in Appendix 1 and are based on the number of Users.

"Subscription Start Date" is the earlier of, unless otherwise agreed to in writing: (i) if purchasing directly from GitLab the date, (a) stated on an Order Form, (b) transacted via the Website, or (c) Customer is given access to the Software, or (ii) if purchasing through an Authorized Partner, the date in which agreed to between Customer and said Authorized Partner.

"Subscription Term" shall begin on the Subscription Start Date and continue for twelve (12) months, unless otherwise agreed to in an Order Form or web-portal purchase.

"Supplemental Services" means additional capacity, functionality, storage and/or other elements that Customer may procure in addition to the Software. Such Supplemental Services may be purchased by Order Form or web-portal. Supplemental Services purchased will be: (i) provided as a separate line item in an Order Form or web-portal purchase, and (ii) co-termed to the underlying Subscription Term if not purchased on the Subscription Start Date. For the avoidance of doubt, Supplemental Services are not part of the Software, but rather, are provided in addition to the Software and Supplemental Services shall be subject to the terms and conditions of this Agreement.

"Users" is defined as the unique and single Individual, or employee, Contractor, or other third party individual authorized by Customer (in accordance with this Agreement) who are able to access the Software purchased under a Subscription, regardless of whether the User actually accesses or the frequency with which they access the Software. A User must be over the age of thirteen (13) years old.

"Website" means GitLab's website located at www.gitlab.com and all subdomains, and all content, services, documentation provided on the Website.

2. SCOPE OF AGREEMENT
2.1 This Agreement establishes a framework that will enable GitLab to provide Customer with the Software. Software is provided as part of a Subscription, as described in Appendix 1.

Software provided as a hosted solution, or Software-as-a-Service ("SaaS Software"), shall be subject to the attached Appendix 2 entitled "SaaS Software".

3. ORDERING PROCESS

3.1 This Agreement applies to Software that Customer licenses directly from GitLab, a GitLab Affiliate, or from an Authorized Partner. For the avoidance of doubt, in the event Customer purchases from an Authorized Partner, GitLab shall have no obligations to Customer with respect to any terms and conditions outside of this Agreement unless otherwise agreed to in writing between Customer and GitLab.

3.2 Unless otherwise agreed to between Customer and GitLab in writing, the terms of this Agreement shall govern any and all use of the Software. Purchases of Software may take place by either:

(i) purchasing via the GitLab Website;

(ii) executing an Order Form with GitLab or an Affiliate of GitLab; or

(iii) purchase from an Authorized Partner.

3.3 GitLab and Customer acknowledge and agree that Free Software may be: (i) modified and/or updated, without notice, and (ii) limited in functionality, features, maintenance, support and contain other limitations not present in Software purchased. NOTWITHSTANDING THE "WARRANTY" AND "INDEMNIFICATION" SECTIONS BELOW, FREE SOFTWARE AND SOFTWARE OFFERED ON A TRIAL BASIS (AS STATED IN AN ORDER FORM OR WEB-PORTAL PURCHASE) ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND GITLAB SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO SUCH FREE SOFTWARE UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW, IN WHICH CASE GITLAB'S LIABILITY WITH RESPECT TO SUCH FREE SOFTWARE SHALL NOT EXCEED $1,000.00USD.

4. TERM AND TERMINATION

4.1 The Agreement commences on the Effective Date and continues until it is terminated in accordance with this Section 4.

4.2 Subscriptions shall renew for successive terms (of the same duration) as the original Subscription Term unless either party gives notice of its intention not to renew prior to the expiration of the current Subscription Term. Subscriptions must be used during the Subscription Term and any unused Subscriptions will expire.

4.3 Either party may terminate this Agreement and any Order Form executed between the parties if:

(a) the other party materially breaches this Agreement and does not cure the breach within thirty (30) days after written notice; or

(b) the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

4.4 GitLab may (at its sole discretion) suspend delivering Subscriptions if Customer breaches the terms of Section 6 (Payment of Fees) until the breach is remedied.

4.5 Unless otherwise stated herein, termination of this Agreement shall not affect any Subscriptions currently being delivered and this Agreement shall remain in full force and effect until the expiration of the then-current Subscription Term. In the event this Agreement is terminated by Customer in accordance with Section 4.3, GitLab will refund Customer any prepaid Fees for the prorated portion of unused Subscription Term. If this Agreement is terminated by Gitlab in accordance with this Section 4, Customer will pay (if applicable) any unpaid Fees covering the remainder of the Subscription Term of all Order Forms, to the extent permitted by applicable law. For the avoidance of doubt, in no event will termination relieve Customer of its obligation to pay any Fees payable to Gitlab for the period prior to the effective date of termination.

5. RESTRICTIONS AND RESPONSIBILITIES

5.1 Customer will not, and will not permit any third party other than Users, to:

(i) use the Software for any purpose other than as specifically authorized in this Agreement;

(ii) use the Software in such a manner that would enable any third party to access the Software;

(iii) use the Software for time sharing or service bureau purposes (including without limitation, sublicensing, distributing, selling, reselling any Software);

(iv) for any purpose other than its and its Affiliates' own internal use;

(v) use the Software other than in compliance with all applicable laws and regulations;

(vi) use the Software in any manner that: (a) is harmful, fraudulent, deceptive, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, or libelous (including without limitation, accessing any computer, computer system, network, software, or data without authorization, breaching the security of another user or system, and/or attempting to circumvent any User authentication or security process); (b) impersonates any person or entity, including without limitation any employee or representative of GitLab; (c) includes content, with respect to the use of SaaS Software, which is illegal or violates the GitLab Community Code of Conduct found here https://about.gitlab.com/community/contribute/code-of-conduct/, or (d) contains a virus, trojan horse, worm, time bomb, unsolicited bulk, commercial, or "spam" message, or other harmful computer code, file, or program (including without limitation, password guessing programs, decoders, password gatherers, keystroke loggers, cracking tools, packet sniffers, and/or encryption circumvention programs); and

(vii) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile the Software or access it to: (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Software, (3) copy any ideas, features, functions or graphics of the Software, or (4) determine whether the Software are within the scope of any patent.

5.2 Nothing in this Agreement shall prohibit Customer from using the Software for benchmark testing or comparative analysis. Customer will comply with all applicable data privacy and security laws and shall have appropriate technological, administrative, and physical controls in place to ensure such compliance.

5.3 In accordance with this Agreement, GitLab has the right to verify electronically (or otherwise), and generate reports related to Customer's installation of, access to, and use of the Software to ensure compliance with the terms of this Agreement. Customer shall maintain Customer Records during the term of this Agreement and for two (2) years thereafter. GitLab may, upon thirty (30) days' prior written notice to Customer and during Customer's normal business hours and subject to industry-standard confidentiality obligations, hire an independent third-party auditor to audit the Customer Records only to verify the amounts payable under this Agreement with respect to Customer usage of the Software. If an audit reveals underpayment, Customer shall promptly pay the deficiency to GitLab plus late fees pursuant to Section 6. GitLab shall bear the cost of an audit unless the audit reveals underpayment by more than 5% for the audited period, in which case Customer shall promptly pay GitLab for the reasonable costs of the audit.

5.4 Customer will be responsible for the following:

(i) maintaining the security of Customer's account, passwords (including, but not limited to, administrative and User passwords) and files, and for all uses of Customer account with or without Customer's knowledge or consent; and

(ii) any acts or omissions carried out by Contractors on Customer's behalf. Customer shall ensure that Contractors are subject to terms no less stringent than those stated herein.

5.5 Subject to this Agreement and the applicable Order Form, GitLab will provide Customer Support to Customer for the Subscriptions, during the Subscription Term, at no additional cost. Details regarding Customer Support can be found in Appendix 1, as well as at https://about.gitlab.com/support, as updated from time to time.

5.6 Portions of the Software are governed by underlying open source licenses as described at https://docs.gitlab.com/ee/development/licensing.html. This Agreement and applicable Appendix(eces) establish the rights and obligations associated with Subscriptions and Software and are not intended to limit Customer's right to software code under the terms of an open source license.

5.7. Customer acknowledges and agrees that:

(i) Account names are administered by GitLab on a "first come, first serve" basis;

(ii) Intentional name squatting, or purchasing, soliciting, or selling of an account name is prohibited; and

(iii) GitLab reserves the right to remove, rename, or close inactive accounts at its discretion.

5.8 Customer represents and warrants that it has, and shall retain, all right, title and interest (including, without limitation, sole ownership of) relating to Customer Content, and the intellectual property rights related thereto.

6. PAYMENT OF FEES

6.1 This Section 6 applies only to Subscriptions that are procured directly from GitLab. All web-portal purchase Fees shall be due and payable immediately.

6.2 The Order Form shall: (i) reference this Agreement; (ii) state the Subscription Term(s) and Subscription(s) that are being purchased; and (iii) state the Fees due for the applicable Subscription(s).

6.3 Such Order Form is hereby incorporated into this Agreement by reference. The parties hereby agree to the terms and conditions stated within this Agreement and those found within an Order Form to the exclusion of all other terms. The parties agree that all terms stated within a Purchase Order, or other similar document, shall be null and void and are expressly rejected.

6.4 Customer will pay GitLab the applicable Fees, including those for Supplemental Services, without any right of set-off or deduction. All payments will be made in accordance with the payment details stated within the applicable Order Form. If not otherwise specified: (a) GitLab (or applicable GitLab Affiliate) will invoice Customer for the Fees upon the Acceptance of an Order Form; and (b) all Fees will be due and payable within thirty (30) days of Customer's receipt of an invoice. Except as expressly set forth in this Agreement, all Fees paid or due hereunder (including prepaid amounts) are non-refundable, including without limitation if this Agreement is terminated in accordance with Section 4 herein.

6.5 During the Subscription Term, Customer may, subject to this Agreement and this Section 6, activate and use Add-On Users. For the avoidance of doubt, Customer shall not have the right to report less than the number of Users originally purchased under the Subscription, and all Add-On Users or additional Users shall be co-termed to the underlying Subscription Term.

6.6 At the end of each twelve (12) month period, commencing upon the Subscription Start Date during the Subscription Term ("Annual Term"), GitLab will: (i) per Section 6.4, invoice Customer with respect to any and all Add-On Users ("True-Up"). With respect to customers that have purchased and paid for Subscriptions in excess of twelve (12) months, at the end of each Annual Term, GitLab will: (i) carry out a True-Up, and (ii) provide a new license key (as

applicable). Add-On Users shall be priced at the then-current list price of the Software and shall not include any pro-ration, set-off and/or deduction to account for term of use, or otherwise.

6.7 Any unpaid Fees are subject to a finance charge of one percent (1.0%) per month, or the maximum permitted by law, whichever is lower, plus all expenses of collection, including reasonable attorneys' fees. Fees under this Agreement are exclusive of any and all taxes or duties, now or hereafter imposed by any governmental authority, including, but not limited to any national, state or provincial tax, sales tax, value-added tax, property and similar taxes, if any. Fees under this Agreement shall be paid without any withholding or deduction. In the case of any deduction or withholding requirements, Customer will pay any required withholding itself and will not reduce the amount to be paid to GitLab on account thereof.

7. CONFIDENTIALITY

7.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's technology or business (hereinafter referred to as "Confidential Information"). Such Confidential Information shall be either: (i) identified as confidential at the time of disclosure; or (ii) the nature of such information and/or the manner of disclosure are such that a reasonable person would understand it to be confidential. Without limiting the foregoing, and subject to applicable open source license(s), the Software is considered GitLab Confidential Information.

7.2 The Receiving Party agrees: (i) not to divulge to any third person any such Confidential Information; (ii) to give access to such Confidential Information solely to those employees with a need to have access thereto for purposes of this Agreement; and (iii) to take the same security precautions to protect against disclosure or unauthorized use of such Confidential Information that the party takes with its own confidential information, but in no event will a party apply less than reasonable precautions to protect such Confidential Information.

7.3 The Disclosing Party agrees that Section 7.2 will not apply with respect to any information for which the Receiving Party can document: (i) is or becomes generally available to the public without any action by, or involvement of, the Receiving Party; or (ii) was in its possession or known by it prior to receipt from the Disclosing Party; or (iii) was rightfully disclosed to it without restriction by a third party, or (iv) was independently developed without use of any Confidential Information of the Disclosing Party.

7.4 The parties' obligations with respect to the protection of Confidential Information shall remain in force for a period three (3) years following the receipt of such Confidential Information and shall survive any termination or expiration of this Agreement.

7.5 Nothing in this Agreement will prevent the Receiving Party from disclosing Confidential Information pursuant to any judicial or governmental order, provided that the Receiving

Party gives the Disclosing Party, when legally possible, reasonable prior notice of such disclosure to allow the Disclosing Party to contest such order.

7.6 Each party acknowledges and agrees that the other may suffer irreparable damage in the event of a breach of the terms of this Section 7 and that such party will be entitled to seek injunctive relief (without the necessity of posting a bond) in the event of any such breach.

7.7 Both parties will have the right to disclose Confidential Information in connection with a required filing to a governmental authority (provided such party will use reasonable efforts to obtain confidential treatment or a protective order) or is made on a confidential basis as reasonably necessary to potential investors or acquirers, provided that at all times the Confidential Information shall be protected in a manner no less stringent as set forth in this Section 7.

7.8 GitLab may collect data with respect to, and report on the aggregate response rate and other aggregate measures of, the Software performance and Customer's usage of the Software. Notwithstanding the foregoing, GitLab will not identify Customer to any third party as the source of any such data without Customer's prior written consent.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 Subject to the terms and conditions of this Agreement, GitLab hereby grants to Customer and its Affiliates a limited, non-exclusive, non-transferable, non-sublicensable license for Customer's and its Affiliates' Users to use, reproduce, modify, prepare derivative works based upon, and display the code of Software at the tier level selected by Customer, or as set forth in an Order Form, solely for: (i) its internal use in connection with the development of Customer's and/or its Affiliates' own software; and (ii) the number of Users for which Customer has paid GitLab. Notwithstanding anything to the contrary, Customer agrees that GitLab and/or its licensors (as applicable) retain all right, title and interest in and to all Software incorporated in such modifications and/or patches, and all such Software may only be used, copied, modified, displayed, distributed, or otherwise exploited in full compliance with this Agreement, and with a valid Subscription for the correct number of Users.

8.2 Except as expressly set forth herein, GitLab (and its licensors, where applicable) will retain all intellectual property rights relating to the Software and any suggestions, ideas, enhancement requests, feedback, or other recommendations provided by Customer, its Affiliates, Users or any third party relating to the Software (herein referred to as "Feedback Materials"), which are hereby assigned to GitLab. For the avoidance of doubt, Feedback Materials shall not include Customer Confidential Information or intellectual property owned by Customer. This Agreement does not constitute a sale of the Software and does not convey to Customer any rights of ownership in or related to the Software or any other intellectual property rights.

8.3 Customer shall not remove, alter or obscure any of GitLab's (or its licensors') copyright notices, proprietary legends, trademark or service mark attributions, patent markings or other indicia of GitLab's (or its licensors') ownership or contribution from the Software.

9. WARRANTY

9.1 During the Subscription Term, GitLab represents and warrants that: (i) it has the authority to enter into this Agreement, (ii) the Software shall be provided in a professional and workmanlike manner by qualified personnel; and (iii) it will use commercial industry standard methods designed to ensure the Software provided to Customer does not include any computer code or other computer instructions, devices or techniques, including without limitation those known as disabling devices, trojans, or time bombs, that are intentionally designed to disrupt, disable, harm, infect, defraud, damage, or otherwise impede in any manner, the operation of a network, computer program or computer system or any component thereof, including its security or User data.

9.2 If at any time GitLab fails to comply with the warranties in this Section 9, Customer may promptly notify GitLab in writing of any such noncompliance. GitLab will, within thirty (30) days of receipt of such written notification, either correct the noncompliance or provide Customer with a plan for correcting the noncompliance. If the noncompliance is not corrected or if a reasonably acceptable plan for correcting the non-compliance is not established during such period, Customer may terminate this Agreement and receive a prorated refund for the unused portion of the Subscription Term as its sole and exclusive remedy for such noncompliance.

9.3 EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SOFTWARE, SUPPLEMENTAL SERVICES AND CONFIDENTIAL INFORMATION AND ANYTHING PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED "AS-IS," WITHOUT ANY WARRANTIES OF ANY KIND. GITLAB AND ITS LICENSORS HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

10. INDEMNIFICATION

10.1 GitLab will defend Customer from any claim, demand, suit or proceeding made or brought against Customer by a third party alleging the Software (excluding Free Software as set forth in Section 3.3) provided that GitLab infringes or misappropriates such third party's patent or copyright (a "Customer Claim"). GitLab will indemnify and hold Customer harmless from any damages, reasonable attorneys' fees and costs finally awarded against Customer as a result of a Customer Claim, or for amounts paid by Customer under a settlement approved (in writing) by Gitlab, provided Customer: (i) promptly notifies Gitlab in writing of the Customer Claim; (ii) gives Gitlab all reasonable assistance at GitLab's expense; and (iii) gives Gitlab sole control over defense and settlement thereof except that Gitlab may not settle any Customer Claim unless it unconditionally releases Customer of all liability. The foregoing obligations do not apply if: (i) the Customer Claim arises from Software or any part thereof

that is modified by Customer, or at Customer's direction, after delivery by GitLab; (ii) the Customer Claim arises from the use or combination of the Software or any part thereof with other products, processes or materials not provided by Gitlab where the alleged infringement relates to such combination; (iii) Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; (iv) the Customer Claim arises from software not created by Gitlab, or (v) the Customer Claim results from Customer's breach of this Agreement and/or applicable Order Forms. Notwithstanding the foregoing, in the event of a Customer Claim, GitLab, at its discretion, option and expense, reserves the rights to: (a) modify the Software to make it non-infringing provided there is no material loss of functionality; (b) settle such claim by procuring the right for Customer to continue using the Software; or (c) if in GitLab's reasonable opinion neither (a) or (b) are commercially feasible, terminate the license to the Software and refund a pro-rata portion of the amount paid by Customer for such Software for the unused portion of the Subscription Term.

10.2 Customer will defend Gitlab and its Affiliates against any claim, demand, suit or proceeding made or brought against Gitlab by a third party alleging: (a) that any Customer Content or Customer's use of Customer Content with the Software or any software (or combination of software) provided by Customer and used with the Software, infringes or misappropriates such third party's intellectual property rights, or (b) arising from Customer's use of the Software in an unlawful manner or in violation of the Agreement, the applicable documentation, or Order Form (each a "GitLab Claim"). Customer will indemnify Gitlab from any damages, reasonable attorneys' fees and costs finally awarded against Gitlab as a result of, or for any amounts paid by Gitlab under a settlement approved (in writing) by Customer of a GitLab Claim, provided GitLab: (i) promptly gives Customer written notice of the GitLab Claim, (ii) gives Customer sole control of the defense and settlement of the GitLab Claim (except that Customer may not settle any GitLab Claim unless it unconditionally releases GitLab of all liability), and (iii) gives Customer all reasonable assistance, at Customer's expense. The above defense and indemnification obligations do not apply if a GitLab Claim arises from Gitlab's breach of this Agreement and/or applicable Order Form.

10.3 This Section 10 (Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against the other party for any third-party claim described in this section.

11. LIMITATION OF LIABILITY

11.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY OR THEIR LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES, LOSS OF REVENUE, ANTICIPATED PROFITS, LOST BUSINESS OR LOST SALES, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES.

11.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL LIABILITY OF EACH PARTY AND ITS AFFILIATES AND LICENSORS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT PAID BY CUSTOMER OR ITS AFFILIATES HEREUNDER IN THE ONE YEAR PERIOD PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, BUT WILL NOT LIMIT CUSTOMER'S OR ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "PAYMENT OF FEES" SECTION ABOVE.

12. U.S. GOVERNMENT MATTERS

12.1 Notwithstanding anything else, Customer may not provide to any person or export or re-export or allow the export or re-export of Controlled Subject Matter, in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority.

12.2 Without limiting the foregoing, Customer acknowledges and agrees that the Controlled Subject Matter will not be used or transferred or otherwise exported or re-exported to Embargoed Countries, or to or by a national or resident thereof, or to or by Designated Nationals. The lists of Embargoed Countries and Designated Nationals are subject to change without notice. Use of the Software is representation and warranty that the Customer, Customer personnel, or Contractors are not located in, under the control of, or a national or resident of an Embargoed Country or a Designated National.

12.3 The Controlled Subject Matter may use or include encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations.

12.4 As defined in FAR section 2.101, any software and documentation provided by GitLab are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

13. FORCE MAJEURE

13.1 GitLab and Customer will not be liable for any default or delay in the performance of their respective non-monetary obligations, to the extent that such default or delay is caused, directly or indirectly, by fire, flood, earthquake, explosions, elements of nature, acts of God, acts or regulations of government bodies, nuclear, chemical or biological contamination, court orders arising out of circumstances other than a breach of this Agreement by the Non-performing Party (as defined below), acts of war, terrorism, riots, civil disorders, rebellions or

revolutions, strikes, lockouts or labor difficulties, epidemics or by any other event or circumstance that is beyond the reasonable control of GitLab or Customer. The party that is unable to perform shall be referred to as the "Non-performing Party". Such event or circumstance giving rise to the default or delay is hereby referred to as a "Force Majeure Event".

13.2 The Non-performing Party will be excused from any further performance of the non-monetary obligations affected by such Force Majeure Event for as long as such Force Majeure Event continues and the Non-performing Party continues to use commercially reasonable efforts to resume performance.

13.3 Except as expressly excused in this Section 13, each party will continue to perform its respective obligations under this Agreement during a Force Majeure Event.

14. SECURITY / DATA PROTECTION

14.1 Without limiting GitLab's obligations as stated in Section 7 (Confidentiality), GitLab shall be responsible for establishing and maintaining a commercially reasonable information security program that is designed to: (i) ensure the security and confidentiality of the Customer Content; (ii) protect against any anticipated threats or hazards to the security or integrity of the Customer Content; (iii) protect against unauthorized access to, or use of, the Customer Content; and (iv) ensure that all subcontractors of GitLab, if any, comply with all of the foregoing. In no case shall the safeguards of GitLab's information security program be less stringent than the information security safeguards used by GitLab to protect its own commercially sensitive data. Customer shall use commercially reasonable security and anti-virus measures when accessing and using the Software and to prevent unauthorized access to, or use of the Software, and notify GitLab promptly of any such unauthorized access or use of which it becomes aware.

14.2 If this Agreement is entered into on behalf of an Enterprise, the terms of the data processing addendum at https://about.gitlab.com/handbook/legal/data-processing-agreement/ ("DPA") are hereby incorporated by reference and shall apply to the extent Customer Content includes Personal Data, as defined in the DPA. To the extent Personal Data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Gitlab, the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Customer and its applicable Affiliates are each the data exporter, and Customer's acceptance of this Agreement, and an applicable Affiliate's execution of an Order Form, shall be treated as its execution of the Standard Contractual Clauses.

14.3 The parties acknowledge and agree that, (i) the Software is not designed for the purpose(s) of storing, processing, compiling or transmitting Sensitive Data (as defined herein), and (ii) Customer shall not use the Software, or otherwise provide to GitLab without prior written consent, Sensitive Data under this Agreement. "Sensitive Data" means: (i) special categories of data enumerated in European Union Regulation 2016/679, Article 9(1) or

any successor legislation; (ii) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented) ("HIPAA"); (iii) credit, debit, or other payment card data or financial account information, including bank account numbers or other personally identifiable financial information; (iv) social security numbers, driver's license numbers, or other government identification numbers; (v) other information subject to regulation or protection under specific laws such as the Children's Online Privacy Protection Act or Gramm-Leach-Bliley Act ("GLBA") (or related rules or regulations); or (vi) any data similar to the above protected under foreign or domestic laws. Customer further acknowledges that the Software and related features are not intended to meet any legal obligations for these uses, including HIPAA and GLBA requirements, and that GitLab is not a Business Associate as defined under HIPAA. Therefore, notwithstanding anything else in this Agreement, GitLab has no liability for Sensitive Data processed in connection with Customer's use of the Software.

15. MISCELLANEOUS

15.1 If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

15.2 This Agreement is not assignable, transferable or sublicensable by either party without the other party's prior written consent, not to be unreasonably withheld or delayed; provided that either party may transfer and/or assign this Agreement to a successor in the event of a sale of all, or substantially all, of its business or assets to which this Agreement relates.

15.3 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement. All waivers and modifications must be in a writing signed or otherwise agreed to by each party, except as otherwise provided herein.

15.4 No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect whatsoever.

15.5 In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

15.6 All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; and upon receipt, if sent by certified or registered mail (return receipt requested), postage prepaid.

15.7 This Agreement will be governed by the laws of the State of California, U.S.A. without regard to its conflict of laws provisions. The federal and state courts sitting in San Francisco County, California, U.S.A. will have proper and exclusive jurisdiction and venue with respect

to any disputes arising from or related to the subject matter of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed by the Parties with respect to this Agreement and the transactions contemplated hereby.

APPENDIX 1: GitLab Subscriptions

Fees for the Subscriptions are based upon the number of Users and the applicable level of support and/or functionality of the Software, as set forth in the table below. In the event Customer does not reasonably comply with written specifications or instructions from GitLab's service engineers, regarding any support issue or request (including without limitation, failure to make backups of Customer Content or versions of Software) (each, a "Support Issue"), GitLab may cease its support obligations to Customer with respect to such Support Issue upon fifteen (15) days written notice and Customer's inability to cure such noncompliance within the notice period.

SUBSCRIPTIONS AND LEVELS OF SUPPORT

Subscription*	Level of Support (*First Response Time*)	Support Details
Free *(Formerly "Core" or "Free")*	GitLab Community Forum	
Starter *(F.K.A "Basic" or "Bronze")*	GitLab Standard Support	24 x 5 Support Next business day response (24 hour SLA) Submit Tickets at https://support.gitlab.com
Premium *(Formerly Premium or Silver)*	Priority Support (Based upon Support Impact **)	See Priority Support Overview https://support.gitlab.com
Ultimate *(Formerly Gold or Ultimate)*	Priority Support (Based upon Support Impact**)	See Priority Support Overview https://support.gitlab.com

*Note: Subscription names are subject to change, however, the applicable Subscription for that Tier shall remain the same during a Subscription Term.

**Support Impact categories are defined at: https://about.gitlab.com/support/#definitions-of-support-impact

PRIORITY SUPPORT OVERVIEW: https://about.gitlab.com/support/#priority-support

APPENDIX 2: Software as a Service (SaaS) Offering

With respect to Customer's purchase and/or use of the SaaS Software , the following additional terms shall apply.

AVAILABILITY

Availability to the SaaS Software will be measured, and reported on, by GitLab using instrumentation and observation tools specifically designed to provide a representative measure of service availability. Recent status, references to availability measurement definition, and historical reporting will be available at or linked from the GitLab system status site located at https://status.gitlab.com.

RESILIENCY

GitLab will architect and maintain an underlying cloud infrastructure with commercially reasonable resiliency for all data, compute, and network services. At a minimum, GitLab will maintain the highest documented level of "GitLab Reference Architecture" as detailed at https://docs.gitlab.com.

BACKUPS

GitLab will maintain a commercially reasonable system of data backup process and technology to ensure that primary data sources remain recoverable in the event of various system failures.

MONITORING AND INCIDENT RESPONSE

GitLab will employ a system of instrumentation and observation tools to ensure that system behavior which may limit use of the SaaS Software is detected and announced. GitLab will also employ industry reasonable practices to maintain appropriate engineering personnel availability for the purposes of incident response(s).

UPDATES AND UPGRADES

GitLab will update the SaaS Software as updates are available and when reasonably practical to implement said updates. Update timing and process will remain at GitLab's discretion.

SCHEDULED SYSTEM MAINTENANCE

GitLab will occasionally perform scheduled system maintenance which requires limits to the use of part or all of the SaaS Software features, or significantly reduces features and functions during the scheduled system maintenance period. GitLab will provide ten (10) business days notice for all scheduled system maintenance activities. GitLab will take a proactive approach to minimizing the need for such maintenance and will limit scheduled system maintenance to less than four (4) hours per calendar month. Notwithstanding the foregoing, in the event of emergency or urgent issue which may negatively impact GitLab's customers, GitLab has the right to carry out unscheduled maintenance to remedy such instance(s). For the avoidance of doubt, such unscheduled maintenance shall: (i) be limited to only those issues which may negatively impact customers; and (ii) will be carried out in such a manner to provide for the least amount of disruption to customers.

SUSPENSION OF SERVICE

GitLab reserves the right to suspend service to the SaaS Software if: (i) Customer fails to comply with the Agreement and this Appendix, (ii) Customer exceeds set application limits, or (iii) requests or usage deemed malicious in nature is identified to be sourced from Customer accounts, personnel, or systems.

GitLab Professional Services Agreement

1. Services

1.1 Statements of Work. GitLab will provide Customer with software-related professional services ("Services") as set forth in, one or more, mutually agreed to and signed, statement of work, which shall contain without limitation, a description of the Services, the Services rate(s) and payment terms (each an "SOW"). The parties agree that SOWs may not be complete statements of Services required by Customer and additional Services may be required which would be difficult to determine as of the date of this Service Agreement or of the applicable SOW. At Customer's request, the SOW may include an estimate of charges for the Services, but such estimate shall not be binding on GitLab or convert the SOW into a fixed price contract with respect to such Services. GitLab is under no obligation to perform any Services other than pursuant to an SOW. Notwithstanding the foregoing, if GitLab performs Services at the direction of Customer and the parties have not signed an SOW for such Services, then such Services shall be subject to all terms and conditions of this Service Agreement, and GitLab's then-current rates for such Services shall apply. GitLab may provide Services through its third-party contractors but, in all such cases, GitLab will remain subject to the obligations hereunder.

1.2 Conditions On Providing Services. Customer must assign a project manager who will assume responsibility for management of the project for which the Services are provided. Customer will establish the overall project direction, including assigning and managing the Customer's project personnel team. Customer must provide GitLab with such facilities, equipment and support as are reasonably necessary for GitLab to provide Services, including remote access to the hardware and systems software configuration on which GitLab supports use of the computer software programs licensed by GitLab to Customer. GitLab owns and will own all right, title and interest to the Services and any work product generated from the Services ("Work Product"), and Customer will execute and deliver to GitLab any documents reasonably necessary to vest in GitLab all right, title and interest therein. Work Product does not include Customer's pre-existing intellectual property or data. Subject to the terms and conditions of this Service Agreement and the applicable license agreement governing Customer's use of GitLab's software, and expressly conditioned on Customer's compliance with the terms of such agreements, GitLab grants Customer a perpetual, non-exclusive, non-transferable license (without the right to sublease or sublicense) to use and copy for use the Work Product for Customer's own, internal computing operations.

1.3 Scheduling of Services. The parties will work together to determine a mutually agreed upon schedule based on the availability of GitLab resources and the agreed-upon project timeline. Services are non- cancellable. Accordingly, upon execution of an SOW, Customer will be liable for the entire amount quoted under the SOW.

2. Payment and Taxes

2.1 Payment. Unless otherwise stated in the applicable SOW, GitLab will invoice Customer for all Services and applicable charges, as GitLab renders the Services or charges are incurred, as applicable. Any unpaid fees are subject to a finance charge of one percent (1.0%) per month, or the maximum permitted by law, whichever is lower, plus all expenses of collection, including reasonable attorneys' fees.

2.2 Taxes. Fees under this Service Agreement are exclusive of all taxes, including national, state or provincial and local use, sales, value-added, property and similar taxes, if any. Customer agrees to pay such taxes (excluding US taxes based on GitLab's net income) unless Customer has provided GitLab with a valid exemption certificate. In the case of any withholding requirements, Customer will pay any required withholding itself and will not reduce the amount paid to GitLab on account thereof.

3. Confidentiality

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's technology or business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Without limiting the foregoing, the Licensed Materials are GitLab Proprietary Information.

3.2 The Receiving Party agrees: (i) not to divulge to any third person any such Proprietary Information, (ii) to give access to such Proprietary Information solely to those employees with a need to have access thereto for purposes of this Service Agreement, and (iii) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the party takes with its own proprietary information, but in no event will a party apply less than reasonable precautions to protect such Proprietary Information. The Disclosing Party agrees that the foregoing will not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public without any action by, or involvement of, the Receiving Party, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Service Agreement will prevent the Receiving Party from disclosing Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order.

3.3 Each party acknowledges and agrees that the other may suffer irreparable damage in the event of a breach of the terms of Section 3of this Service Agreement and that such party will be entitled to seek injunctive relief (without the necessity of posting a bond) in the event of any such breach.

3.4 Both parties will have the right to disclose the existence but not the terms and conditions of this Service Agreement, unless such disclosure is approved in writing by both Parties prior

to such disclosure, or is included in a filing required to be made by a party with a governmental authority (provided such party will use reasonable efforts to obtain confidential treatment or a protective order) or is made on a confidential basis as reasonably necessary to potential investors or acquirers.

4. TERMINATION

4.1 This Service Agreement shall continue until terminated in accordance with this Section 4. Either party may terminate this Service Agreement upon 15 days' written notice to the other party hereto in the event that Customer has no outstanding SOWs in effect.

4.2 Either party may terminate this Service Agreement immediately upon 15 days' written notice to the other party in the event of any material breach of this Service Agreement (including without limitation, failure to pay any amounts when due hereunder) by such party where such material breach is not cured during such notice period.

4.3 Either party may terminate this Service Agreement, without notice, (i) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings (provided such proceedings are not dismissed within one hundred twenty (120) days of such institution), (ii) upon the other party's making an assignment for the benefit of creditors, or (iii) upon the other party's dissolution or ceasing to do business without a successor. 4.4 The following Sections will survive any termination of this Service Agreement: 2 through 4 and 6 through 8.

5. WARRANTY

GitLab represents and warrants that (i) during the term of the applicable SOW and continuing for ninety (90) days after the completion of Services pursuant to that SOW, GitLab will render all Services under such SOW with reasonable care and skill. If, at any time, GitLab fails to comply with the warranty in this Section, Customer may promptly notify GitLab in writing of any such noncompliance. GitLab will, within thirty (30) days of receipt of such written notification, either correct the noncompliance or provide Customer with a plan for correcting the noncompliance. If the noncompliance is not corrected or if a reasonably acceptable plan for correcting them is not established during such period, Customer may terminate this Service Agreement as its sole and exclusive remedy for such noncompliance.

6. WARRANTY DISCLAIMER

THE SERVICES AND ANYTHING PROVIDED IN CONNECTION WITH THIS SERVICE AGREEMENT ARE PROVIDED "AS-IS," WITHOUT ANY WARRANTIES OF ANY KIND. GITLAB AND ITS LICENSORS HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

7. LIMITATION OF LIABILITY

IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE SERVICES OR ANYTHING PROVIDED IN CONNECTION WITH THIS SERVICE AGREEMENT, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOST SALES, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. THE TOTAL LIABILITY OF EACH PARTY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE, THE GREATER OF (i) ONE THOUSAND DOLLARS ($1,000), OR (ii) THE FEES PAID OR PAYABLE TO GITLAB HEREUNDER IN ONE YEAR PERIOD ENDING ON THE DATE THAT A CLAIM OR DEMAND IS FIRST ASSERTED. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

8. MISCELLANEOUS

If any provision of this Service Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Service Agreement will otherwise remain in full force and effect and enforceable. This Service Agreement is not assignable, transferable or sublicensable by either party without the other party's prior written consent, not to be unreasonably withheld or delayed; provided that either party may transfer and/or assign this Service Agreement to a successor in the event of a sale of all or substantially all of its business or assets to which this Service Agreement relates. Both parties agree that this Service Agreement, including each SOW which incorporates these terms, is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Service Agreement, and that all waivers and modifications must be in a writing signed or otherwise agreed to by each party, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Service Agreement and neither party has any authority of any kind to bind the other in any respect whatsoever. In any action or proceeding to enforce rights under this Service Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Service Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; and upon receipt, if sent by certified or registered mail (return receipt requested), postage prepaid. GitLab will not be liable for any loss resulting from a cause over which it does not have direct control. This Service Agreement will be governed by the laws of the State of California, U.S.A. without regard to its conflict of laws provisions. The federal and state courts sitting in San Francisco County, California, U.S.A. will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this Service Agreement.

9. DATA PRIVACY

Customer shall ensure that any and all information or data, including without limitation, personal data, used by Customer in connection with the Agreement ("Customer Data") is collected, processed, transferred and used in full compliance with Applicable Data Protection Laws (as defined below) and that it has all obtained all necessary authorizations and consents from any data subjects to process Customer Data. Customer shall adopt and maintain appropriate organizational, technical and security measures prior to any such collection, processing or transfer in order to protect against unauthorized access to or use of Customer Data. Customer shall immediately inform GitLab upon becoming aware of any breach within the meaning of Applicable Data Protection Law relating to Customer Data (a "Security Incident") and to cooperate with GitLab in any investigation thereof and in the implementation of any measures reasonably required to be taken in response thereto. If required by Applicable Data Protection Laws, the parties will enter into standard contractual clauses under GDPR (as defined below) for the transfer of any Customer Data outside of the European Union. For purposes hereof: (a) "Applicable Data Protection Laws" means any applicable laws, statutes or regulations as may be amended, extended or re-enacted from time to time which relate to personal data including without limitation (i) prior to 25 May 2018, the EU Data Protection Directive 95/46/EC as transposed into EU Member State law; (ii) from and after 25 May 2018, GDPR and any EU Member State laws implementing the GDPR; and (iii) the e-Privacy Directive 2002/58/EC, as amended and as transposed into EU Member State law and any legislation replacing the e-Privacy Directive and (b) "GDPR" means the Regulation (EU) 2016/679 of the European Parliament and of the Counsel of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

End User License Agreement

This End User License Agreement ("Agreement) is made by and between the party procuring Granicus Products and Services ("Client") and Granicus, LLC, a Minnesota Limited Liability Company d/b/a Granicus ("Granicus"). Client and Granicus may each be referred to herein as "Party" or collectively as "Parties".

Whereas Client has entered into an agreement with a third party to purchase Granicus Products and Services ("Reseller"), by accessing the Granicus Products and Services, Client accepts this Agreement. Due to the rapidly changing nature of digital communications, this Agreement may be updated from time to time at Granicus' sole discretion. Notification to Client will be via email or posting to the Granicus website.

1. **Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms shall have the meaning specified:

   "Granicus Products and Services" means the products and services made available to Client pursuant to this Agreement, which may include Granicus products and services accessible for use by Client on a subscription basis ("Software-as-a-Service" or "SaaS"), Granicus professional services, content from any professional services or other required equipment components or other required hardware, as specified in each Order.
    "Order" means a written order, proposal, or purchase document in which Granicus agrees to provide and Client agrees to purchase specific Granicus Products and Services via Reseller.
   "Order Term" means the then-current duration of performance identified on each Order, for which Granicus has committed to provide, and Client has committed to pay for via Reseller, Granicus Products and Services.

2. **Use of Granicus Products and Services and Proprietary Rights**
   2.1. **Granicus Products and Services.** The Granicus Products and Services are purchased by Client, via a Reseller, as subscriptions during an Order Term specified in each Order.
   2.2. **Permitted Use.** Subject to the terms and conditions of this Agreement, Granicus hereby grants during each Order Term, and Client hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the Granicus Products and Services to the extent allowed in the relevant Order (collectively the "Permitted Use"). The Permitted Use shall also include the right, subject to the conditions and restrictions set forth herein, to use the Granicus Products and Services up to the levels limited in the applicable Order.
      2.2.1. **Data Sources.** Data uploaded into Granicus Products and Services must be brought in from Client sources (interactions with end users and opt-in contact lists). Client cannot upload purchased contact information into Granicus Products and Services without Granicus' written permission and professional services support for list cleansing.
      2.2.2. **Passwords.** Passwords are not transferable to any third party. Client is responsible for keeping all passwords secure and all use of the Granicus Products and Services accessed through Client's passwords.
      2.2.3. **Content.** Client can only use Granicus Products and Services to share content that is created by and owned by Client and/or content for related organizations provided that it is in support of other organizations but not as a primary communication vehicle for other organizations that do not have a Granicus subscription. Any content deemed inappropriate for a public audience or in support of programs or topics that are unrelated to Client, can be removed or limited by Granicus.
         2.2.3.1. **Disclaimers.** Any text, data, graphics, or any other material displayed or published on Client's website must be free from violation of or infringement of copyright, trademark, service mark, patent, trade secret, statutory, common law or proprietary

or intellectual property rights of others. Granicus is not responsible for content migrated by Client or any third party.

2.2.4. **Advertising.** Granicus Products and Services shall not be used to promote products or services available for sale through Client or any third party unless approved in writing, in advance, by Granicus. Granicus reserves the right to request and review the details of any agreement between Client and a third party that compensates Client for the right to have information included in Content distributed or made available through Granicus Products and Services prior to approving the presence of Advertising within Granicus Products and Services.

2.2.5. **Granicus Subscriber Information for Communications Cloud Suite only**

2.2.5.1. **Data Provided by Client.** Data provided by Client and contact information gathered through Client's own web properties or activities will remain the property of Client ("Direct Subscriber"), including any and all personally identifiable information (PII). Granicus will not release the data without the express written permission of Client, unless required by law.

2.2.5.2. Granicus shall not disclose the client's data except to any third parties as necessary to operate the Granicus Products and Services (provided that the client hereby grants to Granicus a perpetual, noncancelable, worldwide, non-exclusive license to utilize any data, on an anonymous or aggregate basis only, that arises from the use of the Granicus Products and Services by the client, whether disclosed on, subsequent to, or prior to the Effective Date, to improve the functionality of the Granicus Products and Services and any other legitimate business purpose including the right to sublicense such data to third parties, subject to all legal restrictions regarding the use and disclosure of such information).

2.2.5.3. **Data Obtained through the Granicus Advanced Network**

2.2.5.3.1. Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscribe to other Granicus Client's digital communication (the "Advanced Network"). When a Direct Subscriber signs up through one of the recommendations of the Advanced Network, that subscriber is a "Network Subscriber" to the agency it subscribed to through the Advanced Network.

2.2.5.3.2. Access to the Advanced Network is a benefit of the GovDelivery Communications Cloud subscription with Granicus. Network Subscribers are available for use only on the GovDelivery Communications Cloud while Client is under an active GovDelivery Communications Cloud subscription. Network Subscribers will not transfer to Client upon termination of any Granicus Order, SOW or Exhibit. Client shall not use or transfer any of the Network Subscribers after termination of its Order, SOW or Exhibit placed under this Agreement. All information related to Network Subscribers must be destroyed by Client within 15 calendar days of the Order, SOW or Exhibit placed under this Agreement terminating.

2.2.5.3.3. **Opt-In.** During the last 10 calendar days of Client's Order Term for the terminating Order, SOW or Exhibit placed under this Agreement, Client may send an opt-in email to Network Subscribers that shall include an explanation of Client's relationship with Granicus terminating and that the Network

Subscribers may visit Client's website to subscribe to further updates from Client in the future. Any Network Subscriber that does not opt-in will not be transferred with the subscriber list provided to Client upon termination.

2.3. **Restrictions.** Client shall not:

    2.3.1. Misuse any Granicus resources or cause any disruption, including but not limited to, the display of pornography or linking to pornographic material, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted;

    2.3.2. Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of other parties, including but not limited to, other Granicus Clients;

    2.3.3. Client must not use the Granicus Products and Services in a manner in which system or network resources are unreasonably denied to other Granicus clients;

    2.3.4. Client must not use the Services as a door or signpost to another server.

    2.3.5. Access or use any portion of Granicus Products and Services, except as expressly allowed by this Agreement or each Order placed hereunder;

    2.3.6. Disassemble, decompile, or otherwise reverse engineer all or any portion of the Granicus Products and Services;

    2.3.7. Use the Granicus Products and Services for any unlawful purposes;

    2.3.8. Export or allow access to the Granicus Products and Services in violation of U.S. laws or regulations;

    2.3.9. Except as expressly permitted in this Agreement, subcontract, disclose, rent, or lease the Granicus Products and Services, or any portion thereof, for third party use; or

    2.3.10. Modify, adapt, or use the Granicus Products and Services to develop any software application intended for resale which uses the Granicus Products and Services in whole or in part.

2.4. **Client Feedback.** Client assigns to Granicus any suggestion, enhancement, request, recommendation, correction or other feedback provided by Client relating to the use of the Granicus Products and Services. Granicus may use such submissions as it deems appropriate in its sole discretion.

2.5. **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Granicus and/or its licensors reserve all right, title and interest in the Granicus Products and Services, the documentation and resulting product including all related intellectual property rights. Further, no implied licenses are granted to Client. The Granicus name, the Granicus logo, and the product names associated with the services are trademarks of Granicus or its suppliers, and no right or license is granted to use them.

3. **Representations, Warranties and Disclaimers**

3.1. **Representations.** Each Party represents that it has validly entered into this Agreement and has the legal power to do so.

3.2. **Warranties.** Granicus warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the Granicus Products and Services; however, the Granicus Products and Services are provided "AS IS" and as available.

3.3. **Disclaimers.** EXCEPT AS PROVIDED IN SECTIONS 3.2 ABOVE, EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT GRANICUS PRODUCTS AND SERVICES WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

4. **Confidential Information**

4.1. **Confidential Information.** It is expected that one Party (Disclosing Party) may disclose to the other Party (Receiving Party) certain information which may be considered confidential and/or trade secret information ("Confidential Information"). Confidential Information shall include: (i) Granicus'

Products and Services, (ii) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication and (iv) any information that should be reasonably understood to be confidential or proprietary to the Receiving Party, given the nature of the information and the context in which disclosed.

Each Receiving Party agrees to receive and hold any Confidential Information in strict confidence. Without limiting the scope of the foregoing, each Receiving Party also agrees: (a) to protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (b) not to reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the Disclosing Party; (c) not to use any Confidential Information for any purpose other than as stated above; (d) to restrict access to Confidential Information to those of its advisors, officers, directors, employees, agents, consultants, contractors and lobbyists who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (e) to exercise at least the same standard of care and security to protect the confidentiality of the Confidential Information received by it as it protects its own confidential information.
If a Receiving Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the Disclosing Party as promptly as practicable so that the Disclosing Party may seek an appropriate protective order or waiver for that instance.

4.2. Exceptions. Confidential Information shall not include information which: (i) is or becomes public knowledge through no fault of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party; (iii) is rightfully received by the Receiving party from a third party without any duty of confidentiality; (iv) is disclosed by the Disclosing Party without any duty of confidentiality on the third party; (v) is independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information; or (vi) is disclosed with the prior written approval of the Disclosing Party.

4.3. Storage and Sending. In the event that Granicus Products and Services will be used to store and/or send Confidential Information, Granicus must be notified in writing, in advance of the storage or sending. Should Client provide such notice, Client must ensure that Confidential Information or sensitive information is stored behind a secure interface and that Granicus Products and Services be used only to notify people of updates to the information that can be accessed after authentication against a secure interface managed by Client. Client is ultimately accountable for the security and privacy of data held by Granicus on its behalf.

4.4. Return of Confidential Information. Each Receiving Party shall return or destroy the Confidential Information immediately upon written request by the Disclosing Party; provided, however, that each Receiving Party may retain one copy of the Confidential Information in order to comply with applicable laws and the terms of this Agreement. Client understands and agrees that it may not always be possible to completely remove or delete all personal data from Granicus' databases without some residual data because of backups and for other reasons.

5. Term and Termination

5.1. Agreement Term. The Agreement Term shall begin on the Effective Date of the Agreement and continue for twelve (12) months. Unless a Party has given written notice to the other Party at least ninety (90) days prior to the end of the then-current annual term, the Granicus Products and Services will automatically renew at the end of each annual term for one (1) year.

5.2. Effect of Termination. If the Parties agree to terminate this Agreement and an Order is still in effect at the time of termination, then the terms and conditions contained in this Agreement shall continue to govern the outstanding Order until termination or expiration thereof. If the Agreement is

terminated for breach, then unless otherwise agreed to in writing, all outstanding Orders shall immediately terminate as of the Agreement termination date.

5.3. Termination for Cause. The non-breaching Party may terminate this Agreement upon written notice if the other Party is in material breach of this Agreement and fails to cure such breach within thirty (30) days after the non-breaching Party provides written notice of the breach. A Party may also terminate this Agreement immediately upon notice if the other Party: (a) is liquidated, dissolved, or adjudged to be in a state of bankruptcy or receivership; (b) is insolvent, unable to pay its debts as they become due, makes an assignment for the benefit of creditors or takes advantage or any law for the benefit of debtors; or (c) ceases to conduct business for any reason on an ongoing basis leaving no successor in interest.

5.4. Survival. All rights granted hereunder shall terminate upon the latter of the termination or expiration date of this Agreement, or each Order. The provisions of this Agreement with respect to warranties, liability, choice of law and jurisdiction, and confidentiality shall survive termination of this Agreement and continue in full force and effect.

6. Limitation of Liability

6.1. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. UNDER NO CIRCUMSTANCES SHALL GRANICUS BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, GRANICUS SHALL NOT BE LIABLE FOR: (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF CLIENT DATA; (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (C) LOSS OF BUSINESS; (D) DAMAGES ARISING OUT OF ACCESS TO OR INABILITY TO ACCESS THE SERVICES, SOFTWARE, CONTENT, OR RELATED TECHNICAL SUPPORT; OR (E) FOR ANY MATTER BEYOND GRANICUS' REASONABLE CONTROL, EVEN IF GRANICUS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING LOSSES OR DAMAGES.

6.2. LIMITATION OF LIABILITY. EXCEPT FOR CLIENT'S BREACH OF SECTION 2.3, IN NO INSTANCE SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE FEES PAID BY CLIENT FOR THE GRANICUS PRODUCTS AND SERVICES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES. GRANICUS SHALL NOT BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER DAMAGES, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES, HOWEVER CAUSED. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF NOR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN.

7. General

7.1. Relationship of the Parties. Granicus and Client acknowledge that they operate independent of each other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, agency, or employee/employer relationship between the Parties for any purpose, including, but not limited to, taxes or employee benefits. Each Party will be solely responsible for the payment of all taxes and insurance for its employees and business operations.

7.2. Headings. The various section headings of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed to modify, define, limit, or expand the intent of the Parties.

7.3. Severability. To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such

provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

7.4. **Assignment.** Neither Party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder, either voluntarily or by operation of law, without the prior written consent of the other Party (such consent not to be unreasonably withheld); provided, however, that either Party may assign this Agreement without the other Party's consent in the event of any successor or assign that has acquired all, or substantially all, of the assigning Party's business by means of merger, stock purchase, asset purchase, or otherwise. Any assignment or attempted assignment in violation of this Agreement shall be null and void.

7.5. **Force Majeure.** Any delay in the performance by either Party hereto of its obligations hereunder shall be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such Party, including, without limitation, any act of God; any fire, flood, or weather condition; any computer virus, worm, denial of service attack; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, that written notice thereof must be given by such Party to the other Party within twenty (20) days after occurrence of such cause or event.

7.6. **Choice of Law and Jurisdiction.** This Agreement shall be governed by and interpreted under the laws of the state in which the Client is located, without reference to the State's principles of conflicts of law. The Parties expressly consent and submit to the exclusive jurisdiction of the state and federal courts of the state in which the Client is located.

7.7. **Entire Agreement.** This Agreement, together with all Orders referenced herein, sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior oral and written understandings, quotations, communications, and agreements. Granicus and Client agree that any and all Orders are incorporated herein by this reference. In the event of possible conflict or inconsistency between such documents, the conflict or inconsistency shall be resolved by giving precedence in the following order: (1) the terms of this Agreement; (2) Orders; (3) all other SOWs or other purchase documents; (4) Granicus response to Client's request for RFI, RFP, RFQ; and (5) Client's RFI, RFP, RFQ. If Client issues a purchase order, Granicus hereby rejects any additional or conflicting terms appearing on the purchase order or any other ordering materials submitted by Client.

7.8. **Reference.** Notwithstanding any other terms to the contrary contained herein, Client grants Granicus the right to use Client's name and logo in Client lists and marketing materials.

7.9. **Injunctive Relief.** Granicus is entitled to obtain injunctive relief if Client's use of Granicus Products and Services is in violation of any restrictions set forth in this Agreement.

MASTER END USER LICENSE AGREEMENT

THIS MASTER END USER LICENSE AGREEMENT ("the Agreement") is by and between Nuance Communications, Inc., having a place of business at One Wayside Road, Burlington, MA, 10803, United States ("**Nuance**") and an "**Ordering Activity**" as defined in GSA Order ADM 4800.2G and as revised from time to time. Nuance and Ordering Activity are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**".

1   DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following terms used in this Agreement shall have the meanings set forth below

1.1   **"Affiliates"** means any entity that is directly or indirectly controlled by, under common control with, or in control of a Party to this Agreement. For these purposes, an entity shall be treated as being controlled by another if: (i) that other entity has fifty percent (50%) or more of the votes in such entity, or (ii) is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

1.2 **"Applicable Software Schedule(s)"** means the Software Schedules(s) that have been completed and signed by Nuance and Ordering Activity and are incorporated into this Agreement and attached as Annex A-'X' hereto where 'X' designates the next integer in the sequence starting with the number 1. (Thus, each Annex A will be sequentially numbered as Annex A-1, Annex A-2, etc.)

1.3   **"Documentation"** means the programmer's guide and other related materials that Nuance may supply to Ordering Activity to facilitate the use of Nuance Software.

1.4   **"Nuance Software"** means the software in executable form referenced in any attached Software Schedule, including all corrections, modifications, enhancements, Updates and Upgrades (if any) thereto that Nuance may provide to Ordering Activity under this Agreement.

1.5   **"Order"** means an order for Nuance Software and/or Support Services issued by Ordering Activity in the form of Exhibit a or Ordering Activity's purchase order that lists the Nuance Software, languages, number of license units and license type, and/or selection of Support Services.

1.6   **"Special Contract Terms"** means the terms and conditions contained in a Software Schedule

1.7   **"Software Schedule"** means a schedule that lists the Nuance Software, prices, license rights, Support Services, and Special Contract Terms that apply to the purchase of the specified Nuance Software.

1.8   **"Support Services"** means the maintenance and support services, consulting services, and other services listed in, and subject to the terms and conditions contained in, an Applicable Software Schedule.

1.9   **"Update"** means a release of Nuance Software that contains error corrections and/or minor functional enhancements.

1.10 **"Upgrade"** means a version of Nuance Software that contains substantial functional enhancements.

2   LICENSE GRANT

2.1   **Grant of License Rights.** With respect to any Nuance Software which Nuance provides to Ordering Activity, Nuance hereby grants to Ordering Activity, and Ordering Activity hereby accepts, the non-exclusive, non-transferable license right to use such Nuance Software and associated Documentation, and access to Support Services, for the limited purposes expressly permitted in the Applicable Software Schedule.

2.2   **Proprietary Rights; Restrictions.** As between Ordering Activity and Nuance, Nuance or its licensors retains all right, title, and interest in and to the Nuance Software and Documentation, and any derivative works thereof, including, but not limited to, all patent, copyright, trade secret, trademark and other intellectual property rights associated therewith,

and any derivative works thereof, including, but not limited to, all patent, copyright, trade secret, trademark and other intellectual property rights associated therewith. Without limiting the generality of the foregoing, Ordering Activity will not itself, directly or indirectly: (a) modify, port, translate, or create derivative works of the Nuance Software or Documentation; (b) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, or algorithms of the Nuance Software or Documentation by any means (except to the extent permitted by mandatory laws); (c) sell, lease, license, sublicense, copy, market or distribute the Nuance Software or Documentation, except as expressly permitted in this Agreement, (d) remove any proprietary notices, labels or marks from the Nuance Software or Documentation; or (d) release to a third party the results of any benchmark testing of Nuance Software. In no event shall anything in this Agreement or in Nuance's conduct or course of dealing convey any license, by implication, estoppel or otherwise, under any patent, copyright, trademark or other intellectual property right not explicitly licensed. All rights not expressly granted to Ordering Activity under this Agreement are reserved by Nuance and/or its licensors..

3   ORDERS; LICENSE FEES; TAXES

3.1   **Orders and Shipment.** Ordering Activity may order Nuance Software and/or Support Services by issuing an Order to an Authorized Reseller. Unless rejected by Nuance within a reasonable time after receipt by Nuance, Orders are deemed to have been accepted. Shipment of Nuance Software shall, at Nuance's discretion, be via electronic delivery or shipment via media. If shipment is via media, shipment is governed by the terms of the relevant GSA Schedule 70 contract.

3.2   **License Fees and Other Prices.** In consideration of (a) the licenses granted to the Nuance Software listed in an Order, and (b) Support Services specified in an Order, Ordering Activity hereby agrees to pay to Nuance the license fees and prices specified in the applicable Order. Nothing contained in any purchase order Ordering Activity may submit will modify or add to the terms of this Agreement, unless accepted by Nuance in writing.

4   CONFIDENTIAL INFORMATION

4.1   **Definition.** Subject to the exceptions contained in this Section, "Confidential Information" shall mean all information (a), including third party information, disclosed by a Party or its Affiliates (the "Disclosing Party"), in whatever tangible form or otherwise, to the receiving Party or its Affiliates (the "Receiving Party") that is clearly marked "confidential" or with some other proprietary notice, (b) disclosed orally or otherwise in intangible form by the Disclosing Party and designated as confidential or proprietary at the time of the disclosure; and (c) for Nuance, the Nuance Software, Documentation, and information provided as part of Support Services. Notwithstanding the above, information shall not be deemed Confidential Information to the extent that it: (i) was generally known and available in the public domain at the time it was disclosed or subsequently becomes generally known and available in the public domain through no fault of the Receiving Party; (ii) was rightfully known to the Receiving Party at the time of disclosure without any obligation of confidentiality; (iii) is disclosed with the prior written approval of the Disclosing Party; or (iv) was independently developed by the Receiving Party without any use of the Confidential Information of the Disclosing Party. The obligation not to use or disclose Confidential Information will remain in effect until one of these exceptions occurs.

4.2   **Permitted Disclosure.** Notwithstanding any other provision of this Agreement, disclosure of Confidential Information shall not be precluded if such disclosure (a) is in response to a valid order of a court or other governmental body, provided, however, that the responding Party shall first have given notice to the other Party hereto and shall have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued; (b) is otherwise required by law; or (c) is otherwise necessary to establish rights or enforce obligations under this Agreement, but only to the extent that any such disclosure is necessary.

4.3   **Use and Obligations.** The Receiving Party will not use the Disclosing Party's Confidential Information for purposes other than as provided in this Agreement. The Receiving Party shall protect the Disclosing Party's Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, disclosure, or publication of the Confidential Information to third parties as the Receiving Party uses to protect its own like Confidential Information of a like nature. Confidential Information received by a Receiving Party hereto may be disclosed to and used by such Receiving Party's employees, agents and contractors in accordance with the terms and conditions of this Agreement, and each Party shall be liable for any act or omission by its Affiliates, and its and their respective employees, agents and contractors, which, if performed or omitted by such Party, would be a breach of this Agreement. Each Party agrees that its Affiliates, and its and their respective employees, agents and contractors, shall be bound by the terms of an agreement protecting against unauthorized use or disclosure of Confidential Information that is at least as protective of the Disclosing Party's rights as this Agreement. No Confidential Information shall be disclosed to

any person who does not have a need for such information.

4.4   **Return of Confidential Information.** The Receiving Party shall return to the Disclosing Party, or destroy, all Confidential Information of the Disclosing Party in tangible form: (i) upon the written request of the Disclosing Party; or (ii) upon the expiration or termination of this Agreement, whichever comes first. In both cases, the Receiving Party shall, upon request, promptly certify in writing that it has complied with the obligations of this Section. Notwithstanding the foregoing, each Party may retain a copy of the Confidential Information in electronic format in accordance with its corporate security and/or disaster recovery procedures.

5   LIMITED WARRANTY; DISCLAIMERS

5.1   **Limited Warranty.** Subject to this Section 5.1, Nuance warrants that, for a period of thirty (30) days from initial delivery of Nuance Software (the "Warranty Period"); the Nuance Software, if properly installed by Ordering Activity in accordance with Nuance's published instructions, will substantially conform to the specifications in the Documentation. If the Nuance Software does not conform to such specifications, Ordering Activity shall promptly notify Nuance and provide Nuance with all available information so that Nuance can reproduce any such non-conformity. Nuance's sole obligation for any breach of warranty is to undertake reasonable commercial efforts, as set forth in Section 5.2 below, to remedy any substantial non-conformity reported by Ordering Activity.

5.2   **Warranty Support.** During the Warranty Period, Nuance shall provide telephone consulting services and/or written support services through fax, email or other manner to Ordering Activity's designated personnel to provide such personnel with defect support relative to the Nuance Software and Documentation. Such warranty support shall consist of providing Ordering Activity (and only Ordering Activity) assistance when either (a) a failure of the Nuance Software to substantially conform with the specifications contained in the Documentation, or (b) an incorrect or incomplete statement or diagram in the Documentation substantially impairs Ordering Activity's use of the Nuance Software. Nuance will analyze the claim of Ordering Activity that one of the foregoing conditions exists and inform Ordering Activity of the result of its analysis. If such a condition is confirmed by Nuance, Nuance will exercise commercially reasonable efforts to provide Ordering Activity with corrected Nuance Software or Documentation, as applicable, as soon as possible. If a correction is not commercially feasible in Nuance's reasonable opinion, Nuance may discharge its obligations under this Section 5 by refunding any license fee paid and accepting a return of the Nuance Software. Warranty support services shall be provided during Nuance's normal business hours (Eastern U.S. Time), Mondays through Fridays (excluding Nuance-specified holidays).

5.3   **NO OTHER WARRANTIES.** THE FOREGOING CONSTITUTES NUANCE'S SOLE OBLIGATION, AND COMPANY'S EXCLUSIVE REMEDY, WITH RESPECT TO BREACH OF THE FOREGOING LIMITED WARRANTY. EXCEPT FOR WARRANTIES STATED IN THIS SECTION 5, NUANCE DISCLAIMS AND MAKES NO   ADDITIONAL   WARRANTIES,   EXPRESS   OR   IMPLIED,   INCLUDING   ALL   WARRANTIES   OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.   Nuance shall not be obligated to honor any warranties provided in the GSA Schedule 70 contract as between the Ordering Activity and the GSA Contractor authorized to resell Nuance software that are inconsistent herewith.

6   INDEMNIFICATION

6.1   **By Nuance.** Nuance shall indemnify Ordering Activity against any claim or action brought by a third party, during the Term, to the extent it is based on a claim that the Nuance Software directly infringes any United States patent, copyright or trademark, or misappropriates a trade secret, of such third party. Nuance will indemnify Ordering Activity against any losses, damages, and expenses that are attributable to such claim or action and are assessed against Ordering Activity in a settlement to which Nuance has consented or a final judgment. Nuance shall have the foregoing obligations only if Ordering Activity provides Nuance with: (a) a prompt written notice of any such claim or action; (b) the right to intervene in any such proceedings at Nuance's own expense through counsel of its choice; and (c) all available information and assistance reasonably necessary to provide a consultation on any settlement and/or the defense of any such claim or action. Nuance shall not be responsible for any attorneys' fees or other expenses or costs that Ordering Activity incurs before receipt of Ordering Activity's notice of the claim or action. Notwithstanding anything to the contrary in the foregoing, Nuance's obligations under Section 6.1 (By Nuance) do not apply to open source software.

6.2   **Limited Remedies.** If the Nuance Software becomes, or in the opinion of Nuance, is likely to become, the subject of an infringement claim or action, Nuance may, at its option and in its sole discretion, discharge its obligations under this Section 6 (Indemnification) by: (a) procuring, at no cost to Ordering Activity, the right to continue using the Nuance Software; (b) replacing or modifying the Nuance Software to render it non-infringing, provided there is no

material loss of functionality; or (c) if, in Nuance's reasonable opinion, neither (a) nor (b) above are commercially feasible, refunding the amounts Ordering Activity paid for such Nuance Software depreciated on a straight-line sixty (60) month basis.

6.3 **Exclusions.** Nuance will have no obligation or liability under this Section **6** (Indemnification) for any claim or action regarding any claim resulting from any of the following: (a) modifications to the Nuance Software by a party other than Nuance; (b) the combination or use of the Nuance Software with other products, processes, or materials not provided by Nuance if the Nuance Software itself would not infringe; (c) where Ordering Activity continue allegedly infringing activities after being provided with modifications that would have avoided the alleged infringement; or (d) Ordering Activity's use of the Nuance Software in a manner that is not in compliance with the terms of this Agreement.

6.4 **Exclusive Obligation.** This Section **6** (Indemnification) states the sole obligation and exclusive liability of each Party (express, implied, statutory or otherwise), and the sole remedy of the other, for any third-party claims or actions of infringement of any intellectual property or other proprietary right.

7 LIMITATION AND DISCLAIMER OF DAMAGES

7.1 **Application.** Nothing in this Agreement shall be taken to exclude or limit liability to the extent that such exclusion or limitation is not permitted by applicable law.

7.2 **Limitation of Liability.** The total aggregate liability of Nuance and its Affiliates, and their respective officers, agents, suppliers and employees, to Ordering Activity and its Affiliates, and their respective officers, agents, customers and employees, for any and all claims arising under this Agreement or otherwise arising from the transactions contemplated herein, regardless of the form of action (including, but not limited to actions for breach of contract, negligence, strict liability, rescission and breach of warranty) will not exceed the aggregate fees actually paid to Nuance under this Agreement during the one year preceding such claim. Nuance's limitation of liability is cumulative with all Ordering Activity's payments during such one-year period being aggregated to determine satisfaction of the limit. The existence of more than one claim shall not enlarge or extend the limit.

7.3 **No Consequential Damages.** IN NO EVENT SHALL NUANCE OR ITS AFFILIATES, OR THEIR RESPECTIVE OFFICERS, AGENTS, SUPPLIERS AND EMPLOYEES, BE LIABLE TO THE COMPANY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, AGENTS, CUSTOMERS AND EMPLOYEES, FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES, LOSS OF, OR LOSS OF USE OF, SOFTWARE OR DATA, LOSS OF CUSTOMERS, LOSS OF ANTICIPATED SAVINGS AND LOSS OF PROFITS, WHETHER SUCH ALLEGED DAMAGES ARE LABELED IN TORT, CONTRACT OR INDEMNITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTHING IN THIS AGREEMENT SHALL IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. §§ 3729-3733. FURTHERMORE, NOTHING IN THIS AGREEMENT SHALL LIMIT OR DISCLAIM THE U.S. GOVERNMENT'S RIGHT TO EXPRESS REMEDIES AGAINST THE GSA SCHEDULE CONTRACTOR AS PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAR 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).

8 TERMINATION

8.1 **Term.** This Agreement commences on the Effective Date, and, unless terminated earlier, will continue in effect indefinitely (the "**Term**"), unless the Parties otherwise agree in writing.

8.2 **Effect of Termination.** Upon the termination of this Agreement, Ordering Activity shall immediately: (a) cease use of the Nuance Software (in any form, including partial copies in its possession or under its control); (b) destroy all copies of the Nuance Software and certify in writing to Nuance that no copies have been retained by it within ten (10) days of such termination; and (c) pay any outstanding amounts due to Nuance.

8.3 **Survival.** Notwithstanding anything to the contrary in this Section 8, the provisions of Sections 1 (Definitions), 2.2 (Proprietary Rights; Restrictions), 4(Confidential Information), 5.3 (No Other Warranties), 7 (Limitation of Liability), 8 (Termination), and 9 (General Terms) shall survive expiration or termination of this Agreement.

9 GENERAL TERMS

9.1 **Authorized Reseller.** Nuance has signed agreements with certain organizations (each, an "**Authorized Reseller**") to promote, market and support certain Nuance Software, and to resell licenses of Nuance Software. Each such Authorized Reseller remains independent and separate from Nuance. Nuance is not responsible for the actions, statements or recommendations of Authorized Resellers or any obligations such Authorized Resellers have to Ordering Activity. In the event Ordering Activity purchases from an Authorized Reseller a license to Nuance Software and/or Support Services pursuant to an Order under this Agreement, the terms of this Agreement will be modified with respect to each such Order as follows:

9.1.1   Ordering Activity shall pay to such Authorized Reseller the license fees and Support Services fees related to each such Order.

9.1.2   In the event Ordering Activity is entitled to receive a refund in accordance with the provisions of Section 5.2, Ordering Activity shall obtain such refund from the Authorized Reseller upon Ordering Activity's receipt of a return of the Nuance Software from Ordering Activity.

9.2 **Assignment.** Ordering Activity shall not assign or otherwise transfer its rights, obligations or remedies under this Agreement, in whole or in part, to a third party unless such assignment is approved in writing by Nuance. Notwithstanding the foregoing, Ordering Activity may assign its rights hereunder in their entirety pursuant to: (i) a merger with; (ii) the sale of substantially all of its assets to; or (iii) a consolidation with a third party; provided (a) Ordering Activity provides Nuance with prompt written notice of such sale, merger or consolidation, and (b) the assignee agrees to be bound by all terms and conditions set forth by this Agreement. Nuance shall not assign this Agreement, in whole or in part, to a third party except in accordance with procedures based on FAR Subpart 42.12.

9.3 **Force Majeure.** Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, acts of God, governmental acts or orders or restrictions, acts of terrorism, war, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party and not due to its fault or negligence.

9.4 **Notices.** All notices hereunder shall be sent by the notifying Party, in writing, to the other Party at its address set forth above (or such other address as they may communicate to the notifying Party in writing). Notice shall be deemed delivered and effective: (i) when delivered personally, (ii) five (5) days after posting when sent by certified United States mail (return receipt requested), or (iii) one (1) day after posting when sent by reputable private overnight courier (e.g., DHL, Federal Express, etc.).

9.5 **Relationship Between the Parties.** In all matters relating to this Agreement, Ordering Activity and Nuance shall act as independent contractors. Except as may be otherwise expressly permitted hereunder, neither Party will represent that it has any authority to assume or create any obligation, expressed or implied, on behalf of the other Party, or to represent the other Party as agent, employee, or in any other capacity. Nuance shall at all times have the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all work to be performed by Nuance hereunder unless otherwise provided herein. Nuance shall, at all times, be responsible for the compliance of its third parties involved in the delivery of the services with the terms and conditions of this Agreement. Nothing in this Agreement shall be construed to create any contractual relationship between Ordering Activity and any such third parties, nor any obligation on the part of Ordering Activity, to pay or to ensure the payment of any money due any such third party.

9.6 **Governing Law.** This Agreement shall be governed by the laws of the United States.

9.7 **Partial Invalidity; Waiver.** If any provision of this Agreement or the application thereof to any Party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event the Parties shall use reasonable efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision. Any deviation by either Party from the terms and conditions required under applicable laws, rules and regulations shall not be considered a breach of this Agreement. No failure of either Party to exercise any power or right given either Party hereunder or to insist upon strict compliance by either Party with its obligations hereunder, and no custom or practice of the Parties at variance with the terms hereof shall constitute a waiver of either Party's right to demand exact compliance with the terms of this Agreement.

9.8 **Entire Agreement; Headings; Counterparts.** No addition to or modification of any provision of this Agreement shall be binding upon the Parties unless made by a written instrument signed by a duly authorized representative of each

of the Parties. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be an original instrument.

9.9 **Export Controls; Government Use.** Ordering Activity will comply with all applicable export and import laws and regulations and, unless authorized by applicable governmental license or regulation, not directly or indirectly export or re-export any technical information or software subject to this Agreement to any prohibited destination. If software or services are being acquired by or on behalf of the U.S. Government or by a U.S Government prime contractor or subcontractor (at any tier), the software, services and related documentation are "commercial items" as that term is defined at 48 C.F.R. 2.101. The software and documentation consists of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end-users acquire the software and documentation with only those rights set forth herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal as of the date first set forth above.

_____ (Ordering Activity)   Nuance Communications Inc

By: _____   By: _____

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

THIS ANNEX A-1 is issued under the Master End User License Agreement ("the Agreement") by and between Nuance Communications, Inc. ("**Nuance**") and **Ordering Activity**".

License Grant Purpose:

In accordance with Section 2. License Grant of the Agreement, Ordering Activity is granted the right to use the Nuance Software subject to the following.

o **Grant of License Rights – Internal Development Use.** With respect to any Nuance Software listed in an Order as a software development kit or SDK, Nuance hereby grants to Ordering Activity, and Ordering Activity hereby accepts, the non-exclusive, non-transferable perpetual (unless otherwise terminated) license right to use such Nuance Software and Documentation internally on the number of Ports (as defined below) or other license types listed solely for internal development purposes.

o **Grant of License Rights – Production Use.** With respect to any Nuance Software listed in an Order as for production use, Nuance hereby grants to Ordering Activity, and Ordering Activity hereby accepts, a non-exclusive, non-transferable, perpetual (unless otherwise terminated) license to use the Nuance Software and Documentation so listed for its internal business use on a per Port, per Server, per Speaker, per Transaction or other license type, as specified in the applicable Order. Notwithstanding anything to the contrary in this Annex A, Ordering Activity shall not use the Nuance Software in a portal, service bureau, application hosting or application service provider environment unless approved by Nuance in writing.

o **Back-up Copies.** Ordering Activity may make a reasonable number of copies of the Nuance Software for Ordering Activity's internal back-up and archival purposes only, provided that all such copies shall bear the original and unmodified copyright, patent, and other intellectual property markings.

Special Contract Terms:

None

Pricing:

List prices for Nuance Software are governed by the relevant GSA Schedule 70 contract and Order.

Calculation of Biometrics Transactions for pricing purposes: The following transactions will be counted as Biometrics Transaction in Nuance Voice Biometrics product suite:

Verification	Comparing an audio sample to a voiceprint of a speaker
Identification	Comparing a new* audio sample to a predefined or ad-hock group of voiceprints
Fraudsters Detection	Comparing an audio sample to a watch list comprised of fraudsters' voiceprints
Enrollment	An addition of an audio sample to a speaker's voiceprint – as part of a process to create a biometric representation of the sample content (voice template)
ASR\Utterance validation	In VocalPassword - using NR10 implicitly for ASR functionality
Calculation of Biometrics Transactions	-Multiple biometric transactions on a single audio file or stream count as one. -Multiple biometric transactions in the same session (possibly using multiple audio files or streams) count as one transaction as long as they involve a single speaker\group. -The number of audio files\streams that can be associated with a single transaction is limited as follows: This number is reset every time there's a change in speaker\group within a session.

	Exceeding this number will be considered as starting a new transaction - VocalPassword: 10 - When working in session-less mode, each API call initiates an internal session hence count as a transaction

Support Services and Payments:

- **Support Services.** If ordered by Ordering Activity and if available through the relevant GSA Schedule 70 contract, Nuance will provide the maintenance and support services as described in the then-current Nuance Support Services Guide published on http://support.nuance--- .com, the terms of which are incorporated into this Agreement. If Ordering Activity elects to purchase Support Service for any Nuance Software licenses, Ordering Activity will be required to purchase Support Services for all of Ordering Activity's Nuance Software licenses of the same software. Ordering Activity may not purchase Support Services for only a portion of such Nuance Software licenses. In addition, when purchasing Support Services, all Nuance Software licenses must be supported at the same service level. By way of example, if Ordering Activity elects to purchase Nuance 24X7 Support Services for any Nuance Software license, Ordering Activity will be required to purchase 24X7 Support Services for all of its Nuance Software Licenses.

- **Support Period.** If Ordering Activity elects to purchase Support Services, Ordering Activity's right to receive Support Services shall be deemed to begin upon the date(s) on which the Nuance Software was delivered to Ordering Activity and shall extend for a twelve (12) month period thereafter (an "Initial Maintenance Period"); subsequent Support Services periods extending for twelve (12) months commence immediately on expiration of the prior maintenance period (each a "Maintenance Period"); provided that Ordering Activity has issued an Order for such Support Services. Ordering Activity may renew a Maintenance Period by issuing an Order for Support Services at least thirty (30) days prior to expiration of the then-current Maintenance Period.

- **Updates and Upgrades.** Unless Ordering Activity has purchased a maintenance and support service plan under which Nuance provides Updates and Upgrades, Ordering Activity shall have no right to Updates or Upgrades.

- **Performance.** Nuance will use commercially reasonable efforts to provide Support Services to Ordering Activity (and only Ordering Activity). Nuance will have no obligation to correct an Error, if the Error is the result of (a) Ordering Activity's failure to implement all Updates, Upgrades, Error corrections, or modifications to the Nuance Software; (b) changes to the operating system or environment which adversely affect the Nuance Software; (c) alterations of or additions to the Nuance Software not authorized by Nuance; (d) interconnection or integration of the Nuance Software with other software products not supported by Nuance; or (e) use of the Nuance Software on equipment other than the equipment for which such Nuance Software was designed for use on. Under no circumstances does Nuance warrant or represent that all Errors can or will be corrected.

Open Source:

Certain Nuance Software contains executable versions of Open Source Software. Nuance Software which contains executable versions of Open Source Software and the particular components of Open Source Software and described in the applicable Product 'about' box

Audit:

Nuance shall have the right to conduct an audit of Ordering Activity's books and records to confirm compliance with the terms of this Agreement. Such audit shall be conducted by a mutually acceptable public accounting firm. Ordering Activity agrees to cooperate with Nuance in the conduct of such audit within thirty (30) days of notice, subject to any security measures the Ordering Activity deems appropriate. Any audit shall be performed during normal business hours.

Other Definitions:

ASR	Automated speech recognition
DTMF	Dual Tone Multi Frequency
End Pointer Software-	Software component that detects the initial speech in a telephone call in

Standard	connection with ASR software
End Pointer – Other	Wake-up Word is used to detect a particular word in a speech stream; Selective Barge-In is used to activate barge-in capability only when a specific word or phrased is detected.
Grammar	A Closed Grammar and/or an Open Grammar
NL or Natural Language	Capability of recognizing more than one unique item within a caller's utterance
Open Grammar	A grammar that supports statistical language models, robust parsing and may support statistical semantic modeling through SpeakFreely or Accuroute
OSR	OpenSpeech Recognizer Software
Port/Conversation	As used in the context of ASR or speaker verification/authentication software (the Software), "Port" means the audio connection between the Software and a live caller or other agent able to use speech to support a single Conversation.

A "Conversation" commences when a telephone caller is first connected to a computer system that detects the caller's speech (using either Nuance's or another party's speech detection technology) for speech recognition purposes through use of Nuance Software (the "Computer System") and continues until the first of the following to occur: (a) the caller's telephone (or equivalent device) completely terminates the speech recognition portion of the connection between the telephone (or equivalent device) and the network or networks that connect it to the Computer System; (b) the telephone caller's connection is transferred to a live operator/agent; (c) the caller intentionally transfers the connection to a resource which is independent of the Computer System; or (d) although the caller may remain connected to the Computer System, the Computer System will not further process the caller's spoken words for speech recognition purposes prior to termination of the call as defined in (a) above.

As used in the context of text-to-speech ("TTS") software, "Port" means an audio connection from the TTS software and a live caller or other agent to receive and not store audio. TTS software is licensed for the maximum number of simultaneous outbound ports enabled to deliver the output of the TTS software configured in the system. |
Seat	As used in the context of Nuance biometric software, "Seat" means an agent position, regardless of the method of audio acquisition used (TDM, VOIP, etc.). As used in the context of Nuance biometric software, "Seats" means the maximum number of agent positions that can simultaneously access and use the Nuance biometric software. This is not the floating number of agents at any given time.
TTS	Text-to-Speech
User	As used in the context of Nuance biometric software, a User is a person with a unique identifier in the Voiceprint database. A User can have one or more Voiceprints enrolled on the system.
Voiceprint Enrollee	As used in the context of Nuance biometric software, an individual person who is assigned a unique identifier by Ordering Activity in the Voiceprint Repository. A Voiceprint Enrollee may have one or more Voiceprints in the Voiceprint Repository.
Voiceprint	As used in the context of Nuance biometric software, a compact representation of speech data for a particular Voiceprint Enrollee that is created during an enrollment phase for that Voiceprint Enrollee. A Voiceprint for a Voiceprint Enrollee is saved in the Voiceprint Repository and may be later retrieved and

	compared with new speech data to determine whether the new speech data is associated with the Voiceprint Enrollee who made the Voiceprint.
Voiceprint Repository	In the context of Nuance biometric software, a repository of Voiceprints associated with individual Voiceprint Enrollees created by End User.

EXHIBIT A

TO MASTER END USER LICENSE AGREEMENT

FORM OF ORDER

THIS Order is effective as of _____ (the "**Order Effective Date**") and is issued under the Master End User License Agreement (" the Agreement") incorporated into the terms of the GSA Schedule 70 contract by and between Nuance Communications, Inc. ("**Nuance**") and _____ ("**Ordering Activity**").

1.   Nuance Software Authorized for Production Use under Software Schedule of Agreement

Nuance Software (Name, Version Number and SKU)	Components	Number and Type of License (Type is license type, such as Port, Server, User)	Discount	List Price	Extended Price

2.   Nuance Software Authorized for Internal Development Use Only Under Software Schedule of the Agreement:

Nuance Software	Components	Number and Type of License	Discount	List Price	Extended Price

TOTAL LICENSE FEES $ _____

3.   Maintenance and Support Service Provided to Ordering Activity for the Nuance Software Listed in Section 1 Above

Item	Price
Maintenance & Support/ Premium or 7x24	
If Ordering Activity elects not to purchase Maintenance & Support, confirm by initialing here	

4.   Authorized Reseller related to this Order:

Authorized Reseller Name:_____

Authorized Reseller Address:_____

Authorized Reseller Contact Name:_____

Authorized Reseller Telephone Number:_____

IN WITNESS WHEREOF, the Parties have caused this Order to be executed by their respective duly authorized representatives as an instrument under seal effective as of the date last signed below.

_____ (Ordering Activity)   Nuance Communications Inc

By: _____   By: _____

Name: _____   Name: _____

Title: _____   Title: _____

Date: _____   Date: _____

Use Authorization Number

End Customer Address:		End Customer Contact Information:	
Name:		Name:	
Address:		Title:	
City:		Phone:	
State/Province:		Email:	
Zip/Postal Code:			
Country:			

Reseller:		Order Information:	
Company Name:	Carahsoft	Order Number:	
Address:	11493 SUNSET HILLSROAD, SUITE 100	Date Issued to Reseller:	
City:	Reston	Level 1 Support Provider:	
State:	Virginia	PO Number:	
Zip/Postal Code:	20190-5328		
Country:	United States		

Vendor Contract Information:		Vendor Contact Information:	
Term (Months):		Name:	
Start Date:		Title:	
End Date:		Phone:	
		Email:	

Product	Product Code	Units

Terms and Conditions

End Customer's use of the Subscription Service as set forth herein as purchased from the Nuvolo authorized reseller referenced above ("Reseller") is governed by the terms and conditions of this Use Authorization, which includes the Subscription Service Agreement, attached hereto, WHICH IS HEREBY INCORPORATED BY REFERENCE IN ITS ENTIRETY (collectively, "Agreement").

SUBSCRIPTION SERVICE AGREEMENT

This Subscription Service Agreement (including the End User Support Policy and the Nuvolo Upgrade Policy, attached hereto) ("*Agreement*") between Nuvolo Technologies Corporation ("*Nuvolo*") and the end user identified on the accompanying Nuvolo Use Authorization ("*End User*").

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

1. **DEFINITIONS**

    "**Agreement**" means this Subscription Service Agreement and any exhibits, schedules and addenda hereto.

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

    "**Contractor**" means the independent contractors and consultants permitted by Customer to serve as Users of the Subscription Service.

    "**Customer Trademarks**" means Trademarks owned by Customer that Customer expressly authorizes Nuvolo to use in connection with this Agreement as applicable.

    "**Documentation**" means the Nuvolo product release notes relating to the features and functionality of the Subscription Service, including technical program or interface documentation, user manuals, operating instructions and release notes, as updated from time to time by Nuvolo.

    "**End User Data**" means any electronic data uploaded by or for End User and End User's agents, employees and contractors that is processed through the Subscription Service, excluding the Nuvolo Technology. For the avoidance of doubt, End User is the data controller and all End User Data is hosted by ServiceNow in the ServiceNow Platform.

    "**End User Technology**" means software, methodologies, templates, business processes, documentation or other material authored, invented or otherwise created or licensed (other than by or from Nuvolo) by End User using or for use with the Subscription Service, excluding the Nuvolo Technology.

    "**Malicious Code**" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

    "**Nuvolo Technology**" means: (a) the Subscription Service, Documentation, and Third-Party Applications; and Nuvolo technology and methodologies (including, without limitation, products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation) existing as of the Effective Date or otherwise arising outside of work under a professional service or statement of work; (b) updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related technical or end user documentation or manuals; and (c) intellectual property anywhere in the world relating to the foregoing.

"**Nuvolo Trademarks**" means Trademarks owned by Nuvolo that Nuvolo expressly grants End User to use in accordance with this Agreement applicable.

"**Order Form**" means a written ordering document specifying the Subscription Service to be provided hereunder that is entered into between End User and the reseller.

"**ServiceNow Platform**" means the hosted platform and/or software-as-a-service made available by ServiceNow under the "ServiceNow" brand.

"**Statement of Work**" or "**SOW**" means a statement of work for Professional Services, agreed to by the Parties in writing.

"**Subscription Service**" means the Nuvolo software-as-a-service application(s) that are ordered by End User under an Order Form and made available by Nuvolo. "Subscription Service" excludes Third-Party Applications, including tiled web maps that may be available for use with the Subscription Service. For the avoidance of doubt, Non-Nuvolo Applications and API's, including tiled web maps, must be purchased directly from the applicable software provider.

"**Subscription Term**" means the term of authorized use of the Subscription Service as set forth in the Order Form.

"**Third Party Applications**" means any separate services or applications (and other consulting services related thereto), procured by Customer from a party other than Snowflake that can be used in connection with the Service.

"**Trademarks**" means a party's logo(s), service marks, trademarks and certification marks. "End User **Trademarks**" means Trademarks owned by End User that End User expressly authorizes Nuvolo to use in connection with this Agreement.

"**User**" means the individuals designated and granted access by End User to use the Subscription Service by or on behalf of the End User including its Contractors.

2. NUVOLO RESPONSIBILITIES

2.1 Provision of Subscription Service. Subject to the terms of this Agreement, Nuvolo authorizes End User to access and use the purchased Subscription Service during the Subscription Term as set forth in an applicable Order Form for its internal business purposes in accordance with the Documentation. Customer may permit Contractors and Affiliates to serve as Users provided that any use of the Subscription Service by each such Contractor or Affiliate is solely for the benefit of Customer or such Affiliate. Nuvolo may provide Subscription Service only in the English language, unless otherwise agreed in writing. The parties have expressly requested that this Agreement and all related documents be drafted in English.

2.2 End User Support. During the Subscription Term, Nuvolo will provide End User support for the Subscription Service to End User at no additional charge in accordance with the Nuvolo End User Support Policy, attached hereto.

2.3 Protection of End User Data.

    2.3.1 Nuvolo will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of End User Data in its possession. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of End User Data by Nuvolo personnel except (a) to provide End User support; (b) to provide Professional Services in accordance with a SOW as applicable; (e) as compelled by law in accordance with the Section 6 (Confidentiality), or (f) as expressly permitted in writing by End User.

    2.3.2 Notwithstanding anything to the contrary in this Agreement, or any other agreements signed

between the parties, Nuvolo's obligations extend only to those systems, networks, network devices, facilities and components over which Nuvolo exercises control. This Section 2.3.1 does not apply to: (i) Any ServiceNow datacenter or any infrastructure within the sole control of ServiceNow, including the ServiceNow Platform (ii) End User Data hosted in End User's existing ServiceNow production instance(s); (iii) End User Data in End User's virtual private network (VPN) or a third party network; or (iv) any End User Data processed by End User or its users in violation of this Agreement.

2.3.3 End User acknowledges that any electronic Personal Health Information (ePHI) or Personally Identifiable Information (PII) disclosed to Nuvolo as part of End User Data is incidental to the Subscription Service under this Agreement and that Nuvolo does not review or analyze the content of End User Data in the ordinary course of operating the Subscription Service. End User agrees that it shall be solely responsible for complying with any obligations under any government regulation that requires any review or analysis of such content. Notwithstanding the foregoing, End User is the data controller with respect to any End User Data that is submitted to the Subscription Service. For the avoidance of doubt, Nuvolo does not have access to End User's production instance of ServiceNow.

2.4 Compliance with Applicable Laws. Nuvolo will provide the Subscription Service in accordance with its obligations under laws and government regulations applicable to Nuvolo's provision of the Subscription Service to its customers generally, including, without limitation, those related to data privacy and data transfer, international communications, and the exportation of technical or personal data, without regard to Customer's particular use of the Subscription Service and subject to Customer's use of the Subscription Service in accordance with this Agreement.

3. USE OF SUBSCRIPTION SERVICE

3.1 Usage Limits. The Subscription Service is subject to usage limits, including quantities and/or functionality restrictions referenced in an Order Form. Unless otherwise specified, (a) a quantity in an Order Form may not be exceed the use and access rights by more than that ordered number of Users, (b) a User's password may not be shared with any other individual, and (c) a User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Subscription Service. End User will reasonably cooperate with any Nuvolo audit of End User's use of the Subscription Service, which may require End User to run a report for Nuvolo's review. If Nuvolo determines that End User has exceeded its permitted use of the Subscription Service then Nuvolo will notify End User and within thirty (30) days thereafter End User at its option, shall either: (i) disable any unpermitted use or (ii) purchase additional subscriptions commensurate with End User's actual use.

3.2 End User Responsibilities. End User will (a) be responsible for Users' compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of End User Data and the means by which End User acquired End User Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Subscription Service, and notify Nuvolo promptly of any such unauthorized access or use, (d) use the Subscription Service only in accordance with the Documentation and applicable laws and government regulations; and (e) use ServiceNow's column-level encryption feature on all End User-created fields for all End User Data containing ePHI or PII or any other fields that End User as data controller deems to be sensitive information. In the event that End User obtains or requires any personally identifiable information (or other sensitive information) about Nuvolo personnel, End User warrants that such information will be treated in the strictest confidence, used only for legally required purposes (and in full compliance with any applicable laws), and that such data will be destroyed when no longer necessary.

3.3 Usage Restrictions. End User will not and will not permit any third-party to do the following with respect to the Nuvolo Technology: (i) use the Subscription Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in an Order Form; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with the Subscription Service; (iv) disassemble, reverse engineer or decompile it; (v) copy, create derivative works based on or otherwise modify it except as permitted in this Agreement; (vi) remove or modify a

copyright or other proprietary rights notice in it; (vii) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including the rights of publicity or privacy) without first obtaining the permission of the owner; (viii) use it to create, use, send, store or run Malicious Code or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation; or (ix) access or disable any Nuvolo or third party data, software or network (other than End User's instance of the Subscription Service in accordance with this Agreement).

3.4   **Third Party Applications.** In support of End User's authorized internal business use of the Subscription Service during the Subscription Term, Nuvolo may provide URL links or interconnectivity within the Subscription Service to facilitate End User's use of Third-Party Applications, at End User's sole discretion. Notwithstanding the foregoing, any procurement or use of Third-Party Applications are solely between End User and the applicable third party and Nuvolo will have no liability for such Third-Party Applications.

4.   SERVICENOW PLATFORM

4.1   **General.** The Subscription Service is developed and operates exclusively on the ServiceNow Platform and is hosted by ServiceNow. End User must be an existing ServiceNow End User or is required to purchase ServiceNow in order to use and access Nuvolo's Subscription Service either directly from ServiceNow, or through a ServiceNow approved reseller, as applicable. End User must be operating on a current ServiceNow subscription release in accordance with the ServiceNow's Upgrade Policy in ServiceNow's Subscription Service Guide as published (https://www.servicenow.com/schedules.html). End User acknowledges that if ServiceNow is inoperable and/or terminates services to End User due to a party's breach of the agreement between End User and ServiceNow, any Subscription Service installed in the affected ServiceNow instance will be inaccessible and Nuvolo will not thereby be deemed to be in breach of this Agreement. Nuvolo has no liability to End User for any losses or harm occasioned by End User's use of the ServiceNow Platform.

5.   INTELLECTUAL PROPERTY AND LICENSES

5.1   **Nuvolo Ownership.** As between Nuvolo and End User, all rights, title, and interest in and to all intellectual property rights in the Nuvolo Technology are owned exclusively by Nuvolo notwithstanding any other provision in this Agreement or any other agreement as signed between the parties. Except as expressly provided in this Agreement or in a statement of work, Nuvolo reserves all rights in the Nuvolo Technology and does not grant End User any rights, express or implied or by estoppel.

5.2   **End User Ownership.** As between End User and Nuvolo, End User shall retain all rights, title, and interest in and to its intellectual property rights in End User Data and End User Technology.

5.3   **License by End User for End User Data.**   End User grants Nuvolo and its hosting providers a worldwide, limited-term license to copy, transmit and display End User Data, and any Non-Nuvolo Applications and program code created by or for End User, as necessary for Nuvolo to provide the Subscription Service in accordance with this Agreement. Subject to the limited licenses granted herein, Nuvolo acquires no right, title or interest from End User or its licensors under this Agreement in or to any End User Data. End User's use of the Subscription Service and all End User Data will comply with applicable laws and government regulations. End User is solely responsible for the accuracy, content and legality of all End User Data. End User warrants that Customer has and will have sufficient rights in the End User Data to grant the rights to Nuvolo under this Agreement and that the End User Data will not violate the rights of any third party.

5.4   **License by End User to Use Feedback**. End User grants to Nuvolo a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Subscription Service any suggestion, enhancement request, recommendation, correction or other feedback provided by End User or Users relating to the operation of the Subscription Service. For the avoidance of doubt, Nuvolo's exposure to End User Data or End User Technology, without more, does not constitute feedback.

5.5   **Trademark Ownership.** Nuvolo acknowledges that End User owns all End User Trademarks and any goodwill derived from the use of End User Trademarks by Nuvolo under this Agreement inures solely to the benefit of the End User. End User acknowledges that Nuvolo owns all Nuvolo Trademarks and any goodwill derived from the use of Nuvolo Trademarks by End User under this Agreement inures solely to the benefit of Nuvolo.

5.6   **Federal Government End Use Provisions**. Nuvolo provides the Subscription Service, including related

software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Subscription Service include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Nuvolo to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

6. CONFIDENTIALITY

6.1 Obligations. The recipient of Confidential Information shall: (i) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event using less than reasonable care; and (ii) not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party shall limit the disclosure of the other party's Confidential Information to those of its employees and contractors with a need to access such Confidential Information for a party's exercise of its rights and obligations under this Agreement, provided that all such employees and contractors are subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each party's obligations set forth in this Section 7 shall remain in effect during the term and three (3) years after termination of this Agreement. The receiving party shall, at the disclosing party's request or upon termination of this Agreement, return all originals, copies, reproductions and summaries of Confidential Information and other tangible materials and devices provided to the receiving party as Confidential Information, or at the disclosing party's option, certify destruction of the same. Provisions for the return of End User Data are set forth in Section 11.4 (End User Data Portability and Deletion).

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

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

7. REPRESENTATION, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

7.1 Representation. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

7.2 Nuvolo General Warranties. Nuvolo warrants that Nuvolo will not materially decrease the functionality of the Subscription Service during a Subscription Term, and (b) Nuvolo will not materially decrease the overall security of the Subscription Service during a Subscription Term. For any breach of an above warranty, End User's exclusive remedies are those described in Section 10 (Term and Termination) below.

7.3 Nuvolo Subscription Service Warranty. Nuvolo warrants that during the Subscription Term, the Subscription Service shall materially conform to the release notes as specified in the Documentation. To submit a warranty claim under this Section 7.3, End User shall (1) reference this Section 7.3; and (2) submit a support request to resolve the non-conformity as provided in the End User Support Policy. If the non-conformity persists without relief more than thirty (30) days after written notice of a warranty claim provided to Nuvolo under this Section 7.3, then End User may terminate the affected Subscription Service. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than Nuvolo or a person acting at Nuvolo's direction. THIS SECTION 7.3 SETS FORTH END USER'S EXCLUSIVE

RIGHTS AND REMEDIES (AND NUVOLO'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.

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

8.   MUTUAL INDEMNIFICATION

8.1   **Indemnification by NUVOLO.** Subject to the exclusions set forth below, Nuvolo shall: (i) defend End User, its officers, directors and employees against any third party suit, claim, action or demand (each a *"Claim"*) excluding in all cases the use or provision of open source software and the ServiceNow Platform to the extent alleging that (A) the Subscription Service used in accordance with this Agreement infringes any third party patent, copyright or trademark, or misappropriates any third party trade secret; or (B) Nuvolo's personnel when onsite at End User's premises caused death, bodily harm or damage to tangible personal property due to their negligence or willful misconduct and and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from any such Claims. If any portion of the Subscription Service becomes the subject of a Claim under Section 8.1(i), Nuvolo may: (a) contest the Claim; (b) obtain permission from the claimant for End User's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in Nuvolo's judgment, then (d) terminate End User's use of the affected Subscription Service upon sixty (60) days' written notice.

Notwithstanding the above, Nuvolo shall have no obligation or liability for any Claim under Section 9.1(i) arising in whole or in part from: (1) any use of the Subscription Service which exceeds the authorized use permitted under this Agreement or not in accordance with the Documentation; (2) End User Data or End User Technology; (3) use of the Subscription Service by End User in violation of applicable law; (4) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 8.1; (5) modifications to the Subscription Service made to End User's specifications or otherwise made by any person other than Nuvolo or a person acting at Nuvolo's direction if the Claim would have been avoided by use of the unmodified Subscription Service; or (6) use of the Subscription Service in combination with any hardware, software, application or service that was not provided by Nuvolo, including but not limited to Third-Party Applications, if the Claim would have been avoided by the non-combined or independent use of the Subscription Service. Notwithstanding any other provisions hereof, the foregoing indemnity will not apply with respect to any infringement based on End User's activities occurring subsequent to its receipt of notice of any claimed infringement unless Nuvolo will have given End User written permission to continue to use and access the allegedly infringing Subscription Services.

8.2   **Indemnification by End User.** End User shall: (i) defend Nuvolo, its officers, directors and employees against any Claim alleging that: (A) End User Data, (B) End User Technology or (C) a modification to the Subscription Service made to End User's specifications or otherwise made by or on behalf of End User by any person other than Nuvolo or a person acting at Nuvolo's direction (but only if the Claim would have been avoided by use of the unmodified Subscription Service), infringes any patent, copyright or trademark, misappropriates any third party trade secret, or violates any third party privacy rights; and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from such Claim.

8.3   **Process.** All of the foregoing indemnity obligations of Nuvolo and End User are conditioned on the indemnified party notifying the indemnifying party promptly in writing of any actual or threatened Claim, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense.

8.4 **Exclusive Remedy.** This Section 8 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this section.

9. LIMITATION OF LIABILITY

9.1 **Limitation of Liability.** TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY END USER FOR THE SUBSCRIPTION SERVICE GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) A PARTY'S OBLIGATIONS IN SECTION 9 (MUTUAL INDEMNIFICATION); (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) LIABILITY WHICH, BY LAW, CANNOT BE LIMITED.

9.2 **Exclusions.** TO THE EXTENT PERMITTED BY LAW, NEITHER NUVOLO NOR END USER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COVER, SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) PAYMENTS TO A THIRD PARTY ARISING FROM A PARTY'S OBLIGATIONS UNDER SECTION 10 (MUTUAL INDEMNIFICATION); (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) LIABILITY WHICH, BY LAW, CANNOT BE LIMITED.

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

10. TERM AND TERMINATION

10.1 **Term of Agreement.** This Agreement commences on the Effective Date and continues until a party terminates in accordance with the terms of the Agreement and/or there are no Order Forms in effect.

10.2 **Termination.** A party may terminate this Agreement for cause if the other party (a) materially breaches this Agreement and fails to cure the breach within 30 days after written notice by the non-breaching party detailing the breach, or (b) becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, and such petition or proceeding is not dismissed within 60 days.

10.3 **End User Data Portability and Deletion.** End User must request any End User Data from ServiceNow as Nuvolo has no authorization to access or return such End User Data hereunder.

10.4 **Surviving Provisions.** The sections titled "Intellectual Property and Licenses", "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Usage Restrictions", "End User Data Portability and Deletion," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement.

11. GENERAL PROVISIONS

11.1 **Export Compliance.** The Subscription Service, other Nuvolo Technology, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Nuvolo and End User each represents that it is not named on any U.S. government denied-party list. End User represents and warrants that it is not located in and will not permit any User to access or use the Subscription Service in a U.S.-embargoed country and is not in violation of any U.S. export law or regulation.

11.2 **Anti-Corruption.** End User has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from a Nuvolo employee or agent in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above

restriction. If End User learns of any violation of the above restriction, it will use reasonable efforts to promptly notify Nuvolo.

1.1 **Insurance.** During the term of this agreement, Nuvolo shall obtain and maintain, at its own expense, the following minimum levels of insurance:

- Commercial General Liability $1,000,000 each occurrence and $2,000,000 aggregate.

- Automobile Liability $1,000,000.

- Worker's Compensation as applicable $500,000 (each incident).

- Crime/Fidelity, including employee theft of client property $500,000.

- Professional Liability: includes Cyber and Media liability $2,000,000.

- Umbrella Coverage $6,000,000.

11.3 **Publicity and Reference.** Either party may publicly identify the other party as a customer or vendor, as applicable, using the other party's name and logo or other Trademark(s). End User and Nuvolo may host webinars and other joint marketing endeavors together as mutually agreed upon between the parties. Either party may issue a press release announcing End User's selection of the Subscription Service, the text of which will be subject to the other party's prior written approval, not to be unreasonably withheld or delayed. End User will use commercially reasonable efforts to act as a sales reference for Nuvolo upon request once per quarter, provided End User is fully implemented and satisfied with the Subscription Service. For the avoidance of doubt, Nuvolo shall have the right to contact the End User directly during any Subscription Term under this Section 11.3.

11.4 **Trademark License.** Subject to compliance with this Agreement, including the restrictions set forth in this Section 11.4, each party grants to the other, until the expiration or termination of this Agreement, a limited, personal, revocable, non-sublicensable, non-transferable, non-exclusive license to display the Trademarks of the other party subject to that party's trademark and logo usage guidelines. Each party agrees to: (i) cooperate with the other party to facilitate the monitoring and control of the license recipient's use of the trademarks in a promotional manner; (ii) upon request, use commercially reasonable efforts to provide the Trademark owner with specimens of its use of the Trademarks; and (iii) comply with any instructions of the Trademarks' owner in relation to such use, including, if so requested by the other party, submitting any proposed use of the Trademarks to the Trademarks' owner for review and approval prior to public use or dissemination of materials reflecting such use.

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

11.6 **Usage of Aggregated Data; Monitoring Service.** End User agrees that Nuvolo may collect, use and disclose quantitative data derived from the use of the Subscription Service for industry analysis, benchmarking, analytics, marketing, and other business purposes in support of the provision of the Subscription Service. Nuvolo shall not share, sell, rent or trade such data with third parties for their promotional purposes. All data collected, used and disclosed will be in aggregate form only.

11.7 **Entire Agreement and Order of Precedence.** This Agreement is the entire agreement between Nuvolo and End User regarding End User's use of Subscription Service and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject

matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the body of this Agreement, and (2) the Documentation.

11.8 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

11.9 No Third-Party Beneficiaries. There are no other third-party beneficiaries under this Agreement.

11.10 Notices. Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) confirmed delivery by courier service, or (d), except for notices of termination or an indemnifiable claim ("**Legal Notices**"), the day of sending by email. Billing-related notices to End User will be addressed to the relevant billing contact designated by End User, and Legal Notices to End User will be addressed to End User and be clearly identifiable as Legal Notices. All other notices to End User will be addressed to the relevant Subscription Service system administrator designated by End User.

11.11 Waiver. No failure or delay by either party in exercising any right hereunder will constitute a waiver of that right.

11.12 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

11.13 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety, together with all Order Forms, without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

11.14 Governing Law. This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the internal laws of the State of Delaware, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party's intellectual property rights. Neither Party shall be liable to the other Party under or in connection with this Agreement or any Order Form, for any claim not made in writing within two (2) years (or within the applicable statutory limitation period if shorter) of the date the facts giving rise to the claim were known or ought reasonably to have been known by the claiming Party.

11.15 Counterparts. This Agreement may be executed by facsimile or electronic signature and in counterparts.

END USER SUPPORT POLICY

This End User Support Policy governs the support that Nuvolo will provide for its Subscription Service and may be updated from time to time. End User Support and target response times are contingent on End User providing Nuvolo with administrative rights to End User's existing ServiceNow sub-production instance(s). End User may restrict access by Nuvolo support personnel to only those individuals authorized by End User. All obligations of Nuvolo under the Agreement which require Nuvolo access to End User's sub-production instance(s), including the provision of End User Support hereunder shall be preconditioned upon Nuvolo receiving such access and proportionately limited to the extent access is denied.

Scope

The purpose of End User Support is to resolve defects that cause the Subscription Service to perform not in substantial conformance to the release notes as provided for in the Documentation. A resolution to a defect may consist of a fix, workaround or other relief if Nuvolo deems reasonable. For the avoidance of doubt, End User Support is not required to provide resolutions for immaterial defects or defects due to modifications of the Subscription Service (or modifications of the ServiceNow Platform that creates a defect in Nuvolo's Subscription Service) made by any person other than Nuvolo or a person acting at Nuvolo's direction. If at any time, Nuvolo determines that the defect is the responsibility of ServiceNow, Nuvolo will transition End User to the ServiceNow End User support team for resolution. Nuvolo is under no obligation and is not authorized to provide End User Support for the ServiceNow Platform. End User Support does not include:

- Implementation services
- Configuration services
- Integration services
- Customization services
- End User Data migration services
- End User modifications of any kind
- Custom software development
- Training
- Assistance with administrative functions
- Technical Account Management (TAM) services
- Third Party Applications
- Post Upgrade documentation of requested changes

For clarity, if End User requires additional customizations or enhancements post implementation, such requests will be subject to a new SOW at Nuvolo's then current hourly rate.

Business Hours

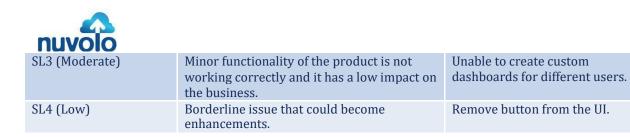End User Support is available 24 hours a day, 7 days a week, including all holidays.

NUVOLO END USER CARE PORTAL

End User may access the Nuvolo End User Care Portal at https://support.nuvolo.com.

Incident Severity

Case severity for a defect is determined using the guidelines below:

Severity Level	Description	Example
SL1 (Critical)	Subscription Service is unavailable.	System is down and user is unable to access or use it.
SL2 (High)	Major functionality of the product is not working and it has a high impact on the business. High performance degradation.	Unable to automatically generate work orders based on maintenance definitions for an asset.

SL3 (Moderate)	Minor functionality of the product is not working correctly and it has a low impact on the business.	Unable to create custom dashboards for different users.
SL4 (Low)	Borderline issue that could become enhancements.	Remove button from the UI.

Response Times

All support requests are tracked on-line and can be viewed by End User's Authorized Contacts (as defined below).

Severity	Target Response Times
S1	30 Minutes
S2	2 Hours
S3	1 Business Day
S4	N/A

End User Responsibilities

End User's obligations are as follows:

- End User agrees to receive from Nuvolo communications via email, phone or through the End User Care Portal regarding the Subscription Service
- End User shall appoint no more than five (5) contacts *("End User Authorized Contacts")* to engage End User Support for questions and/or technical issues.
- Only End User Authorized Contacts are authorized to contact End User Support
- End User must ensure the information for these contacts is current in the Nuvolo End User Care Portal
    - Business Contact
    - Technical Support
    - Support Contact
    - Primary End User Administrator
    - Security Contact
- End User Authorized Contacts are trained on the use and administration of the Subscription Service
- End User shall cooperate to enable Nuvolo to deliver the Subscription Service and support for the service
- End User is solely responsible for the use of the Subscription Service by its authorized users.

Support Resources
- Nuvolo Website and Community - www.nuvolo.com
- Nuvolo End User Care Portal – https://support.nuvolo.com

NUVOLO UPGRADE POLICY

1. DEFINITIONS

1.1 "**Upgrades**" are Nuvolo's releases of the Subscription Service for enhancements or new features (including a new Release Family) provided by Nuvolo to End User's instances of the Subscription Service at no additional fee during the Subscription Term.

1.2 "**Updates**" are Nuvolo's releases (including patches and hotfixes) of the Subscription Service provided by Nuvolo to End User's instances of the Subscription Service at no additional fee during the Subscription Term that provide problem fixes, but do not generally include new functionality, and are released as needed.

1.3 "**Release Family**" is an Upgrade that is a complete solution with new features or enhancements, including previously released Updates if applicable to the features included in the Upgrade.

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

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

1.6 "**Supported Release Family**" at a particular time means the then-current Release Family and the prior two (2) Release Families.

2. UPGRADES AND UPDATES

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

3. NOTICE

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

4. SUPPORTED AND NON-SUPPORTED RELEASE FAMILIES

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

5. SERVICENOW

End User acknowledges that Nuvolo has no operational control over the ServiceNow Platform. Any Upgrades or Updates to End User's ServiceNow instance(s) are the responsibility of End User in accordance with End User's agreement with ServiceNow. This Upgrade Policy applies solely to Nuvolo's Subscription Service.

Terms and Conditions

App Subscription Terms and Conditions

In the event that Participant does not provide subscription terms and conditions applicable to its published App, the following terms and conditions shall apply:

THANK YOU FOR CHOOSING THE ACCOMPANYING APPLICATION OR INTEGRATION (TOGETHER WITH ITS DOCUMENTATION, THE "APP"). THESE TERMS ARE THE LEGAL AGREEMENT ("AGREEMENT") BETWEEN YOU, THE INDIVIDUAL PERSON ACCEPTING THIS AGREEMENT OR THE COMPANY OR OTHER ORGANIZATION ON WHOSE BEHALF YOU ACCEPT THIS AGREEMENT ("YOU"), AND THE INDICATED PROVIDER OF THE APP ("VENDOR"). PLEASE READ THIS AGREEMENT CAREFULLY. IF YOU ARE A COMPANY OR OTHER ORGANIZATION, THEN THE INDIVIDUAL PERSON WHO ACCEPTS THIS AGREEMENT ON YOUR BEHALF MUST HAVE (AND SUCH PERSON HEREBY REPRESENTS TO VENDOR THAT HE OR SHE DOES HAVE) THE AUTHORITY TO BIND YOU TO THIS AGREEMENT. OTHERWISE, YOU MAY NOT ACCESS OR USE THE APP.

VENDOR IS ONLY WILLING TO PROVIDE THE APP TO YOU ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THIS AGREEMENT. YOU ACCEPT THIS AGREEMENT EITHER BY: (A) REPRODUCING OR USING THE APP; (B) CLICKING THE "I ACCEPT" OR SIMILAR ICON WHEN YOU DOWNLOAD THE APP; OR (C) OTHERWISE ELECTRONICALLY INDICATING ACCEPTANCE. IF YOU ARE UNWILLING OR UNAUTHORIZED TO ACCEPT THIS AGREEMENT, DO NOT ACCESS OR USE THE APP.

THE APP IS SOLELY INTENDED AND LICENSED FOR USE WITH SERVICENOW® HOSTED SOFTWARE AND SERVICES (COLLECTIVELY, "SERVICENOW PLATFORM") PROVIDED BY SERVICENOW, INC. OR ITS AFFILIATES ("SERVICENOW"). SERVICENOW IS NOT RESPONSIBLE FOR (AND WILL HAVE NO LIABILITY TO YOU IN CONNECTION WITH) THE APP OR THIS AGREEMENT.

1. **Ownership**. The App is protected by copyrights and other intellectual property rights. You agree that all worldwide copyright and other intellectual property rights in the App, and all copies of the App however made, are the exclusive property of Vendor and its licensors. All rights in and to the App not expressly granted to You in this Agreement are reserved by Vendor. There are no implied licenses under this Agreement.

2. **Subscription**. Upon payment by You of the applicable subscription fees, the App will be enabled for Your own internal use, during the Term (defined below), through a single authorized instance of the ServiceNow Platform. No license is granted to You under this Agreement to use or access the ServiceNow Platform. Access to the ServiceNow Platform must be separately purchased from ServiceNow. You are not entitled to delivery of a copy of the App apart from its deployment on Your single authorized instance of the ServiceNow Platform.

3. **Restrictions on Use**. You may not do (or permit others to do) any of the following: (a) modify, adapt, alter, translate, or create derivative works of the App, except that You may configure and customize the App solely to the extent that it is possible to do so using the features and functionalities of the ServiceNow Platform in their ordinary and intended manner; (b) merge or otherwise integrate the App with external components or other software except for components of the ServiceNow Platform; (c) sublicense, lease, rent, loan, assign or otherwise transfer the App or any license hereunder to any third-party; (d) host, upload, use or access the App via a time sharing, service bureau, virtualization, hosting or other remote access arrangement, except for Your single authorized instance of the ServiceNow Platform as hosted by ServiceNow; (e) reverse engineer, decompile or disassemble the App or otherwise attempt to derive the source code of the App except and only to the limited extent that we provide such source code or that such activities are expressly permitted by applicable law notwithstanding this limitation; (f) remove, alter, or obscure any confidentiality or proprietary notices (including copyright or trademark notices) of Vendor or its suppliers on, in or displayed by the App; (g) reproduce or use the App except as expressly authorized under Section 2 (without limiting the foregoing, You may not use the App apart from the ServiceNow Platform); or (h) circumvent, or provide or use a program intended to circumvent, technological measures provided by Vendor to control access to or use of the App.

4. **Services**. Limited customer support is available during the hours, and via the contact information, provided on Vendor on the ServiceNow Store. If Vendor provides no support information, then no maintenance, support or other services are provided under this Agreement.

5. **Fees and Payment**. Your rights under Section 2 are conditioned upon payment by You of the applicable subscription fees to Vendor (either directly or through the ServiceNow® Store). Subscription fees are payable annually in advance unless a monthly payment option is offered to you through the ServiceNow® Store (in which case subscription fees are payable monthly in advance). All fees are non--refundable and non-cancelable except as expressly provided in this Agreement and do not include sales and use taxes, value-added taxes, goods and services taxes, excise, business, service, withholding tax, shipping, or customs duties and similar transactional taxes and fees, all of which You are responsible for paying above and beyond the subscription fees due to Vendor. Fees not paid when due will accrue interest at a rate of one and one-half percent (1.5%) per month or the legal maximum interest rate, whichever is lower, applied as of the date of invoice. Failure to pay fees when due may result in the withdrawal of Your app from Your instance.

6. **Disclaimer of Warranty**. THE APP IS PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. VENDOR EXCLUDES AND DISCLAIMS ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING (WITHOUT LIMITATION) ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, NON-INFRINGEMENT, TITLE, RESULTS, EFFORTS OR QUIET ENJOYMENT. THERE IS NO WARRANTY THAT THE APP IS ERROR-FREE OR WILL FUNCTION WITHOUT INTERRUPTION. YOU ASSUME THE ENTIRE RISK ARISING OUT OF THE PERFORMANCE OR USE OF THE APP. TO THE EXTENT THAT VENDOR MAY NOT DISCLAIM ANY WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

7. **Limitation of Liability**. EXCEPT TO THE EXTENT THAT DISCLAIMER OF LIABILITY IS PROHIBITED UNDER APPLICABLE LAW, IN NO EVENT WILL VENDOR, SERVICENOW, OR ANY OF THEIR RESPECTIVE AFFILIATES, LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS AND DIRECTORS BE LIABLE TO YOU FOR DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE APP, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES ARISING FROM LOSS OF REVENUE, USE, DATA, OR PROFITS, INJURY TO REPUTATION OR GOODWILL, OR THE COST OF SUBSTITUTE GOODS OR SERVICES) WHETHER SUCH DAMAGES ARISE UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER LEGAL THEORY, AND EVEN IF SUCH DAMAGES ARE FORESEEABLE. IF, UNDER APPLICABLE LAW, LIABILITY FOR DIRECT DAMAGES CANNOT BE EXCLUDED (NOTWITHSTANDING THE FOREGOING), THEN THE TOTAL CUMULATIVE LIABILITY OF VENDOR (OR ANY OTHER PERSON) IN CONNECTION WITH THIS AGREEMENT AND THE APP, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WILL NOT EXCEED THE GREATER OF US$5.00 OR THE AMOUNT OF SUBSCRIPTION FEES (IF ANY) THAT YOU PAID TO VENDOR FOR USE THE APP GIVING RISE TO LIABILITY. THE EXISTENCE OF MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMIT. YOU ACKNOWLEDGE THAT THE SUBSCRIPTION FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT VENDOR WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, SERVICENOW WILL HAVE NO LIABILITY TO YOU, WHETHER IN CONTRACT, IN TORT OR OTHERWISE UNDER THIS AGREEMENT OR IN RELATION TO THE APP. THE LIMITATIONS AND EXCLUSIONS OF LIABILITY IN THIS SECTION WILL APPLY EVEN IF AN EXCLUSIVE REMEDY UNDER THIS AGREEMENT HAS FAILED OF ITS ESSENTIAL PURPOSE.

8. **Term and Termination**. The term of Agreement ("Term") will commence upon Your acceptance and will remain in effect for one (1) year; thereafter the Term shall automatically renew for successive one (1) year periods, subject to payment by You applicable subscription fees, unless Vendor notifies you of its intention not to renew prior to expiration of the then-current Term. You may terminate this Agreement at any time and for any reason by giving written notice to Vendor; provided, however, that You will not be entitled to a refund of any fees paid hereunder. Vendor may terminate this Agreement, effective immediately upon written notice to You if You: (a) fail to pay any portion of the subscription fees when due and fail to cure such non-payment within thirty (30) days after receipt of notice of same; or (b) if You otherwise breach any provision of this Agreement. Upon expiration or termination of this Agreement, Your rights to use or access the App terminate, and the App must be removed from Your instance of the ServiceNow Platform. Sections 1, 5, 6, 7 and 8 will survive expiration or termination of this Agreement for any reason.

9. **General Provisions**.

    9.1. **Choice of Law and Venue**. This Agreement will be governed by the laws of the State of California without giving effect to any choice of law principles that would require the App of the laws of a different country or state. Any legal action between You and Vendor arising out of this Agreement or Your use of the App must be instituted exclusively in the federal or state courts located in Santa Clara, California, and You consent to jurisdiction and venue in such courts. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (USA) do not apply to this Agreement.

    9.2. **Compliance with Laws**. You will comply with all applicable export and import control laws and regulations in Your use of the App and, in particular, You will not export or re-export the App without all required government licenses. Regardless of any disclosure made to Vendor of an ultimate destination of the App and accompanying technical documentation, You acknowledge that all such materials are being released or transferred to You in the United States and may be subject to U.S. export control laws and regulations including regulations of the U.S. Bureau of Industry and Security. You will defend, indemnify, and hold harmless Vendor and its licensors, suppliers and resellers (including ServiceNow) from and against any violation of such laws or regulations by You.

    9.3. **U.S. Government Rights**. If You are a branch or agency of the U.S. Government, then You acknowledge that the App is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Any technical data provided with such App is commercial technical data as defined in 48 C.F.R. 12.211. Consistent with 48 C.F.R. 12.211 through 12.212 and 48 C.F.R. 227.7202- -1 through 227.7202-4, and 48 C.F.R. 252.227-7015, all U.S. Government end users acquire the App with only those rights set forth in this Agreement.

    9.4. **Relationship between the Parties**. The parties are independent contractors neither party is the agent, partner, employee, fiduciary or joint venturer of the other party under this Agreement.   ServiceNow is an express third-party beneficiary of those provisions excluding or limiting its warranties and liabilities to You.

9.5. **Assignments**. You may not assign or transfer, by operation of law or otherwise, any of Your rights under this Agreement (including Your licenses with respect to the App) to any third-party without Vendor's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be void. Vendor may freely assign its rights or delegate its obligations under this Agreement.

9.6. **Language**. This Agreement is in the English language and its English language version will be controlling over any translation, except and to the extent when required by applicable law.

9.7. **Remedies**. Except as otherwise provided herein, the parties' rights and remedies under this Agreement are cumulative. You acknowledge that the App contains valuable trade secrets and proprietary information of Vendor and its suppliers, that any actual or threatened breach of this Agreement by You will constitute immediate, irreparable harm for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

9.8. **Waivers**. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

9.9. **Severability**. If any provision of this Agreement is held unenforceable by a court, such provision may be changed and interpreted by the court to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Without limiting the generality of the foregoing, You agree that Sections 6 and 7 will remain in effect notwithstanding the unenforceability of any other provision of this Agreement.

9.10. **Entire Agreement**. This Agreement constitutes the final and entire agreement between the parties regarding the subject of this Agreement and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties. The terms of any purchase order or similar document submitted by You to Vendor or ServiceNow will not be effective to alter the terms of this Agreement.

THESE TERMS OF SERVICE ("AGREEMENT") ARE A LEGAL AGREEMENT BETWEEN YOU OR THE COMPANY YOU REPRESENT, AND ANY OF YOUR OR THEIR AFFILIATES ("YOU" OR "YOUR") AND PAGERDUTY, INC. ("US," "WE" OR "OUR") GOVERNING YOUR OR YOUR COMPANY'S ACCESS OR YOUR USE OF OUR SERVICES.

PLEASE READ THIS AGREEMENT CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THIS AGREEMENT CONTAINS A MANDATORY INDIVIDUAL ARBITRATION PROVISION THAT REQUIRES THE USE OF ARBITRATION TO RESOLVE DISPUTES.

1. **Use of the Service.** Our **"Service"** includes our cloud based application and platform for IT on-call management, alerting, Incident tracking, and Incident and alert analytics, and Our Professional Services. **"Professional Services"** means any consulting, architecture, training, configuration or other similar ancillary Services set forth in an order form. An **"Incident"** is an event that triggers the Service to alert Your personnel Using certain Contact Information. You must configure the Service, provide and maintain accurate Contact Information, follow proper procedure in communicating alerts and triggering events for Incidents to Us and submit alert requests through proper channels, including, without limitation, alternate channels if standard channels are unavailable, or the Service may not function properly. **"Contact Information"** means the names, email addresses, telephone numbers, and other required personal information that You want the Service to alert in the event of an Incident and who have consented to receive such messages via the Service (each a **"Contact Person"**). You will need to designate individuals authorized to maintain the Contact Information, configure the Service for handling Incidents, and receive reports from the Service (each a **"User"**). Instructions on how to configure the Service, provide Contact Information and otherwise get the full benefit of the Service will be found in the readme and help files, knowledge base, and other documentation made available at https://www.pagerduty.com/support/ **("Documentation")**. We may suspend or terminate Your Use of the Service at any time if You breach any terms of this Agreement, including without limitation failing to pay Fees.

2. **Affiliates**.If any of Your Affiliates use the Service(s) under this Agreement, then all of the terms of this Agreement that apply to You shall apply to such Affiliate and its activities hereunder. You will remain responsible for the acts and omissions of Your Affiliates in connection with each Affiliate's use of the Service(s), during the Subscription Term of its/their orders, including, without limitation, breach of the terms of this Agreement applicable to such Affiliate, even if such Control is no longer maintained. Any claim from any Affiliate that uses the Service(s) under the terms of this Agreement shall only be brought against Us by You on behalf of such Affiliate. Notwithstanding the foregoing, We may refuse to provide the Service(s) to any Affiliate that fails to pass, in Our reasonable business judgement, a background check or financial history audit. "**Affiliate**" means any entity which directly or indirectly Controls, is Controlled by, or is under common Control with the Party. "**Control**," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the Party.

3. **Trial Period and Free Plan.** You may use the Service for a fifteen (15) day trial period (the **"Trial Period")**, solely for evaluation purposes, starting on the date that You registered with Our Service and accepted this Agreement without charge or further commitment. *The Service will automatically cease functioning at the end of the Trial Period unless i) You supply Your credit*

card or other payment information and purchase a subscription to the Service; ii) You elect to use the Service under the Free Plan (defined below); or iii) PagerDuty extends Your trial in its sole discretion. After the end of the trial period, unless You purchase prior to the end of the trial period a subscription to the Service or elect to use the Service under the Free Plan, all Contact Information and other data You provide to the Service **("Customer Information")** will no longer be available.During the trial period You are free to add and remove Users as needed for the evaluation.However, any Users included in a paid subscription to the Service or otherwise under the Free Plan, can only be added or removed in accordance with the terms of the specific plan or term You elect. If You elect to use the Service under the limited free to use option (the **"Free Plan"**), You acknowledge and accept that We may terminate Your use of the Service under the Free Plan for any reason or no reason at all and without any required prior notice. DURING THE TRIAL PERIOD AND USE UNDER THE FREE PLAN, WE WILL HAVE NO OBLIGATION WHATSOEVER TO CONTINUE PROVIDING THE SERVICE TO YOU, AND YOU WILL HAVE NO CLAIM OR REMEDY FOR THE FAILURE OF THE SERVICE. THESE LIMITATIONS ARE IN ADDITION TO THE WARRANTY DISCLAIMERS AND LIABILITY LIMITS IN THIS AGREEMENT.

4. **Pre-Release Technology.** From time to time, We in our sole discretion may make beta or otherwise pre-general release versions of our Services **("Pre-Release Technology")** available to You at no additional charge. If You use any Pre-Release Technology, the terms of this Section will govern that use, and control over any conflicting provisions of this Agreement. Pre-Release Technology is Our Confidential Information, and notwithstanding anything to the contrary in this Agreement, You may not provide access to or disclose the existence of Pre-Release Technology to any third party. You may use the Pre-Release Technology only for internal testing and evaluation. We provide the Pre-Release Technology: (a) free of charge; (b) without support; (c) "AS IS"; and (d) WITHOUT INDEMNIFICATION, WARRANTY, OR OBLIGATION TO YOU OF ANY KIND. No service level commitment will apply to the Pre-Release Technology. Certain features or functionality of the Services may not be available in Pre-Release Technology. Our providing any Pre-Release Technology does not constitute Our commitment to offer the Pre-Release Technology on a generally available basis or to continue to provide You with access to the Pre-Release Technology. We may modify Pre-Release Technology or terminate Your access to it at any time in Our sole discretion, and any such modification or termination will not be deemed a material, detrimental change under this Agreement. The aggregate liability (excluding indirect damages, for which We expressly disclaim all liability) of Us, Our affiliates and suppliers, for any claim arising from Your use of Pre-Release Technology will not exceed one-thousand U.S. dollars ($1,000 USD). Feedback you provide with regard to Pre-Release Technology is subject to Section 7c (*Feedback*) below.

5. **Subscription Terms.** Subject to payment of all Fees and the terms and conditions of this Agreement, We hereby grant You a limited, non-exclusive, non-sublicensable and nontransferable right during the Subscription Term of this Agreement to use the Service only in accordance with the Documentation, solely for Your internal purposes. You must purchase a subscription for each User that will access the Service. If more than the permitted number of Users access the Service, You will be charged the applicable Fees for the excess Users. You may add Users from the Service dashboard as needed, subject to paying applicable additional Fees. User subscriptions cannot be shared or used by more than one (1) User but may be reassigned

to a new User replacing a person who no longer requires access to the Service. You are solely responsible for selecting secure User passwords, changing passwords frequently, maintaining the confidentiality of User logins and passwords, and restricting access to the Service. We assume no responsibility for damage or loss arising from unauthorized access to the Service and Your account due to Your failure to protect Your account through proper maintenance of User logins and passwords. The Service may be subject to certain limitations on the number of email alerts, phone call alerts, SMS alerts and other types of alerts, each as specified on our Website **("Alert Limits")**. You will be charged the applicable Fees for any alerts in excess of the Alert Limits. The Service may be subject to other limitations as set forth in the Documentation, including, but not limited to, limits on disk storage space, the rate of incoming email requests, the number of inbound calls permitted to the API within a specified period of time, the number of outbound calls the Service will make to a client API within a specified period of time, and the number of alerts the Service will send to a Contact Person within a specified period of time. You acknowledge that exceeding these other limitations may cause the Service to malfunction, may accrue additional Fees, or may result in suspension of the Service until compliance has occurred.

6. **Restrictions on Use.** You may not use the Service or Documentation except as permitted in this Agreement. Without limiting the foregoing, You may not cause or permit any third party to, (i) alter, modify or create any derivative works of the Service, the underlying source code, or the Documentation in any way, including without limitation customization, translation or localization; (ii) rent, lease, license, sublicense, encumber, sell, offer for sale, or otherwise transfer rights to the Service or Documentation, including for timesharing or as a service bureau; (iii) port, reverse compile, reverse assemble, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Service; (iv) copy, distribute, link, frame, mirror or otherwise make available any portion of the Service to any third party; (v) remove or alter any logos, trademarks, links, copyright or other notices, legends or markings from the Service or Documentation; (vi) attempt to bypass or tamper with the security, operation of the Service; (vii) attempt to access the accounts or data of any other customer or User; or (viii) use the Service for benchmarking purposes or otherwise to analyze its workings and features for competitive purposes or in a manner that imposes unusual demands on the service outside of normal functions and operations.

7. **Proprietary Rights.**

    a. *Contact Information and Customer Materials*. You will retain all right, title and interest in and to the Contact Information and all intellectual property rights therein. Nothing in this Agreement will confer to Us any right of ownership or interest in the Contact Information, other than the limited license set forth herein. You agree to provide Us with reasonable access to Your Customer Materials as reasonably necessary for Our provision of Professional Services. **"Customer Materials"** means Your materials, systems, personnel and other resources.

    b. *Company Intellectual Property*. We shall retain all right, title and interest in and to the Company Intellectual Property, and any changes, derivatives, corrections, developments, bug fixes, enhancements, updates and other modifications, improvements thereto, and as between the parties all such rights shall vest in and be

assigned to Us. Nothing in this Agreement will confer on You any right of ownership or interest in any Company Intellectual Property, other than the limited license set forth herein. **"Company Intellectual Property"** means Our proprietary technology, including the Service and Documentation, Websites, software tools, hardware designs, algorithms, software, APIs, user interface designs, architecture, documentation, network designs, know-how, and trade secrets, improvements, materials, methods, processes, formulas, techniques, deliverables and other information developed or otherwise made in whole or part by Us in the performance of the Services, and all intellectual property rights therein and thereto throughout the world (whether owned by Us or licensed to Us by a third party).

c. *Feedback*. We encourage You to provide suggestions, proposals, ideas, recommendations, or other feedback regarding improvements to the Service(s) and related resources **("Feedback")**. To the extent You provide Feedback, You grant Us a non-exclusive, royalty-free, fully paid, sub-licensable, transferable, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import and otherwise exploit Feedback (including by incorporation of such Feedback into the Service(s) without restriction); provided that such Feedback does not identify You or Your Users or include any Contact Information without Your prior written consent.

8. **Warranty Related to SMS Use in the United States.**

1. By signing up to the Service, You agree to receive SMS and other types of messages from Us ("Messaging"), and You represent and warrant that You shall (i) receive and will maintain consents from each Contact Person who will receive messages, (ii) maintain procedures for each Contact Person to opt out of participating in Messaging, and once opted-out, You will not re-enroll any Contact Person to Messaging until You have obtained renewed consent from Contact Person to receive Messaging through the Service, and (iii) comply with all applicable law relating to Messaging in Your use of the Service, including without limitation, the Telephone Consumer Protection Act and CAN-SPAM. You shall be responsible for compliance with Messaging and related data privacy laws.

9. **Support, Security and Privacy.**

. We shall provide support for the Service as selected by You, depending upon the plan when You enroll in the Service. The applicable support policies can be found on Our website at https://www.pagerduty.com/support-policy.

a. We shall maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Contact Information, in accordance with PagerDuty Data Security Policy, available at https://www.pagerduty.com/data-security-policy. Without Your prior written consent, We shall not (i) modify Contact Information, (ii) disclose Contact Information to a third party (except as needed to perform the Service or if required to do so by law or governmental process), or (iii) access Contact Information except to provide the Service and prevent or address Service or technical problems. In the event of an intrusion or other breach of the Service's security, Company shall use reasonable efforts to (a) notify You of the breach, once a full investigation into the nature of the breach has been conducted and concluded, and sufficient steps to remediate or correct the breach have

occurred to secure customer data and such steps would not be further jeopardized by such notification, and (b) resolve the breach and recover any data disclosed as a result thereof.

b.　　　You acknowledge that We will, and permit Us to, collect, use, and disclose statistical or aggregate information about You and Your Users' use of the Service, including information about the performance of the Services and other data derived from the use of the Service(s), for industry analysis, benchmarking, analytics, marketing, to improve or enhance the Services, and other business purposes; provided, that all data disclosed will be in statistical or aggregate form only and will not identify You, Affiliates or Users. We own all right, title, and interest in and to such derived data; provided, that You retain all of Your right, title, and interest in and to any underlying customer data. Contact Information shall be treated in accordance with Our Privacy Policy set forth on Our website. PagerDuty's processing of Contact Information on Your behalf shall be done in accordance with PagerDuty's Data Processing Addendum ("**DPA**"), which is incorporated herein by reference, and available at https://www.pagerduty.com/data-processing-addendum.

10. **Fees and Payment Terms.**

.　　　You shall pay all Fees associated with Your Use of the Service as set forth on Our website and/or order form **("Fees"). "Subscription Term"** means the subscription period You contract for Your Use of the Services as set forth in the applicable order form or self-service check-out.

      I.　　*Order Forms*: Except as set forth in the applicable order form, You will pay all Fees associated with an order form, in accordance with the following: (a) Fees are invoiced in advance for annual plans; (b) the first invoice will coincide with the order start date; (c) payment will be due within thirty (30) days from the date of the invoice. Upon a fully executed order form, Your order is non-cancellable and nonrefundable except as provided in this Agreement, and the Subscription Term as set forth in the order form is a continuous and non-divisible commitment for the entire duration of the Subscription Term. The order form is incorporated in this Agreement by reference. Capitalized terms used herein but not defined shall have the meaning set forth in the order form. In the event of a conflict between an order form and this Agreement, the terms of the order form shall supersede the terms of this Agreement.

      II.　　*Self-Service*: For self-service annual plans: (i) You must indicate an initial number of Users and may not reduce that number during the Subscription Term of the plan; (ii) for the first month, We will charge Your credit card a full year of Subscription Term Fees based on the initial number of Users, which amount is not cancellable or refundable; (iii) any Users added during the Subscription Term of Your plan will have their subscription fees calculated at the rate then in effect and prorated for the remainder of the Subscription Term so that all User subscriptions shall terminate on the same date and We will charge the prorated amount to Your credit card in the month in which the Users are added. For self-service month-to-month plans: (i) You must select a plan, which you can cancel at any time; (ii) We will charge Your credit card monthly, in arrears, based on the largest number of Users active on any day of the month; (ii) We reserve the right to change the Fees at any time. We will charge Your card on a monthly

basis, but may change the date on which the charge is posted at any time. You will pay all applicable taxes, if any, relating to any such purchases, transactions or other monetary transaction interactions.

a.   You are responsible for keeping all account information accurate and up-to-date, including credit card, address, and account contact information. You hereby represent that You have the right to provide Us with Your credit card information and authorize Us to charge the credit card for all Fees. You agree to pay all charges incurred by Users of Your credit card, debit card, or other payment method used in connection with a purchase or transaction or other monetary transaction interaction with the Service at the prices in effect when such charges are incurred. All Fees are payable in United States dollars and are non-cancelable and non-refundable except as otherwise set forth herein. You shall be responsible for paying all sales, use, value added or other taxes, except for taxes based on our income. For unpaid payments, not properly disputed, We may without waiving or prejudicing any other rights or remedies available to Us, a) charge the lesser of 1% per month or the maximum rate permitted by applicable law, b) suspend the Services immediately until Your Fees is brought current, and/or c) where applicable, automatically accelerate all remaining payments such that the total Fees under the order become immediately due and payable. If You are paying by a credit card, and if Your credit card is declined for any installment, beginning five (5) days after the unsuccessful charge, We may suspend the Services immediately until Your payment is brought current. If a PO number is required in order for an invoice to be paid, then You must provide such number by emailing accountsreceivable@pagerduty.com within three (3) days of execution of an order form. However, You agree that a failure to provide a PO does not relieve You of Your obligations to pay Your Fees. **California Residents.** The provider of Services is: PagerDuty, Inc., 600 Townsend Street #125, San Francisco, CA 94103. If You are a California resident, in accordance with Cal. Civ. Code §1789.3, You may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112 Sacramento, CA 95834, or by telephone at (800) 952-5210 or (916) 445-1254.

b.   You will notify Us in writing in the event You have a good faith dispute as to Fees or taxes payable by You under this Agreement by emailing accountsreceivable@pagerduty.com. You will provide such notice to Us prior to the due date of the invoice containing such Fees or taxes due that are in dispute and the parties will work together to resolve the applicable dispute promptly. You will pay all amounts that are determined to be payable by resolution of the dispute (by adversarial proceedings, agreement or otherwise) within ten (10) days following such resolution.

11. **Confidentiality.**

    a. *Definition of Confidential Information.* As used herein, "**Confidential Information**" means all confidential information disclosed by a party to this Agreement ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Contact Information and any ancillary information, such as account information, and alert priorities. Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was or becomes

known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party as evidenced by written records, or (iii) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information.

b. *Protection of Confidential Information.* Receiving Party shall not disclose Disclosing Party's Confidential Information to any third party except as permitted by this Agreement. Receiving Party shall only use Disclosing Party's Confidential Information to fulfill its obligations under this Agreement. Receiving Party shall use the same degree of care to protect the confidentiality of the Confidential Information that it uses to protect its own confidential and proprietary information (but in no event less than reasonable care). Receiving Party may disclose Confidential Information to its employees, consultants and agents who reasonably need to know such Confidential Information for purposes of this Agreement, provided that Receiving Party shall ensure that such employees, consultants and agents are bound by obligations of confidentiality substantially the same as the obligations in this Section. Receiving Party shall be liable for any disclosures of Confidential Information by its employees, consultants and agents in violation of this Section.

c. *Compelled Disclosure.* The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law or governmental authority to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. The Receiving Party shall limit any disclosure of Confidential Information pursuant to this Section to the extent strictly necessary to comply with the applicable request by such governmental entity. Any disclosure of Confidential Information pursuant to this Section shall not affect the confidential treatment of such disclosed Confidential Information.

d. *Remedies*. Receiving Party agrees that a breach of this Section may result in immediate and irreparable harm to Disclosing Party that money damages alone may be inadequate to compensate. Therefore, in the event of such a breach, Disclosing Party will be entitled to seek equitable relief, including but not limited to a temporary restraining order, temporary injunction or permanent injunction without the posting of a bond or other security.

12. **Indemnification.**

a. *By Us*. We shall defend, indemnify and hold You harmless from and against all claims, losses and damages (including reasonable attorneys' fees) made by a third party against You that the Service infringes that third party's United States intellectual property rights, except to the extent such a claim arises from Your misuse of the Service. If We believe that any portion of the Service may be subject to such a claim, then We may, at our sole option and expense: (i) procure for You the right to continue using the Service; (ii) modify or replace the infringing portions of the Service to allow for continued use, or if these alternatives are not commercially reasonable, refund any unused, prepaid Fees and terminate this Agreement. Notwithstanding the foregoing, the Our indemnification

obligations set forth in this Section 12(a) do not apply to, and We will have no obligation to You for, any claim that arises from (i) modifications to the Service by anyone other than Us or a third-party expressly instructed on Our behalf, (ii) modifications to the Service based upon specifications furnished by You (iii) You and/or any of Your Users' use of the Service other than as specified in this Agreement, the Order Form or in the applicable Documentation, (iv) use of the Service in conjunction with third-party software, hardware, data or any other combination other than that expressly approved by Us, or (v) any combination of the foregoing. THIS SECTION 12 STATES OUR ENTIRE LIABILITY FOR INFRINGEMENT RELATING TO THE SUBJECT MATTER OF THESE TERMS OF SERVICE AND SHALL NOT APPLY DURING ANY TRIAL PERIOD. As a condition to being indemnified You shall promptly notify Us of any claim, and allow Us sole control of the defense and settlement of the claim.

b. *By You*. You agree to defend, indemnify and hold Us harmless from and against all claims, losses and damages, suits, government investigations, fines, actions, damages, settlements, losses, liabilities, costs and expenses (including reasonable attorneys' fees) for any breach of Your representations, warranties and covenants set forth in Section 8 above.

13. **Warranties; Disclaimers.**

a. We warrant that the Service will perform in accordance with the Service Level Agreement (SLA) set forth on our website at https://www.pagerduty.com/standard-service-level-agreement/; provided, however, that the sole remedy for breach of this warranty or failure of the Service to perform shall be as set forth in that SLA.

b. You represent and warrant that You will not use the Service in any country embargoed by the United States and neither You, nor Your Users are a foreign person or entity blocked or denied by the United States government. You further represent and warrant that You are entirely responsible for Your compliance with all applicable United States laws and regulations and with all applicable local laws and regulations, including but not limited to export and import regulations.

c. Professional Services Warranty. We warrant to You that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry practices and the terms and conditions herein. However, if You do not provide Us timely access to Your Customer Materials in Our performance of Professional Services, then Our performance will be excused until You do so. Your exclusive remedy for breach of this warranty is to notify Us in writing within thirty (30) days of the non-conforming Services. Upon receipt of such notice, at Our option, We will either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or will terminate the affected Professional Services and will refund You the prorated amount of Fees for the unperformed and non-conforming Professional Services. This Section (Performance Standard) sets forth Your exclusive rights and remedies and Our sole liability in connection with the warranty.

d. EXCEPT FOR THE FOREGOING, WE PROVIDE THE SERVICE AND DOCUMENTATION "AS IS" WITHOUT ANY WARRANTY WHATSOEVER AND HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THAT THE SERVICE WILL BE FREE FROM ERRORS OR VIRUSES, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, RELIABILITY, ACCURACY, SECURITY OF DATA, OR ACHIEVEMENT OF RESULTS.

e. WE DO NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT, SERVICE OR CONTENT ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICE OR ANY HYPERLINKED WEBSITE, SERVICE OR CONTENT, AND WE SHALL NOT BE A PARTY TO, LIABLE FOR NOR DO WE IN ANY WAY MONITOR, ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

14. **Reseller Transactions.** If any of Your purchases were made through an authorized reseller of Ours ("Reseller"):

a. You will pay any owed amounts to the Reseller, as agreed between You and the Reseller. You agree that We may suspend or terminate Your use of the Services if We do not receive Our payment of Fees from the Reseller.

b. You may place Your order through the Reseller via an order placed with Us, or through Your purchases via the self-service function in the Service. The Reseller and You are responsible for the accuracy of the orders placed.

c. Reseller may not modify this Agreement or make any commitments on Our behalf. Only this Agreement governs Our obligations to You.

d. The amounts paid by the Reseller to Us for Your use of the Services under this Agreement will be deemed the amount actually paid under this Terms of Service for purposes of calculating Our liability under Section 15.

e. Your renewal pricing will be communicated to You by the Reseller in accordance with the terms You have with the Reseller or Us prior to the renewal Subscription Term, under Section 18.

15. **General Limitation of Liability.** EXCEPT FOR CUSTOMER'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 12, NEITHER PARTY SHALL BE LIABLE HEREUNDER TO THE OTHER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING, WITHOUT LIMITATION, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR STRICT LIABILITY, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS, WHETHER OR NOT FORESEEABLE AND EVEN IF SUCH PARTY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR CUSTOMER'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 12(b) AND WHERE OTHERWISE EXPLICITLY INDICATED, A PARTY'S LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF SERVICE SHALL NOT EXCEED THE AMOUNTS PAID OR PAYABLE HEREUNDER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY. WITHOUT LIMITING THE FOREGOING, WE SHALL HAVE NO LIABILITY FOR ANY FAILURE OF THE SERVICE ARISING FROM OR RELATED TO (I) ANY DAMAGE, LOSS OR

INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS, (II) YOUR OR YOUR USERS' FAILURE TO CONFIGURE THE SERVICE IN CONFORMANCE WITH THE DOCUMENTATION, (III) YOUR OR YOUR USERS' FAILURE TO PROVIDE ACCURATE CONTACT INFORMATION TO THE SERVICE, OR (IV) ANY MESSAGING LAWS. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

16. **Liability for Our Indemnification.** THE FOREGOING LIMITATION OF LIABILITY SET FORTH IN SECTION 15 ABOVE SHALL NOT APPLY TO OUR INDEMNIFICATION OBLIGATION SET FORTH IN SECTION 12(a) IF, AND ONLY IF, THE TOTAL AGGREGATE FEES PAID AND PAYABLE BY YOU TO US WITH RESPECT TO YOUR PURCHASE OF THE SERVICE IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM EXCEEDS TWENTY-FIVE THOUSAND UNITED STATES DOLLARS (US$25,000). OTHERWISE, SECTION 15 SHALL APPLY TO OUR INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 12(a).

17. **Modifications to this Agreement.** We reserve the right, at Our sole discretion, to modify or replace any part of this Agreement by (i) posting a revised Agreement on Our site or (ii) providing notice to You of the change. modifications will take effect at the start of the month following notice for self-service month-to-month plans, and at the end of the prepaid Subscription Term for all other plans.

18. **Arbitration.** READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US. For any dispute with Us, You agree to first contact Us at legal@pagerduty.com and attempt to resolve the dispute with Us informally. In the unlikely event that We have not been able to resolve a dispute with You after sixty (60) days, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, shall be settled by arbitration in the city of San Francisco, California, by binding arbitration by JAMS, Inc. ("JAMS"), under the Optional Expedited Arbitration Procedures then in effect for JAMS. JAMS may be contacted at www.jamsadr.com. Any award shall be final, binding and conclusive. A judgment upon the award rendered may be entered in any court having jurisdiction thereof. Nothing in this Section shall be deemed as preventing Us from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of Our data security, or Our intellectual property rights or other proprietary rights.

19. **Term and Termination.** This Agreement commences when You accept the terms, and expires on the date of expiration or termination of all Subscription Terms **("Term of Agreement")**. At the end of each Subscription Term, the associated order shall automatically renew for an additional annual term at the prices communicated to You at least sixty (60) days prior to the end of that Subscription Term (or the same prices as the prior Subscription Term if no new prices are provided), unless You notify Us of Your intent not to renew by sending an email to renewals@pagerduty.com at least thirty days (30) before the renewal date. We will send the renewal notice to the contact email listed on the account unless You notify Us to use another email contact with Your account. If You have Your credit card number on file, Your card will be charged for the renewal term in accordance with the billing terms set forth in these terms. You may choose to terminate this Agreement and all orders at any time for any reason with written

notice, provided that upon such termination: i) You will not be entitled to a refund of pre-paid Fees and ii) all remaining Fees for a then-current order or Subscription Term that are outstanding will become immediately due and payable. Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party for a material breach that remains uncured at the expiration of such period. Immediately upon termination of this Agreement for any reason, You will (i) cease use of the Service, (ii) pay in full all Fees due upon termination, and (iii) return or destroy all copies of Our Confidential Information. After the expiration or termination of this Agreement for any reason Your account shall be deactivated and all Contact Information deleted. All provisions of this Agreement which by their nature should survive cancellation or termination of this Agreement shall survive cancellation or termination.

20. **Publicity.** Neither Party shall refer to the identity of the other Party in promotional material, publications or other forms of publicity relating to the Service unless the prior written consent of the other Party has been obtained; provided, however, that We may use Your name and logo for the limited purpose of identifying You as a customer of Our Services on Our websites, and in other marketing materials distributed by Us (which may include emails and other web and print materials).

21. **Professional Services.** If You purchase Professional Services You will be responsible for certain obligations, and acknowledge that failure to fulfill Your obligations may result in a delay in performance hereunder. Any such delay caused by You may result in additional charges. If We terminate the Professional Services component of the Order Form for breach of this Section, no refunds of Professional Services fees will be provided. You will:

    a. provide access as needed for Us to fulfill the Professional Services.

    b. provide Us with reasonable support, including, for example, access to facilities, resources and employees, and timely decisions or approvals as necessary for Us to complete the tasks agreed to between the parties within ninety (90) days of the Order Form Effective Date.

    c. assign specific personnel ("**Project Sponsor**") who will serve as Our executive-level contact. The Project Sponsor will have full authority to act on behalf of You with respect to: 1) make major project decisions related to Professional Services; 2) identify and secure timely resources to perform responsibilities outlined in the order, subsequent project resource plans, or roles and responsibilities document; and 3) communicating the goals and benefits of the project to the organization.

    d. be responsible for configuration of Your management systems to send Customer Materials to Us.

    e. provide access to Your directory service or a list of Users for use in provisioning Users in Our Service platform.

    f. provide a list of services and teams that You wish to provision.

    g. work with Us to create and provide escalation policies including associated schedules.

22. **Miscellaneous.** You will only use the Service in accordance with applicable law, including without limitation all export control laws. This Agreement shall be governed by and interpreted in accordance with the laws of the state of California without regard to its conflict of laws provisions. You may not assign, sublicense, delegate or otherwise transfer any of Your rights or obligations under this Agreement without Our prior written consent. We may assign this Agreement at Our sole discretion. This Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and permitted assigns. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be construed to reflect the parties' original intent, and the remainder of this Agreement shall remain in full force and effect. This Agreement constitutes the entire understanding and Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous Agreements or understandings. The failure of either party to enforce any of the provisions of this Agreement shall not be construed to be a waiver of the right of such party thereafter to enforce such provisions. The parties to this Agreement are independent contractors and no agency, partnership, joint venture, employment or similar relationship exists between them. Neither party has the authority to bind the other or incur any obligation on its behalf. Notices required hereunder shall be effective upon their delivery by email, courier or delivery service (effective upon receipt), or first class United States mail, return receipt requested (effective upon receipt).

SFDC TERMS OF USE

These SFDC Terms of Use ("**TOU**") govern Customer's use of the Services, and are deemed incorporated by reference into the agreement between Customer and Reseller pursuant to which Reseller is reselling the Services to Customer.

1.   DEFINITIONS

"**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**Content**" means information obtained by SFDC from publicly available sources or third party content providers and made available to Customer through the Services or pursuant to an Order Form, as more fully described in the Documentation.

"**Customer**" means the entity that has contracted with Reseller to purchase subscriptions to use the Services, subject to the conditions of these TOU. Where Reseller is using the Services for its own purposes, Reseller shall be considered Customer.

"**Customer Data**" means any electronic data or information submitted by or for Customer to the Services, excluding Content and Non- SFDC Applications.

"**Documentation**" means the applicable Service's Trust and Compliance documentation, and its usage guides and policies, as updated from time to time, accessible via help.salesforce.com or login to the applicable Service.

"**Malicious Code**" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

"**Marketplace**" means an online directory, catalog or marketplace of applications that interoperate with the Services, including, for example, the AppExchange at http://www.salesforce.com/appexchange, or the Heroku add-ons catalog at https://addons.heroku.com/, and any successor websites.

"**Non-SFDC Application**" means a Web-based, mobile, offline or other software application functionality that interoperates with a Service, that is provided by Reseller, Customer, or a third party and/or listed on a Marketplace including as Salesforce Labs or under similar designation. Non-SFDC Applications, other than those obtained or provided by Customer, will be identifiable as such.

"**Order Form**" means the ordering document specifying the Services to be provided under the agreement between Customer and Reseller (which incorporates these TOU by reference), including any addenda, supplements, or additional product specific terms for the Services as required by SFDC.

"**Reseller**" means the entity that has contracted directly with SFDC to resell Services to its Customers and the entity that has contracted directly with Customer for the sale of a subscription to Services.

"**SFDC**" means salesforce.com, inc., a Delaware corporation with its principal place of business at Salesforce Tower, 415 Mission Street, 3rd Floor, San Francisco, California 94105

"**Services**" means the products and services that are ordered by Customer under an Order Form and made available online by SFDC including associated offline or mobile components, as described in the Documentation. "Services" exclude Content and Non-SFDC Applications.

"**User**" means an individual who is authorized by Customer to use a Service for the benefit of Customer, for whom Customer has purchased a subscription, and to whom Customer (or, when applicable, SFDC at Reseller's request), has supplied a user identification and password. Users may include, for example, Customer's employees, consultants, contractors and agents, and third parties with which Customer transacts business.

2.   USE OF SERVICES AND CONTENT

2.1.   Subscriptions. Customer agrees that its purchases are not contingent on the delivery of any future

functionality or features, or dependent on any oral or written public comments made by SFDC regarding future functionality or features.

2.2. **Usage Limits.** Services and Content are subject to usage limits specified in Order Forms or the Documentation.

2.3. **Customer Responsibilities** Customer will (a) be responsible for Users' compliance with the TOU , Order Forms and the Documentation, (b) be responsible for the accuracy, quality, and legality of Customer Data, the means by which Customer acquired Customer Data, Customer's use of Customer Data with the Services, and the interoperation of any Non-SFDC Applications with which Customer uses Services or Content, (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify SFDC or Reseller promptly of any such unauthorized access or use, and (d) use the Services only in accordance with these TOU, the Documentation, the Acceptable Use and External Facing Services Policy at https://www.salesforce.com/company/legal/agreements.jsp, Order Forms and applicable laws and government regulations, and (e) comply with terms of service of any Non-SFDC Applications with which Customer uses Services or Content. Any use of the Services in breach of the foregoing by Customer or Users that in SFDC's judgment threatens the security, integrity or availability of SFDC's services, may result in SFDC's immediate suspension of the Services, however SFDC will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to any such suspension.

2.4. **Usage Restrictions.** Customer will not (a) make the Services or Content available to anyone other than Customer or Users, or use Services or Content for the benefit of anyone other than Customer or its Affiliates, unless expressly stated otherwise in an Order Form or the Documentation, (b) sell, resell, license, sublicense, distribute, make available, rent or lease the Services or Content, or include Services or Content in a service bureau or outsourcing offering, (c) use the Services or Non-SFDC Application to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services or Non-SFDC Applications to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, (f) attempt to gain unauthorized access to the Services or Content or their related systems or networks, (g) permit direct or indirect access to or use of Services or Content in a way that circumvents a contractual usage limit, or use the Services to access or use any of SFDC's intellectual property except as permitted under these TOU, an Order Form, or the Documentation, (h) modify, copy, or create derivative works based on a Service or any part, feature, function or user interface thereof, (i) copy Content except as permitted herein or in an Order Form or the Documentation, (j) frame or mirror any part of any Service or Content, other than framing on Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, and (k) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile Services or Content, or access it to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Service, (3) copy any ideas, features, functions or graphics of the Service, or (4) determine whether the Services are within the scope of any patent.

2.5. **Removal of Content and Non-SFDC Applications.** If Customer receives notice that Content or a Non-SFDC Application must be removed, modified and/or disabled to avoid violating applicable law, third-party rights, or the Acceptable Use and External Facing Services Policy, Customer will promptly do so. If Customer does not take required action in accordance with the above or if in SFDC's judgment continued violation is likely to reoccur, SFDC may disable the applicable Content, Service and/or Non-SFDC Application until the potential violation is resolved. If requested by SFDC, Customer shall confirm such deletion and discontinuance of use in writing and SFDC shall be authorized to provide a copy of such confirmation to any such third party claimant or governmental authority, as applicable. In addition, if SFDC is required by any third party rights holder to remove Content, or receives information that Content provided to Customer may violate applicable law or third-party rights, SFDC may discontinue Customer's access to Content through the Services.

3. **NON-SFDC PRODUCTS AND SERVICES**

3.1. **Non-SFDC Products and Services**. SFDC or third parties may make available (for example, through a Marketplace or otherwise) third-party products or services, including, for example, Non-SFDC Applications and implementation and other consulting services. Any acquisition by Customer of such products or services, and any exchange of data between Customer and any Non-SFDC provider, product or service is solely between Customer and the applicable Non-SFDC provider. SFDC does not warrant or support Non-SFDC Applications or other non-SFDC products or services, whether or not designated by SFDC as "certified" or otherwise, unless expressly provided otherwise in an Order Form. SFDC is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by such Non-SFDC Application or its provider.

3.2. **Integration with Non-SFDC Applications.** The Services may contain features designed to interoperate with Non-SFDC Applications. SFDC cannot guarantee the continued availability of such Service features, and may cease providing them without entitling Customer to any refund, credit, or other compensation, if for example and

without limitation, the provider of a Non-SFDC Application ceases to make the Non-SFDC Application available for interoperation with the corresponding Service features in a manner acceptable to SFDC.

4. PROPRIETARY RIGHTS AND LICENSES

4.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, SFDC, its Affiliates, its licensors and Content providers reserve all rights, title and interest in and to the Services and Content, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

4.2. Access to and use of Content. Customer has the right to access and use applicable Content subject to the terms of applicable Order Forms, these TOU and the Documentation.

4.3. License by Customer to SFDC. Customer grants SFDC, its Affiliates and applicable contractors a worldwide, limited-term license to host, copy, use, transmit and display any Non-SFDC Applications and program code created by or for Customer using the Services or for use by Customer with the Services, and Customer Data, each as necessary for SFDC to provide and ensure proper operation of, the Services and associated systems in accordance with these TOU and the Documentation. If Customer chooses to use a Non-SFDC Application with a Service, Customer grants SFDC permission to allow the Non-SFDC Application and its provider to access Customer Data as required for the interoperation of that Non-SFDC Application with the Service. Subject to the limited licenses granted herein, SFDC acquires no right, title or interest from Customer or its licensors under these TOU in or to any Customer Data, Non-SFDC Application or such program code.

4.4. License to Use Feedback. Customer grants to SFDC and its Affiliates a worldwide, perpetual, irrevocable, royalty-free, license to use and incorporate into its services any suggestions, enhancement, requests, recommendations, correction, or other feedback provided by Customer or its Users, relating to the operation of SFDC's or its Affiliates' services.

4.5. Federal Government End Use Provisions. SFDC provides the Services, including related software and technology, for ultimate federal government end use in accordance with the following: The Services consist of "commercial items," as defined at FAR 2.101. In accordance with FAR 12.211-12.212 and DFARS 227.7102-4 and 227.7202-4, as applicable, the rights of the U.S. Government to use, modify, reproduce, release, perform, display, or disclose commercial computer software, commercial computer software documentation, and technical data furnished in connection with the Services shall be as provided in this TOU, except that, for U.S. Department of Defense end users, technical data customarily provided to the public is furnished in accordance with DFARS 252.227-7015. If a government agency needs additional rights, it must negotiate a mutually acceptable written addendum to this TOU specifically granting those rights.

5. TERM AND TERMINATION

5.1. Termination of the Services. As permitted by applicable law, Customer's use of the Services may be immediately terminated and/or suspended, at SFDC's option, upon notice due to: (a) a breach of the terms of these TOU, the Documentation or Order Forms by Customer or any User; or (b) a breach by Reseller of its payment obligations to SFDC with respect to the subscriptions it is reselling to Customer in connection with these TOU.

5.2. Termination of Reseller's Agreement with SFDC. Following any termination or expiration of Reseller's agreement with SFDC authorizing Reseller to resell the Services, each Customer subscription to the Services outstanding at the time of such termination or expiration ("**Legacy Order**") shall remain in effect until the end of its subscription term, and shall continue to be governed by these TOU, provided that Customer is not in breach of these TOU and SFDC has received all payments due in connection with such Legacy Orders. Except as provided herein, following a termination or expiration of Reseller's agreement with SFDC, SFDC is under no obligation to provide the Services directly to Customer, or to assume a direct contractual relationship with Customer.

5.3. Shared Orgs. Customer acknowledges that if the Services are provisioned in an Org in which SFDC services purchased from SFDC or another third party are also provisioned, access to such Org may be suspended or terminated due to breach of the agreement governing such other SFDC services, and that in no case will any such termination or suspension give rise to any liability to Customer for a refund or other compensation.

5.4. No Refunds upon Termination. In no case will any termination, expiration, or suspension of the Services, these TOU, or Reseller's agreement with SFDC give rise to any liability of SFDC to Customer for refunds or damages.

6. WARRANTY DISCLAIMER

AS BETWEEN SFDC AND CUSTOMER, SFDC MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT IS

PROVIDED "AS IS," AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY WHATSOEVER.

7. INDEMNIFICATION

This Indemnification section shall only be enforceable as permitted by applicable law. Customer will defend SFDC against any claim, demand, suit or proceeding made or brought against SFDC by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, or arising from Customer's use of the Services or Content in breach of these TOU, the Documentation, an Order Form, or applicable law (each a "**Claim Against SFDC**"), and will indemnify SFDC for any damages, attorney fees and costs finally awarded against SFDC as a result of, or for any amounts paid by SFDC under a settlement approved by SFDC in writing of, a Claim Against SFDC; provided that SFDC: (i) promptly gives Customer written notice of the Claim Against SFDC, (ii) gives Customer sole control of the defense and settlement of the Claim Against SFDC (provided that Customer may not settle or defend any Claim Against SFDC unless it unconditionally releases SFDC of all liability), and (iii) provides to Customer all reasonable assistance, at Customer's expense.

8. NO LIABILITY

IN NO EVENT SHALL SFDC HAVE ANY LIABILITY TO CUSTOMER OR ANY USER FOR ANY DAMAGES RELATED TO CUSTOMER'S PURCHASE OR USE OF THE SERVICES PURSUANT TO THESE TERMS OF USE, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR DAMAGES BASED ON LOST PROFITS, HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. SUPPORT

Customer acknowledges and agrees that all support inquiries and matters must be made through SFDC. As Customer support requests will come directly to SFDC, Reseller should not have access to Customer's instance of the SFDC Services, including without limitation, Customer Data, for the purposes of providing such support. Notwithstanding the foregoing, should Reseller be granted access to Customer's instance of SFDC Services and any Customer Data for any reason, Customer hereby consents to such access by Reseller. Any additional access required by Reseller and requested by Customer shall be agreed to by the parties.

10. GENERAL

10.1. Notice. Any notices that SFDC is required to provide to customers under the Documentation shall be provided by SFDC to the Reseller or Customer as determined by SFDC in its sole discretion based on the circumstances and designated contact information for notices available to SFDC in the Services.

10.2. Waiver. No failure or delay by SFDC in exercising any right under these TOU will constitute a waiver of that right.

10.3. Severability. If any provision of these TOU is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of these TOU will remain in effect.

10.4. Further Contact. SFDC may contact Customer regarding new SFDC service features and offerings.

10.5. Third Party Beneficiary. These TOU are between Customer and Reseller; SFDC is not a party to these TOU, however SFDC is a third party beneficiary to the agreement between Customer and Reseller solely as it relates to these TOU.

10.6. Customer Communication with Reseller. Customer shall communicate directly with Reseller for any contractual terms and additions.

10.7. Order of Precedence. With respect to the subject matter discussed herein, in the event of any conflict or inconsistency between these TOU and any other terms or conditions in Customer's agreement or order form with Reseller, these TOU shall prevail.

10.8. Titles and Headings. Titles and headings of sections of this TOU are for convenience only and shall not affect the construction of any provision of this TOU.

UXStorm App Subscription Terms and Conditions

November 1, 2018

THANK YOU FOR CHOOSING THE ACCOMPANYING APPLICATION OR INTEGRATION (TOGETHER WITH ITS DOCUMENTATION, THE "APP"). THESE TERMS ARE THE LEGAL AGREEMENT ("AGREEMENT") BETWEEN YOU, THE INDIVIDUAL PERSON ACCEPTING THIS AGREEMENT OR THE COMPANY OR OTHER ORGANIZATION ON WHOSE BEHALF YOU ACCEPT THIS AGREEMENT ("YOU"), AND UXSTORM, LLC, ("UXSTORM"), THE PROVIDER OF THE APP. PLEASE READ THIS AGREEMENT CAREFULLY. IF YOU ARE A COMPANY OR OTHER ORGANIZATION, THEN THE INDIVIDUAL PERSON WHO ACCEPTS THIS AGREEMENT ON YOUR BEHALF MUST HAVE (AND SUCH PERSON HEREBY REPRESENTS TO UXSTORM THAT HE OR SHE DOES HAVE) THE AUTHORITY TO BIND YOU TO THIS AGREEMENT. OTHERWISE, YOU MAY NOT ACCESS OR USE THE APP.

UXSTORM IS ONLY WILLING TO PROVIDE THE APP TO YOU ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THIS AGREEMENT. YOU ACCEPT THIS AGREEMENT EITHER BY: (A) REPRODUCING OR USING THE APP; (B) CLICKING THE "I ACCEPT" OR SIMILAR ICON WHEN YOU DOWNLOAD THE APP; OR (C) OTHERWISE ELECTRONICALLY INDICATING ACCEPTANCE. IF YOU ARE UNWILLING OR UNAUTHORIZED TO ACCEPT THIS AGREEMENT, DO NOT ACCESS OR USE THE APP.

1. **Ownership**. The App is protected by copyrights and other intellectual property rights owned by UXStorm. You agree that all worldwide copyright and other intellectual property rights in the App, and all copies of the App however made, are the exclusive property of UXStorm and its licensors. All rights in and to the App not expressly granted to You in this Agreement are reserved by UXStorm. There are no express or implied licenses under this Agreement.

2. **Subscription**. Upon payment by You of the applicable subscription fees, or in the event UXStorm in its sole discretion provides you the App for a fixed period of time at no cost to you, the App will be enabled for Your own internal use, during the Term (defined below), through a single authorized Production instance of the ServiceNow Platform and any Non-Production ServiceNow instances supporting that Production instance. No license is granted to You under this Agreement to use or access the ServiceNow Platform. Access to the ServiceNow Platform must be separately purchased from ServiceNow. You are not entitled to delivery of a copy of the App apart from its deployment on Your single authorized instance of the ServiceNow Platform and any Non-Production instances supporting that Production instance. In the event ServiceNow determines in its sole discretion that one or more additional ServiceNow license(s) are required by You in order to enable the UXStorm App for Your own use, then You shall be required to acquire such license(s) from ServiceNow and pay any fees associated with such license(s) to ServiceNow.

3. **Restrictions on Use**. You may not do (or permit others to do) any of the following: (a) modify, adapt, alter, translate, or create derivative works of the App, except that You may configure and customize the App solely to the extent that it is possible to do so using the features and functionalities of the ServiceNow Platform in their ordinary and intended manner; (b) sublicense, lease, rent, loan, assign or otherwise transfer the App or any license hereunder to any third-party; (c) host, upload, use or access the App via a time sharing, service bureau, virtualization, hosting or other remote access arrangement, except for Your single authorized instance of the

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ServiceNow Platform as hosted by ServiceNow; (d) reverse engineer, decompile or disassemble the App or otherwise attempt to derive the source code of the App except and only to the limited that such activities are expressly permitted by applicable law notwithstanding this limitation; (e) remove, alter, or obscure any confidentiality or proprietary notices (including copyright or trademark notices) of UXStorm or its suppliers on, in or displayed by the App; (f) reproduce or use the App except as expressly authorized under Section 2 (without limiting the foregoing, You may not use the App apart from the ServiceNow Platform); or (g) circumvent, or provide or use a program intended to circumvent, technological measures provided by UXStorm to control access to or use of the App.

4. **Services**. Upon payment by You of the applicable subscription fees, UXStorm shall provide to you limited customer support, to be made available to you during the hours, and via the contact information, provided by UXStorm or elsewhere as determined by UXStorm in its sole discretion. Such hours and contact information are subject to change in UXStorm's sole discretion. If UXStorm provides you the App for a fixed period of time at no cost to you, then no maintenance, support or other services are provided to You under this Agreement.

5. **Fees and Payment**. Your rights to utilize the App are conditioned upon: (i) your compliance with all of the terms and conditions set forth in this Agreement; and (ii) unless UXStorm provides you the App for a fixed period of time at no cost to you, payment by You of the applicable subscription fees to UXStorm. UXStorm offers subscription Terms of different lengths that you may choose from. Once You choose the length of Your Term, You will pay to UXStorm the entire amount due for the subscription Term you choose, payable in advance. All such subscription fees paid to UXStorm by You are non-refundable and non-cancellable except as expressly provided in this Agreement and do not include sales and use taxes, value-added taxes, goods and services taxes, excise, business, service, withholding tax, shipping, or customs duties and similar transactional taxes and fees, all of which You are responsible for paying above and beyond the subscription fees due to UXStorm. Fees not paid when due will accrue interest at a rate of one and one-half percent (1.5%) per month or the legal maximum interest rate, whichever is lower, applied as of the date of invoice.

6. **Disclaimer of Warranty**. THE APP IS PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. UXSTORM EXCLUDES AND DISCLAIMS ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING (WITHOUT LIMITATION) ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, NON-INFRINGEMENT, TITLE, RESULTS, EFFORTS OR QUIET ENJOYMENT. THERE IS NO WARRANTY THAT THE APP IS ERROR-FREE OR WILL FUNCTION WITHOUT INTERRUPTION. YOU ASSUME THE ENTIRE RISK ARISING OUT OF THE PERFORMANCE OR USE OF THE APP. TO THE EXTENT THAT UXSTORM MAY NOT DISCLAIM ANY WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

7. **Limitation of Liability**. EXCEPT TO THE EXTENT THAT DISCLAIMER OF LIABILITY IS PROHIBITED UNDER APPLICABLE LAW, IN NO EVENT WILL UXSTORM OR ANY OF ITS RESPECTIVE AFFILIATES, LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS AND DIRECTORS BE LIABLE TO YOU FOR DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE APP, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL,

CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES ARISING FROM LOSS OF REVENUE, USE, DATA, OR PROFITS, INJURY TO REPUTATION OR GOODWILL, OR THE COST OF SUBSTITUTE GOODS OR SERVICES) WHETHER SUCH DAMAGES ARISE UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR ANY OTHER LEGAL THEORY, AND EVEN IF SUCH DAMAGES ARE FORESEEABLE. IF, UNDER APPLICABLE LAW, LIABILITY FOR DIRECT DAMAGES CANNOT BE EXCLUDED (NOTWITHSTANDING THE FOREGOING), THEN THE TOTAL CUMULATIVE LIABILITY OF UXSTORM (OR ANY OTHER PERSON) IN CONNECTION WITH THIS AGREEMENT AND THE APP, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WILL NOT EXCEED THE GREATER OF US$5.00 OR THE AMOUNT OF SUBSCRIPTION FEES (IF ANY) THAT YOU PAID TO UXSTORM FOR USE OF THE APP GIVING RISE TO LIABILITY. THE EXISTENCE OF MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMIT. YOU ACKNOWLEDGE THAT THE SUBSCRIPTION FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT UXSTORM WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. TO THE EXTENT PERMITTED BY APPLICABLE LAW, UXSTORM WILL HAVE NO LIABILITY TO YOU, WHETHER IN CONTRACT, IN TORT OR OTHERWISE UNDER THIS AGREEMENT OR IN RELATION TO THE APP. THE LIMITATIONS AND EXCLUSIONS OF LIABILITY IN THIS SECTION WILL APPLY EVEN IF AN EXCLUSIVE REMEDY UNDER THIS AGREEMENT HAS FAILED OF ITS ESSENTIAL PURPOSE.

8. **Term and Termination.** The Term of Agreement will commence upon Your acceptance of these Terms and Conditions and will remain in effect for the Term agreed to by You and UXStorm as indicated on the Purchase Agreement executed by You and UXStorm ("Term"); thereafter the Term shall automatically renew for successive periods equal in length to your Term, subject to payment by You in advance of all applicable subscription fees due for the entire renewal Term, unless UXStorm notifies you of its intention not to renew prior to expiration of the then-current Term. You may terminate this Agreement at any time and for any reason by giving written notice to UXStorm; provided, however, that You will not be entitled to a refund of any fees paid hereunder. UXStorm may terminate this Agreement, effective immediately upon written notice to You if You: (a) fail to pay any portion of the subscription fees when due and fail to cure such non-payment within thirty (30) days after receipt of notice of same; or (b) if You otherwise breach any provision of this Agreement. Upon expiration or termination of this Agreement, Your rights to use or access the App terminate, and the App must be removed from Your instance of the ServiceNow Platform. Sections 1, 5, 6, 7 and 8 will survive expiration or termination of this Agreement for any reason. In the event of termination by UXStorm, You will not be entitled to a refund of any fees paid hereunder

9. **General Provisions.**

    9.1. **Choice of Law and Venue**. This Agreement will be governed by the laws of the State of Maryland without giving effect to any choice of law principles that would require the App of the laws of a different country or state. Any legal action between You and UXStorm arising out of this Agreement or Your use of the App must be instituted exclusively in the federal or state courts located in the state of Maryland, and You consent to jurisdiction and venue in such courts. The United Nations

Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (USA) do not apply to this Agreement.

9.2. **Compliance with Laws**. You will comply with all applicable export and import control laws and regulations in Your use of the App and, in particular, You will not export or re-export the App without all required government licenses. Regardless of any disclosure made to UXStorm of an ultimate destination of the App and accompanying technical documentation, You acknowledge that all such materials are being released or transferred to You in the United States and may be subject to U.S. export control laws and regulations including regulations of the U.S. Bureau of Industry and Security. You will defend, indemnify, and hold harmless UXStorm and its licensors, suppliers and resellers from and against any violation of such laws or regulations by You.

9.3. **U.S. Government Rights**. If You are a branch or agency of the U.S. Government, then You acknowledge that the App is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Any technical data provided with such App is commercial technical data as defined in 48 C.F.R. 12.211. Consistent with 48 C.F.R. 12.211 through 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, and 48 C.F.R. 252.227-7015, all U.S. Government end users acquire the App with only those rights set forth in this Agreement.

9.4. **Relationship between the Parties**. The parties are independent contractors neither party is the agent, partner, employee, fiduciary or joint venturer of the other party under this Agreement.

9.5. **Assignments**. You may not assign or transfer, by operation of law or otherwise, any of Your rights under this Agreement (including Your licenses with respect to the App) to any third-party without UXStorm's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be void. UXStorm may freely assign its rights or delegate its obligations under this Agreement.

9.6. **Language**. This Agreement is in the English language and its English language version will be controlling over any translation, except and to the extent when required by applicable law.

9.7. **Remedies**. Except as otherwise provided herein, the parties' rights and remedies under this Agreement are cumulative. You acknowledge that the App contains valuable trade secrets and proprietary information of UXStorm and its suppliers, that any actual or threatened breach of this Agreement by You will constitute immediate, irreparable harm for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

9.8. **Waivers**. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

9.9. **Severability**. If any provision of this Agreement is held unenforceable by a court, such provision may be changed and interpreted by the court to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. Without limiting the generality of the foregoing, You agree that Sections 6 and 7 will remain in effect notwithstanding the unenforceability of any other provision of this Agreement.

9.10. **Entire Agreement**. This Agreement constitutes the final and entire agreement between the parties regarding the subject of this Agreement and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be amended only by a written document signed by both parties. The terms of any purchase order or similar document submitted by You to UXStorm will not be effective to alter the terms of this Agreement.

9.11. You acknowledge that the Terms and Conditions set forth in this Agreement are binding upon: (i) You, (ii) all holders of a legal or beneficial interest in You, (iii) all of Your officers, directors, executives, managers and members of Your professional staff, (iv) all of Your employees, agents and representatives, and, (v) any partner, independent contractor, fiduciary or joint venturer of Yours. Specifically, You agree and acknowledge that You shall be liable for any breach of the Terms and Conditions contained herein by any of the parties specified in subsections (i) – (iv) above.