# Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

## Board Order

## Agreement No. A-12623

Upon motion of Supervisor Salinas seconded by Supervisor Calcagno and carried by those members present, the Board of Supervisors hereby:

a. Approved and authorized the Contracts/Purchasing Officer to execute on behalf of County of Monterey a Master Ordering Agreement with ServiceNow, Inc. in the amount of $566,382 for the period of December 17, 2013 through December 16, 2016 for the provision of software subscription, software maintenance/support, and implementation services;
b. Approved and authorized the use of the Information Technology Designation account in the amount of $290,381for Fiscal Year 2013-14 ;
c. Authorized the Auditor Controller to increase appropriations in the amount of $290,381 for Fiscal Year 2013-14; and
d. Authorize the Contracts/Purchasing Officer to sign future renewals to the Service Agreement under the same or similar terms as recommended by the Director of Information Technology.

PASSED AND ADOPTED on this 17th day of December 2013, by the following vote, to wit:

AYES:     Supervisors Armenta, Calcagno, Salinas, Parker and Potter
NOES:     None
ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 77 for the meeting on December 17, 2013.

Dated:   December 18, 2013
File Number: 13-1313

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
                    Deputy

**Monterey County**

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

**Board Report**

**Legistar File Number: 13-1313**

**Introduced:** 12/9/2013

**Version:** 1

**Current Status:** Agenda Ready

**Matter Type:** General Agenda Item

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b.  Approve and authorize the use of the Information Technology Designation account in the amount of $290,381 for Fiscal Year 2013-14 ;

c.  Authorize the Auditor Controller to increase appropriations in the amount of $290,381 for Fiscal Year 2013-14; and

d.  Authorize the Contracts/Purchasing Officer to sign future renewals to the Service Agreement under the same or similar terms as recommended by the Director of Information Technology.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

a.  Approve and authorize the Contracts/Purchasing Officer to execute on behalf of County of Monterey a Master Ordering Agreement with ServiceNow, Inc. in the amount of $566,382 for the period of December 17, 2013 through December 16, 2016 for the provision of software subscription, software maintenance/support, and implementation services;

b.  Approve and authorize the use of the Information Technology Designation account in the amount of $290,381 for Fiscal Year 2013-14 ;

c.  Authorize the Auditor Controller to increase appropriations in the amount of $290,381 for Fiscal Year 2013-14; and

d.  Authorize the Contracts/Purchasing Officer to sign future renewals to the Service Agreement under the same or similar terms as recommended by the Director of Information Technology.

SUMMARY/DISCUSSION:

The Information Technology Department (ITD) has identified the need for an enterprise software tool that will meet the necessary requirements for ITD to successfully transition to an ISF. An ISF has been determined to be the appropriate structure for ITD to function as a service department.

To assess ITD's effectiveness as an ISF, a consultant was hired to guide the evaluation process of County's information system needs, processes, structures and capabilities. This process included obtaining all stakeholders' feedback on services rendered or required, and acquiring subscriptions for access to information technology industry standards. During this evaluation process, thirty-five members representing fifteen departments within the County were involved

in providing input. The evaluation led to the development of Request for Proposal (RFP) No. 10441 which was released on September 18, 2013.

Of the three responses received, two vendors were chosen to proceed to the Proof of Concept phase of the RFP. The two vendors set up a test instance for participants to test the features and functionality of their proposed applications. Upon completing the testing of the software applications, this recommendation was presented to the Budget Committee on November 27, 2013.

The reduction of data entry requirements into multiple applications for the tracking of service orders, time entry for individual service orders, inventory management, and reporting requirements across multiple teams involving all Information Technology disciplines will promote cost effectiveness, efficiency, and increase accuracy. The provision of an asset and inventory tracking component will allow ITD to incorporate capital replacement in the forthcoming budget estimates. The reporting capability of this application across all ITD services, resources, and invoicing will ensure transparency in becoming an ISF. The approval of this action will provide a unified tool to streamline the processes necessary as a service department and reduce the applications that are necessary in tracking service requests, resources, inventory, and cost reporting. As a result of the RFP response and Proof of Concept evaluation by ITD and members of county departments, it is the recommendation of the Director of ITD to approve the Master Ordering Agreement with ServiceNow, Inc.
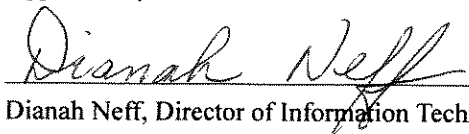
OTHER AGENCY INVOLVEMENT:
ITD was able to go back to the vendor and negotiate more favorable language for the County on several issues and as such County Counsel has reviewed the Master Ordering Agreement as to legal form and concurs. The Auditor-Controller's Office has been apprised of the steps taken to become an ISF, reviewed the RFP prior to release, and concurs with the recommendation. Risk Management cannot approve due to the non-standard liability and indemnification in the vendor developed Master Ordering Agreement. The Service Agreement is on file with the Clerk of the Board.

FINANCING:
The funds will be sourced through an Information Technology Department Designation Account stemming from FY 2011-12 surpluses in the amount of $834,133. Of this $834,133, the amount of $250,000 was used to cover FY 2012-13 shortfalls in the Printing and Graphics Division of ITD. Of the remaining $584,133, $290,381 will be used for the initial year implementation. Subsequent software maintenance will be included in each respective Recommended Budget. The breakdown of the Designation Account is attached.

Prepared by: Sarah House, Management Analyst III, 755-5108 *SH*

Approved by:

_Dianah Neff_

Dianah Neff, Director of Information Technology
Dated: December 9, 2013
Attachments:

Master Ordering Agreement
ServiceNow Order Form
ServiceNow Scope of Work
Exhibit A to Scope of Work
ITSM ServiceNow Cost Overview
ITD Designation Account Breakdown

# ATTACHMENT #1

## MASTER ORDERING AGREEMENT

This Master Ordering Agreement ("**Agreement**") is made as of December 17, 2013 ("**Effective Date**"), between ServiceNow, Inc. ("**ServiceNow**") and The County of Monterey ("**Customer**") as set forth below.

This Agreement, together with the Order Form(s) (including the Product Overview attached thereto or referenced therein) and the Subscription Service Guide, is the final and entire agreement of the parties regarding the subject matter of this Agreement, and supersedes all prior or contemporaneous oral or written agreements, representations and negotiations, including, but not limited to, any terms contained in Customer's purchase order.

FOR VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES, EACH ACTING UNDER DUE AND PROPER AUTHORITY, EXECUTE THIS AGREEMENT AS OF THE EFFECTIVE DATE.

| Customer's official name: _County of Monterey_ | ServiceNow, Inc. |
|---|---|
| Individual signing: (print name) _Michael R Derr_ | Individual signing: (print name) |
| Signature: | Signature: |
| Title: _Contracts/Purchasing Officer_ | Title: |
| Signing date: _12-19-13_ | Signing date: |
| Customer address for notice: _County of Monterey, Contracts+Purchasing_ _168 W. Alisal St., Flr. 2_ _Salinas, Ca. 93902_ _Attn: Mike Derr_ | ServiceNow address for notice: ServiceNow, Inc. 4810 Eastgate Mall San Diego, CA 92121 Attn: General Counsel cc: legalnotices@servicenow.com |

Reviewed as to fiscal provisions

Auditor-Controller
County of Monterey  12-18-13

## GENERAL TERMS AND CONDITIONS

1.    **PROVISION OF SERVICES**

ServiceNow will make the following purchased services available to Customer, subject to the terms and conditions of this Agreement and each mutually acceptable written ordering document signed or otherwise accepted by both Customer and ServiceNow (each, an "**Order Form**") and the product overview attached thereto or referenced therein ("**Product Overview**"), including without limitation: (a) use of the Subscription Service (as defined below); (b) professional services and training services ("**Professional Services**"); and (c) any additional services. "**Subscription Service**" means the ServiceNow platform and ServiceNow applications (ordered by Customer under an Order Form) which are made available by ServiceNow as a software as a service (SaaS) offering online via web access designated by ServiceNow. Each Order Form is hereby incorporated into and made a part of this Agreement for that order.

2.    **ORDERING**

2.1.    SUBSCRIPTION SERVICE. An Order Form for a Subscription Service shall specify the term of authorized use of the Subscription Service ("**Subscription Term**"), the fees and other charges for the Subscription Service, any special payment terms, the scope of use, and the numbers, types and identifiers of permitted users, applications, servers, devices, capacity and locations at or through which Customer is permitted to use the Subscription Service. Customer may not use or otherwise access the Subscription Service in a manner that exceeds Customer's authorized use as set forth in this Agreement and the applicable Order Form. If Customer exceeds its permitted use of the Subscription Service, then, Customer will promptly notify ServiceNow and within thirty (30) days thereafter: (i) disable unpermitted use; or (ii) purchase additional subscriptions. ServiceNow may review Customer's use of the Subscription Service, and Customer shall provide any reasonable assistance, to verify Customer's compliance with the Agreement. ServiceNow may suspend Customer's use of the Subscription Service after giving thirty (30) days' written notice of non-compliance identified in such review, in addition to any other rights or remedies ServiceNow may have.

2.2.    PROFESSIONAL SERVICE. An Order Form for Professional Services shall specify either or both of: (A) ServiceNow packaged professional services (each offering, a "**Packaged Service**"), as described in one or more service descriptions (if not attached to the Order Form, then as set forth on www.servicenow.com/schedules.do) ("**Service Description**"); or (B) other Professional Services described in one or more written statements of work ("**SOW**") signed by ServiceNow and Customer.

2.3.    PAYMENT TERMS. Except as expressly set forth in the applicable Order Form or SOW: (a) Subscription Service fees are invoiced annually in advance; (b) Professional Services fees are invoiced on a time and materials basis (including reasonable travel expenses) monthly in arrears; and (c) Customer shall pay each invoice in full within thirty (30) days after the date of invoice in U.S. dollars. If Customer specifies in an Order Form that it is issuing a purchase order for such Order Form, then ServiceNow shall reference the applicable Customer purchase order number on its invoices (solely for administrative convenience) so long as Customer provides the purchase order number to

## MASTER ORDERING AGREEMENT

This Master Ordering Agreement ("**Agreement**") is made as of December 20, 2013 ("**Effective Date**"), between ServiceNow, Inc. ("**ServiceNow**") and The County of Monterey ("**Customer**") as set forth below.

This Agreement, together with the Order Form(s) (including the Product Overview attached thereto or referenced therein) and the Subscription Service Guide, is the final and entire agreement of the parties regarding the subject matter of this Agreement, and supersedes all prior or contemporaneous oral or written agreements, representations and negotiations, including, but not limited to, any terms contained in Customer's purchase order.

FOR VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES, EACH ACTING UNDER DUE AND PROPER AUTHORITY, EXECUTE THIS AGREEMENT AS OF THE EFFECTIVE DATE.

| Customer's official name: County of Monterey | ServiceNow, Inc. |
|---|---|
| Individual signing: (print name) | Individual signing: (print name)  _Michael P. Scarpelli_ |
| Signature: | Signature: |
| Title: | Title:  _CFO_ |
| Signing date: | Signing date:  _12/27/13_ |
| Customer address for notice: | ServiceNow address for notice: |
| County of Monterey 168 W. Alisal Street 3<sup>rd</sup> Floor Monterey, CA 93901 | ServiceNow, Inc. 4810 Eastgate Mall San Diego, CA 92121 Attn: General Counsel cc: legalnotices@servicenow.com |

Customer address:
County of Monterey
168 W. Alisal Street
3rd Floor
Monterey, CA 93901

**GENERAL TERMS AND CONDITIONS**

### 1.    PROVISION OF SERVICES

ServiceNow will make the following purchased services available to Customer, subject to the terms and conditions of this Agreement and each mutually acceptable written ordering document signed or otherwise accepted by both Customer and ServiceNow (each, an "**Order Form**") and the product overview attached thereto or referenced therein ("**Product Overview**"), including without limitation: (a) use of the Subscription Service (as defined below); (b) professional services and training services ("**Professional Services**"); and (c) any additional services. "**Subscription Service**" means the ServiceNow platform and ServiceNow applications (ordered by Customer under an Order Form) which are made available by ServiceNow as a software as a service (SaaS) offering online via web access designated by ServiceNow. Each Order Form is hereby incorporated into and made a part of this Agreement for that order.

### 2.    ORDERING

2.1.    SUBSCRIPTION SERVICE. An Order Form for a Subscription Service shall specify the term of authorized use of the Subscription Service ("**Subscription Term**"), the fees and other charges for the Subscription Service, any special payment terms, the scope of use, and the numbers, types and identifiers of permitted users, applications, servers, devices, capacity and locations at or through which Customer is permitted to use the Subscription Service. Customer may not use or otherwise access the Subscription Service in a manner that exceeds Customer's authorized use as set forth in this Agreement and the applicable Order Form. If Customer exceeds its permitted use of the Subscription Service, then, Customer will promptly notify ServiceNow and within thirty (30) days thereafter: (i) disable unpermitted use; or (ii) purchase additional subscriptions. ServiceNow may review Customer's use of the Subscription Service, and Customer shall provide any reasonable assistance, to verify Customer's compliance with the Agreement. ServiceNow may suspend Customer's use of the Subscription Service after giving thirty (30) days' written notice of non-compliance identified in such review, in addition to any other rights or remedies ServiceNow may have.

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ServiceNow at least five (5) business days prior to the date of the applicable ServiceNow invoice. Late payments shall accrue interest at a rate of one and one-half percent (1.5%) per month or the legal maximum interest rate, whichever is lower. If Customer is delinquent in payment of amounts for the services owed hereunder, ServiceNow may give notice to Customer of such delinquency and, in such case, Customer will have thirty (30) days from the date of ServiceNow's written notice to cure the delinquency. If Customer fails to cure the delinquency, ServiceNow may, in addition to its other rights and remedies provided hereunder or at law, terminate or suspend the affected service. ServiceNow acknowledges that (a) the County of Monterey does not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (b) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the County of Monterey; provided however, that failure to timely pay any invoice due under this Agreement shall be considered a material breach permitting ServiceNow to immediately terminate the Agreement in accordance with Section 8 without further obligation, except for the return of any unused prorated, prepaid annual fees covering the remaining portion of the Subscription Term.

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

2.5.     AFFILIATES. "*Affiliates*" shall mean any person or entity directly or indirectly Controlling, Controlled by or under common Control with a party to the Agreement, where "*Control*" means the legal power to direct or cause the direction of the general management of the company, partnership or other legal entity.  Customer may, at its option, provide access to the Subscription Service to one or more of its Affiliates ("*Customer Affiliates*") subject to the terms, conditions and restrictions in the Agreement.  Customer shall be responsible for the acts and omissions of the Customer Affiliate for its use of the Subscription Service. No Customer Affiliate shall have the right to take any legal action against ServiceNow under the Agreement or any Order Form unless such Customer Affiliate executes an Order Form directly with ServiceNow.  When a Customer Affiliate purchases the Subscription Service outside of North America, the Customer Affiliate must place its order with ServiceNow's applicable regional affiliate ("*ServiceNow Affiliate*"), which will establish a new and separate agreement between the Customer Affiliate and the ServiceNow Affiliate, the terms and conditions of which shall be the same as the terms and conditions contained in the Agreement, except for the following without limitation: (i) a different tax rate or assessment may govern the Customer Affiliate order; (ii) any pricing commitments shall not apply; (iii) governing law and notice may be different; and (iv) Customer Affiliate will purchase ServiceNow's then current service offering.

3.     **GRANT OF USE RIGHTS; OWNERSHIP; CUSTOMER RESTRICTIONS**

3.1.     SERVICENOW APPLICATIONS. The Product Overview describes the business processes supported within the ServiceNow applications (collectively, "*ServiceNow Applications*"). To the extent set forth under an Order Form, ServiceNow hereby grants to Customer a non-exclusive, non-transferable, worldwide right during the Subscription Term to access, configure, customize, and use the purchased ServiceNow Applications to automate the business processes supported within the purchased ServiceNow Applications.

3.2.     SERVICENOW PLATFORM. The Product Overview describes the ServiceNow platform ("*ServiceNow Platform*"). To the extent set forth under an Order Form, ServiceNow hereby grants to Customer a non-exclusive, non-transferable, worldwide right during the Subscription Term to access, configure and use the purchased access of the ServiceNow Platform to create custom applications solely to automate business processes not supported within the ServiceNow Applications (each such automated business process, a "*Custom Application*"). Customer is required to purchase authorized use of the applicable ServiceNow Application in order to automate a business process supported within that ServiceNow Application.

3.3.     DOCUMENTATION. ServiceNow hereby grants to Customer a non-exclusive, non-transferable, worldwide right during the Subscription Term to access and use the user documentation relating to the operation and use of the Subscription Service that is provided by ServiceNow to Customer under the Agreement, as updated by ServiceNow from time to time ("*Documentation*").

3.4.     CUSTOMER DATA. Customer hereby grants ServiceNow a non-exclusive, non-transferable, worldwide right to use the electronic data specifically pertaining to Customer and/or its users that is processed using the Subscription Service (collectively "*Customer Data*") strictly for the limited purpose of providing the Subscription Service to Customer.

3.5.     SOFTWARE. ServiceNow may provide ServiceNow software products ("*Software*") for use in connection with the Subscription Service. Any Software is licensed and not sold (even if for convenience ServiceNow makes reference to words such as "sale" or "purchase"), and ServiceNow grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable, non-exclusive license to install and execute the Software on machines operated by or for Customer solely to permit Customer to use the Subscription Service during the Subscription Term in accordance with the terms and conditions of this Agreement. The Software or Deliverables (as defined in Section 3.9) may include code that is licensed under third party license agreements, including open source, made available or provided with the Software or Deliverables as applicable.

3.6.     DEVELOPMENT TOOLS. ServiceNow hereby grants to Customer a non-exclusive, non-transferable, worldwide right during the Subscription Term to download and make a reasonable number of copies of the Development Materials (as defined below) for Customer's internal use only; and to use, copy, modify and create derivative works of the Development Materials, in each case solely for Customer's own internal use, in: (A) using, implementing and integrating the ServiceNow Applications with other software and systems; and

(B) developing Custom Applications to the extent that Customer is permitted under Section 3.2 and the applicable Order Form(s). "**Development Materials**" are APIs, development tools, specification, documentation, sample Software code or other development materials that ServiceNow may from time to time make available to Customer for the express purpose of facilitating development of Custom Applications or customizing ServiceNow Applications.

3.7.    OWNERSHIP. As between ServiceNow and Customer, all rights, title, and interest in and to all intellectual property rights in the Subscription Service, Software, Development Materials, Documentation and/or ServiceNow Core Technology (as defined in Section 3.9) are owned exclusively by ServiceNow. Except as expressly provided in this Agreement, ServiceNow does not grant Customer (and expressly reserves) any rights, express or implied, or ownership in the Subscription Service, Software, Development Materials, Documentation and/or ServiceNow Core Technology. ServiceNow shall have a royalty-free, worldwide, non-exclusive, transferable, sub-licensable, irrevocable, perpetual right to make, use, sell, offer for sale, import, or otherwise incorporate into the Subscription Service, Software, Development Materials, Documentation and/or ServiceNow Core Technology, any suggestions, enhancements, recommendations or other feedback provided by Customer relating to the Subscription Service, Software, Development Materials, Documentation and/or ServiceNow Core Technology. As between ServiceNow and Customer, all rights, title and interest in and to all intellectual property rights in any Custom Application made solely by Customer shall be owned by Customer, other than intellectual property rights in the Subscription Service, Software, Development Materials, Documentation and ServiceNow Core Technology.

3.8.    RESTRICTIONS. Customer shall not (and shall not permit others to): (i) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share the Subscription Service, Software, Development Materials or Documentation, or make any of them available for access by third parties, including without limitation, in the manner of a service bureau or hosted application; (ii) create derivative works based on or otherwise modify the Subscription Service, Software, Development Materials (except as provided in Section 3.6) or Documentation; (iii) disassemble, reverse engineer or decompile the Subscription Service or Software; (iv) access the Subscription Service, Software, Development Materials or Documentation in order to develop a competing product or service, including a Custom Application that automates or otherwise addresses a business process automated by a ServiceNow Application; (v) use the Subscription Service or Development Materials to provide a service for others; (vi) use the ServiceNow Platform to operate more or different type of applications than permitted under the applicable Order Form; (vii) use or send viruses or other harmful computer code; (viii) interfere with the integrity of the Subscription Service or its data; (ix) remove or modify a copyright or other proprietary rights notice on or in the Subscription Service, Software, Development Materials or Documentation; (x) use the Subscription Service or Custom Applications 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; (xi) use a computer or computer network to cause physical injury to the property of another; (xii) violate any law or regulation of the United States, any state thereof or other government authority; (xiii) disable, hack or otherwise interfere with any security, digital signing, digital rights management, verification or authentication mechanisms implemented in or by the Subscription Service; (xiv) include, send, store or run software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs from the Subscription Service or Custom Application; (xv) disrupt the integrity of the Subscription Service; (xvi) temporarily or permanently remove, copy, add, modify, halt or disable any computer data, computer programs or computer software from a computer or computer network without authorization; (xvii) cause a computer to malfunction, regardless of how long the malfunction persists; or (xviii) alter, disable, or erase any computer data, computer programs or computer software without authorization.

3.9.    DELIVERABLES. Subject to the provisions of this Section 3.9, ServiceNow shall assign to Customer any Newly Created IP (as defined below) in Deliverables upon payment in full by Customer of all amounts due for the Professional Service under which the Deliverable was created. A "**Deliverable**" is a deliverable that is identified in the applicable SOW or Service Description and that is created by ServiceNow for Customer in the performance of the Professional Services. "**Newly Created IP**" means intellectual property in any inventions or works of authorship that are made by ServiceNow specifically for Customer in the course of performing Professional Services for Customer, other than ServiceNow Core Technology. "**ServiceNow Core Technology**" means: (a) ServiceNow technology, methodologies and intellectual property (including, without limitation, products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation (both printed and electronic) existing as of the Effective Date of this Agreement or otherwise arising in whole or in part outside of work under a Professional Service for Customer; (b) any derivatives, improvements, enhancements or extensions of the foregoing, whether or not conceived, reduced to practice or developed during the term of this Agreement or in performance of Professional Services, as applicable; and (c) any intellectual property anywhere in the world relating to any of the foregoing. To the extent (if at all) any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the ServiceNow Core Technology solely to use the Deliverable in connection with the Subscription Service as contemplated under this Agreement during the Subscription Term. Nothing in this Agreement shall be deemed to restrict or limit ServiceNow's right to perform similar Professional Services for any other party or to assign any employees or subcontractors to perform similar Professional Services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Professional Services.

3.10.    CUSTOMER CONDUCT. Customer is responsible for, without limitation, the following: (a) Customer's implementation of the Subscription Service; (b) protecting the names and passwords of the users to the Subscription Service and preventing and notifying ServiceNow of unauthorized use of the Subscription Service; (c) appointing up to five (5) designated support contacts for purposes of contacting ServiceNow support regarding questions and/or technical issues ("**Authorized Customer Support Contacts**") and ensuring that the Authorized Customer Support Contacts' information is current in the ServiceNow support portal; (d) the lawfulness of, and results obtained from, all Customer Data submitted by users to the Subscription Service and each user's acts and omissions; (e) using the Subscription Service's available encryption feature for all Customer Data containing sensitive information; (f) using the Subscription Service within the permitted scope and only in accordance with the numbers, types and identifiers of permitted users, applications, servers, devices, capacity and locations at or through which Customer is permitted to use the Subscription Service as set forth in the Order Form; and (g) using the Subscription Service only in accordance with the Documentation.

## 4. WARRANTIES

4.1. LIMITED SUBSCRIPTION SERVICE WARRANTY. ServiceNow warrants that during the Subscription Term the Subscription Service, exclusive of Custom Applications and Development Materials, will operate without a Defect (as defined in the Subscription Service Guide which is attached hereto and incorporated into this Agreement by this reference), that causes a material failure of Customer's production instances of the Subscription Service to perform in accordance with the Product Overview. Customer's exclusive remedy for breach of this warranty is for ServiceNow to correct or work around the Defect upon request, subject to and in accordance with the procedures and limitations for receiving Support, as defined in the Subscription Service Guide. If the Defect persists in causing a material failure in Customer's production instances of the Subscription Service to conform to the Product Overview without correction or work-around forty-five (45) days after written notice to ServiceNow of a warranty claim under this Section 4.1, then Customer may terminate the affected Subscription Service and ServiceNow shall refund to Customer any prepaid subscription fees covering the remainder of the Subscription Term of the affected Subscription Service after the date of termination. This Section 4.1 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with any Defect or other failure of the Subscription Service to perform in accordance with the Product Overview or any other manner. Notwithstanding any other provision in this Agreement, ServiceNow shall have no obligation to support, and shall have no liability or obligation due to unavailability, malfunction or degradation of performance in the Subscription Service that is due to a Custom Application, Development Materials, or modifications of the ServiceNow Applications by any person other than ServiceNow or a person acting at ServiceNow's direction.

4.2. LIMITED PROFESSIONAL SERVICES WARRANTY. ServiceNow warrants that the Professional Services will be performed in a competent and workmanlike manner in accordance with accepted industry standards and practices and all material requirements set forth in the Service Description or SOW, as applicable. Customer's exclusive remedy for breach of this warranty is to notify ServiceNow in writing of the breach within forty-five (45) days after performance of the non-conforming Professional Services. Upon receipt of such notice, ServiceNow, at its option, shall either use commercially reasonable efforts to re-perform the Professional Services in conformance with these warranty requirements or shall terminate the affected Professional Services and refund to Customer any amounts paid for the affected Professional Services not performed. This Section 4.2 sets forth Customer's exclusive rights and remedies (and ServiceNow's sole liability) in connection with the performance of Professional Services.

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

## 5. CONFIDENTIALITY AND NON-USE RESTRICTIONS

5.1. CONFIDENTIAL INFORMATION. "*Confidential Information*" means all information disclosed by a party ("*Disclosing Party*") to the other party ("*Receiving Party*"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure, including without limitation: each party's respective business plans and processes; financial and employee data; proprietary technology and product information and designs; the Subscription Service and Software; Development Materials and Customer Data. The terms of this Agreement, Order Form(s) and pricing are Confidential Information of ServiceNow. Confidential Information excludes information that: (i) is or becomes generally known to the public; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation to the Disclosing Party; (iii) is received from a third party without any obligation of confidentiality to a third party or breach of any obligation of confidentiality to the Disclosing Party; or (iv) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information.

5.2. PROTECTION. The Receiving Party shall: (i) at all times protect the confidentiality of the Disclosing Party's Confidential Information 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 Confidential Information of the Disclosing Party except to the extent necessary to exercise its rights or fulfill its obligations under this Agreement. To the extent necessary under this Agreement, the Receiving Party may disclose the Confidential Information of the Disclosing Party to the Receiving Party's employees or contractors who are bound by written obligations of confidentiality and non-use and non-disclosure restrictions at least as protective as those set forth herein. In the event of a court order or government regulation compelling disclosure of any Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt written notice thereof, and shall reasonably cooperate with the Disclosing Party to seek confidential or other protective treatment. Each party's obligations set forth in this Section 5 shall remain in effect during the term and three (3) years after termination of this Agreement. The Receiving Party shall promptly return to the Disclosing Party or destroy (with certification of such destruction provided by the Receiving Party upon request) all Confidential Information of the Disclosing Party in its possession or control upon request from the Disclosing Party. Provisions for the return of Customer Data are set forth in Section 8.3 (Return of Customer Data).

## 6. INDEMNIFICATION

6.1. SERVICENOW OBLIGATION. Subject to the exclusions set forth below, ServiceNow shall: (i) defend Customer, its officers, directors and employees against any third party suit, claim, action or demand ("*Claim*") alleging that Customer's use of the Subscription Service in accordance with this Agreement infringes any valid patent, copyright, or trademark of a third party that is issued or

registered in the United States, Canada, Australia, the European Union or Switzerland; and (ii) pay any court-ordered award of damages or settlement amount, and reasonable attorney fees, to the extent caused by such Claim. If any portion of the Subscription Service becomes the subject of a Claim, ServiceNow may: (a) contest the Claim; (b) obtain permission from the claimant for Customer's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in ServiceNow's judgment, then (d) terminate Customer's use of the affected Subscription Service upon forty-five (45) days' written notice and pay to Customer a refund of any prepaid subscription fees covering the remaining portion of the applicable Subscription Term for the affected Subscription Service after the date of termination. Notwithstanding the above, ServiceNow shall have no indemnification obligation or liability for any Claim arising in whole or in part from: (i) any use of the Subscription Service which exceeds the authorized use permitted under this Agreement; (ii) Customer Data; (iii) use of the Subscription Service by Customer in violation of applicable law; (iv) use of the affected Subscription Service after termination in accordance with clause (d) of this Section 6.1; (v) Custom Applications; (vi) modifications to the Subscription Service by any person other than ServiceNow or a person acting at ServiceNow's direction; (vii) modifications made by or at the request of Customer pursuant to a Professional Service; or (viii) use of the Subscription Service in combination with any hardware, software, application or service made or provided other than by ServiceNow.

6.2.    CUSTOMER OBLIGATION. Customer shall (i) defend ServiceNow, its officers, directors and employees against any third party Claim alleging that the Customer Data or Custom Application infringes any valid patent, copyright, or trademark of a third party that is issued or registered in the United States, Canada, Australia, the European Union or Switzerland, and (ii) pay any court-ordered award of damages or settlement amount, and reasonable attorney fees, to the extent caused by such Claim.

6.3.    PROCESS. All of the foregoing indemnity obligations of ServiceNow and Customer are conditioned on the indemnified party notifying the indemnifying party promptly in writing of any actual or threatened Claim, the indemnified party giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, and the indemnified party cooperating and, at the indemnifying party's request and expense, assisting in such defense. SECTION 6 STATES EACH PARTY'S ENTIRE LIABILITY AND THE OTHER PARTY'S EXCLUSIVE REMEDY FOR THIRD PARTY INFRINGEMENT CLAIMS AND ACTIONS.

## 7.    LIMITATIONS OF LIABILITY AND DAMAGES

7.1.    LIMITATIONS 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 SERVICES PROVIDED HEREUNDER, WHETHER BASED ON CONTRACT, IN TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE 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) BODILY INJURY OR DEATH; (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED FOR SERVICES PROVIDED HEREUNDER.

7.2.    EXCLUSION OF DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COSTS OF SUBSTITUTE GOODS, 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 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) BODILY INJURY OR DEATH; AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

## 8.    TERM AND TERMINATION

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

8.2.    EFFECT OF TERMINATION OF SERVICE. Upon expiration or other termination of the Subscription Service for any reason, Customer shall stop using, and ServiceNow shall stop providing, the terminated Subscription Service. (a) If the Subscription Service is terminated by Customer due to ServiceNow's breach, then ServiceNow shall refund to Customer, within thirty (30) days after the effective date of termination, all prepaid fees for the remaining portion of the Subscription Term for the terminated Subscription Service after the effective date of termination. (b) If Professional Service is terminated by Customer due to ServiceNow's breach, then ServiceNow shall refund to Customer, within thirty (30) days after the effective date of termination, any prepaid amounts for unperformed Professional Service under the applicable SOW or a Service Description. (c) If the Subscription Service is terminated by ServiceNow due to Customer's breach, then Customer shall pay to ServiceNow, within thirty (30) days after the effective date of termination, fees for the terminated Subscription Service that would have been payable for the remainder of the Subscription Term after the effective date of termination. (d) Upon expiration or other

termination of the Subscription Service for any reason, Customer shall be eligible to request the return of Customer Data in accordance with Section 8.3 (Return of Customer Data).

8.3.    RETURN OF CUSTOMER DATA. Following the end of the Subscription Term, where Customer has not renewed, Customer shall have forty-five (45) days to request a copy of the Customer Data from ServiceNow; and, if requested, ServiceNow shall use commercially reasonable efforts to provide a copy of that data within fifteen (15) days in a mutually agreed upon, commercially standard format at no cost to Customer unless ServiceNow determines in its reasonable discretion that the data output is not routine, in which case the parties shall mutually agree on a statement of work for professional services. After such forty-five (45) day period, ServiceNow shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, have the right to delete all Customer Data in its systems or otherwise in its possession or under its control and delete Customer's instances of the Subscription Service.

8.4.    SURVIVAL. Upon termination of this Agreement for any reason, Customer shall pay all amounts owed hereunder. Sections 3.7 (Ownership), 3.8 (Restrictions), and 5 (Confidentiality and Non-Use Restrictions) through 9 (General Provisions) of this Agreement, together with any other provision required for their construction or enforcement, shall survive termination of this Agreement for any reason.

## 9.    GENERAL PROVISIONS

9.1.    ASSIGNMENT. Neither party may assign its rights or obligations, whether by operation of law or otherwise, without the prior written consent of the other party. Notwithstanding the foregoing, either party may, upon notice and without the other party's consent: (i) in connection with a merger, reorganization or sale of all or substantially all of the assets or equity of such party, assign this Agreement in its entirety to such party's successor; and (ii) assign this Agreement in its entirety to any company, partnership or other legal entity which from time to time directly or indirectly Controls, is Controlled by or is under the common Control with such party. Any attempted or purported assignment in violation of this Section 9.1 will be null and void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

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

9.3.    EXPORT COMPLIANCE. Each party shall comply with United States and foreign export control laws and regulations. Customer acknowledges that the Subscription Service is subject to the U.S. Export Administration Regulations (the "*EAR*") and that Customer shall comply with the EAR. Without limiting the foregoing, Customer represents and warrants that: (i) Customer is not located in, and shall not use the Subscription Service from, any country that is subject to U.S. export restrictions (currently including, but not necessarily limited to, Cuba, Iran, North Korea, Sudan and Syria); (ii) Customer shall not use the Subscription Service in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, sounding rockets or unmanned air vehicle systems; and (iii) Customer is not prohibited from participating in the U.S. export transactions by any federal agency of the U.S. government. In addition, Customer is responsible for complying with any local laws which may impact Customer's right to import, export or use the Subscription Service.

9.4.    FORCE MAJEURE. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, 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, 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.

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

9.6.    ENTIRETY. This Agreement, together with the referenced and/or attached documents, is the final and entire agreement of the parties regarding the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings and negotiations. In the event of any conflict between this Agreement and any referenced and/or attached documents or Order Form(s), Product Overview or Subscription Service Guide, this Agreement shall govern unless such referenced and/or attached document is signed by both parties and manifests a clear intent to override the terms of this Agreement. The terms

of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any purchase order submitted by Customer is for Customer's internal purposes only and its terms and conditions are superseded and replaced by this Agreement, and the purchase order terms and conditions have no force or effect. Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ServiceNow which is not set out in this Agreement, the applicable Order Form, Product Overview, Subscription Service Guide, SOW or Service Description. Customer's orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any verbal or written communication about ServiceNow's future plans. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.

9.7.    WAIVER AND AMENDMENT. A waiver of any right is only effective if it is in writing and only against the party who signed such writing and for the circumstances given. Any modification of this Agreement, an Order Form, the Product Overview, the Subscription Service Guide, a SOW or a Service Description must be in writing and signed by authorized representatives of both parties.

9.8.    RELATIONSHIP OF THE PARTIES. The parties are independent contractors. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship. Neither party shall have any right or authority to assume or create any obligation of any kind expressed or implied in the name of or on behalf of the other party. ServiceNow may at any time subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.

9.9.    GOVERNING LAW; VENUE; TIME FOR BRINGING ACTION. This Agreement shall be governed by, subject to, and interpreted in accordance with the laws of the state of California, without regard to conflict of laws principles. The parties hereby irrevocably consent to the nonexclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in San Diego, California, or New York, New York, for the purposes of adjudicating any action or proceeding to enforce the terms of this Agreement. To the extent permitted by law, choice of law rules and the United Nations Convention on Contracts for the International Sale of Goods shall not apply. No cause of action arising hereunder or relating hereto may be brought more than one (1) year after it first accrues. The prevailing party in an action to enforce this Agreement shall be entitled to costs of bringing the claim and reasonable attorneys' and experts' fees and expenses. 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.

9.10.   CONSTRUCTION. The Subscription Service and Professional Services shall be provided in the English language unless agreed otherwise. The parties confirm that they have requested that this Agreement and all related documents be drafted in English at the express wishes of the parties. Les parties ont exigé que le présent contrat et ServiceNow les documents connexes soient rédigés en anglais selon la volonté expresse des parties. Capitalized terms not defined herein shall have the meaning set forth or referenced in the Subscription Service Guide. Section headings are for convenience only and are not to be used in interpreting this Agreement.

## SUBSCRIPTION SERVICE GUIDE

Capitalized terms not defined herein shall have the meaning set forth in the ordering agreement or the use agreement between Customer and ServiceNow.

### 1.    SUPPORT

During the Subscription Term, ServiceNow shall use reasonable efforts to resolve Defects (defined below) in the Subscription Service ("**Support**"). Support does not include: implementation services; configuration services; integration services; customization services or other custom software development; support for modifications of the ServiceNow Applications by any person other than ServiceNow or a person acting at ServiceNow's direction; support for Development Materials or Custom Applications; training or "how-to"; assistance with administrative functions; other professional services; corrections of immaterial Defects or corrections that will degrade the Subscription Service.

A "**Defect**" means a problem causing the Subscription Service to not conform to the Product Overview. Customer may request Support for a Defect at the online portal https://hi.service-now.com/ or any successor site. ServiceNow or ServiceNow's authorized reseller, as applicable, will use commercially reasonable efforts to initially respond to the Support request in the following target time frames:

| Nature of Defect | Production Instance Target Initial Response Time | Non-Production Instance Target Initial Response Time |
|---|---|---|
| Availability Defect | Classified as P1 Defect<br>Within 30 minutes at all times | Classified as P2 Defect<br>Within 2 hours at all times |
| Critical Defect | Classified as P2 Defect<br>Within 2 hours at all times | Classified as P3 Defect<br>Within 12 hours on ServiceNow business days, excluding holidays |
| Non-Critical Defect | Classified as P3 Defect<br>Within 12 hours on ServiceNow business days, excluding holidays | Classified as P4 Defect<br>Within 24 hours on ServiceNow business days, excluding holidays |
| Other | No target initial response time | No target initial response time |

The priority level will be assigned by these guidelines: "**P1**" is a production instance of the Subscription Service not Available (as defined below); "**P2**" is a non-production instance not Available or a Defect in a critical function of a production instance; "**P3**" is a production instance Defect that is not a P1 or P2 request or a Defect in a critical function of a non-production instance; and "**P4**" is a Defect that is not a P1, P2 or P3 request.

### 2.    UPGRADES

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

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

### 3.    AVAILABILITY SERVICE LEVEL

If Customer's production instances of the Subscription Service are not Available ninety-nine and eight-tenths percent (99.8%) of the time or more in any calendar month ("**SLA**"), then Customer's exclusive remedy for failure of the Subscription Service to meet the SLA is for Customer either: (1) to request that the affected Subscription Term be extended for the number of minutes the Subscription Service was not Available in the month in excess of the SLA; or (2) to request that ServiceNow issue a service credit to Customer for the dollar value of the number of minutes the Subscription Service was not Available in the month in excess of the SLA (determined at the deemed per minute rate ServiceNow or ServiceNow's authorized reseller charged to Customer for Customer's use of the affected Subscription Service), which Customer may request ServiceNow or ServiceNow's authorized reseller, as applicable, to apply to the next invoice for subscription fees. "**Available**" means that the Subscription Service can be accessed by Customer via a secure password protected web site(s) hosted by ServiceNow, except for: (i) Maintenance Downtime in an amount fewer than two (2) hours per calendar month; and (ii) downtime caused by circumstances beyond ServiceNow's control, including without limitation modifications of the ServiceNow Applications by any person other than ServiceNow or a

person acting at ServiceNow's direction, Custom Applications, a Force Majeure Event, such as, for example, general Internet outages, failure of Customer's infrastructure or connectivity (including without limitation, direct connectivity and virtual private network (VPN) connectivity to the Subscription Service), computer and telecommunications failures and delays not within ServiceNow's control, and network intrusions or denial-of-service or other criminal attacks.

Customer must request all service credits or service extensions in writing to ServiceNow or ServiceNow's authorized reseller, as applicable, within thirty (30) days of the end of the month in which the SLA was not met, identifying the Support requests relating to the lack of Availability. The total amount of service extension or credits for any month may not exceed the subscription fee for the affected Subscription Service for the month, and has no cash value. Customer agrees that ServiceNow or ServiceNow's authorized reseller, as applicable, may delay issuing service credits until such amounts reach a minimum threshold of one thousand U.S. dollars ($1,000 USD).

# servicenow

**ORDER FORM**

ServiceNow, Inc.
4810 Eastgate Mall
San Diego, CA 92121

PO Required? [blank]

## Customer Invoice Address:

| | |
|---|---|
| Name: | County of Monterey |
| Address: | 168 W Alisal Street |
| Suite: | 3rd Floor |
| City: | Monterey |
| State/Province: | CA |
| Zip/Postal Code: | 93901 |
| Country: | United States |
| Website: | www.co.monterey.ca.us |

## Customer Contact

| | |
|---|---|
| Name: | Fred Hartmann |
| Title: | IT Division Manager |
| Phone: | 8317596954 |
| E-mail: | hartmannf@co.monterey.ca.us |

## Customer Accounts Payable

| | |
|---|---|
| Name: | PLEASE PROVIDE |
| Phone: | |
| E-mail: | |
| PO#: | |

| | |
|---|---|
| Reference Contract #(s): | 31013CH |
| Reference Statement of Work #(s): | 31013CH-SOW1 |

| | |
|---|---|
| Subscription Term: | 36 months |
| Start Date: | December 20, 2013 |
| End Date: | December 19, 2016 |
| Currency: | USD |

| | |
|---|---|
| ServiceNow Account Executive: | Christopher Hunt |
| E-mail: | chris.hunt@servicenow.com |

## Subscription:

| Subscription: | Type | Units | Subscription Term | Net Price (monthly) | Net Price (annual) | Net Price (total) |
|---|---|---|---|---|---|---|
| ServiceNow® IT Service Automation Suite (Platinum Edition) | Fulfiller User | 100 | 36 | $ 90.00 | $ 108,000.00 | $ 324,000.00 |
| ServiceNow® IT Service Automation Suite | Requester User (Promo) | 1500 | 36 | Included | included | Included |
| ServiceNow® Orchestration Core | Not Applicable | 1 | 36 | $ 2,500.00 | $ 30,000.00 | $ 90,000.00 |
| | | | | $ - | $ - | $ - |
| | | | Subscription Product Subtotal: | | $ 138,000.00 | $ 414,000.00 |

## Professional Services:

| Professional Services: | | | Unit of Measure | Product or Days/Hours | Net Price | Total Price |
|---|---|---|---|---|---|---|
| ServiceNow® Implementation - Tailored - T&M | | | Hours | 643 | Varied - See SOW | $ 145,125.00 |

## Travel and Expense Fees

| Travel and Expense Fees | | Estimated T&E |
|---|---|---|
| Estimated Professional Services Travel and Expense | 5 % of Professional Services | $ 7,256.25 |

| | | |
|---|---|---|
| Educational Services, Knowledge, and Professional Services Subtotal: | $ | 145,125.00 |
| Pre-tax Total: | $ | 559,125.00 |
| Estimated Travel & Expense Fees | $ | 7,256.25 |
| Estimated Taxes: | $ | - |
| Estimated Grand Total: | $ | 566,381.25 |

## Invoice Schedule:

| Invoice Schedule: | Invoice Date | Amount | Est. Taxes | Grand Total |
|---|---|---|---|---|
| Annual Subscription Fee | Upon Signature | $ 138,000.00 | $ - | $ 138,000.00 |
| Services – Based on Hours Worked | Monthly in Arrears | $ 145,125.00 | $ - | $ 145,125.00 |
| Annual Subscription Fee | November 19, 2014 | $ 138,000.00 | $ - | $ 138,000.00 |
| Annual Subscription Fee | November 19, 2015 | $ 138,000.00 | $ - | $ 138,000.00 |
| Estimated Travel Expenses | Monthly in Arrears | $ 7,256.25 | | $ 7,256.25 |
| | | $ 566,381.25 | $ - | $ 566,381.25 |

| Payment Terms | Net 30 Days from Invoice Date |
|---|---|
| | Please submit Purchase Orders (PO) to the address above to accountsreceivable@servicenow.com or fax to 877-824-0073 fifteen (15) days prior to invoice date. |
| | Any Terms and Conditions in the PO that are deviating from or additional to the Order Form are not applicable. |

## Hosting Details

| | |
|---|---|
| # of Instances: | 1 production 4TB Storage Limit / 2 non-productions 8TB Storage Limit |
| Instance Names: | |
| Customer ServiceNow Admin: | E-mail: |
| Other Options: | |
| Data Center: | US |

## Conditions and Notes:

**PRICES ARE FINAL AND ORDERS ARE NON-CANCELLABLE AND NON-REFUNDABLE.**

Customer shall reimburse ServiceNow for all authorized, reasonable and verifiable travel expenses incurred during the performance of the professional services, training and other services. ServiceNow agrees to keep commercially reasonable records of all expenses to support claims for reimbursement from Customer. All fees and expenses shall be invoiced to Customer within sixty (60) days of the date the fees and expenses were incurred. Terms are payable net thirty (30) days.

Terms for Education Services and Knowledge offerings are set forth on www.servicenow.com/schedules.do.

## Order Terms

ENTIRE AGREEMENT. If Customer has a signed subscription service agreement ("Master Agreement") with ServiceNow for the services set forth in this order form, then this order form and product overview (collectively, "Order Form"), is issued under and is incorporated into the Master Agreement between ServiceNow and Customer. If any provision of this Order Form conflicts with the Master Agreement, then this Order Form shall control only for use authorization, product description, quantity, price and other order terms set forth in the Order Form.

If Customer does not have a Master Agreement, Customer's terms for the purchase of the services set forth in this Order Form are governed by the Product Overview, the General Terms and Conditions, the Subscription Service Guide, and the applicable Service Description for the purchased packaged services, ALL OF WHICH ARE HEREBY INCORPORATED HEREIN BY REFERENCE IN THEIR ENTIRETY (if not attached herein, then as set forth on www.servicenow.com/schedules.do) (collectively, "Standard Agreement"). Customer may request printed copies of the documents incorporated herein by reference by emailing us at legal.request@servicenow.com. All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Standard Agreement. "Agreement" hereunder means the Standard Agreement.

The terms of any purchase order or similar document submitted by Customer to ServiceNow will not modify the provisions of the Master Agreement or Standard Agreement.

ORDERS. Orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any communication about ServiceNow's future plans. Prices are final and orders are non-cancellable and non-refundable. A breach by a party of its obligations with respect to one service shall not by itself constitute a breach by that party of its obligations with respect to another service even if the services are enumerated in the same Order Form.

PAYMENT. Subscription fees are billed in advance. Amounts are due net 30-days from the date of invoice in the stated currency, and are exclusive of taxes, duties and similar assessments on Customer's use, which Customer agrees to pay, excluding taxes on ServiceNow's income.

CUSTOMER RESPONSIBILITIES. Customer is responsible for complying with the Agreement. If Customer exceeds its permitted use of the Subscription Service, then, without limiting ServiceNow's other rights and remedies hereunder, Customer will promptly notify ServiceNow and within thirty (30) days thereafter: (i) disable unpermitted use; or (ii) purchase additional subscriptions. ServiceNow may review Customer's use of the Subscription Service, and Customer shall provide any reasonable assistance, to verify Customer's compliance with the Agreement. ServiceNow may suspend Customer's use of the Subscription Service after giving thirty (30) days written notice of non-compliance identified in such review.

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

LIMITATIONS 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 SERVICES PROVIDED HEREUNDER, WHETHER BASED ON CONTRACT, IN TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE 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) BODILY INJURY OR DEATH; (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED FOR SERVICES PROVIDED HEREUNDER.

EXCLUSION OF DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COSTS OF SUBSTITUTE GOODS, 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, TORT, OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) BODILY INJURY OR DEATH; AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

ACKNOWLEDGED AND AGREED:

| Customer | County of Monterey | ServiceNow, Inc. | |
|---|---|---|---|
| Signature: | _Michael R Derr (signature)_ | Signature: | |
| Name: | Michael R DERR | Name: | |
| Title: | Contracts / Purchasing Officer | Title: | |
| Date: | 12-19-13 | Date: | |

**Order Terms**

ENTIRE AGREEMENT. If Customer has a signed subscription service agreement ("Master Agreement") with ServiceNow for the services set forth in this order form, then this order form and product overview (collectively, "Order Form"), is issued under and is incorporated into the Master Agreement between ServiceNow and Customer. If any provision of this Order Form conflicts with the Master Agreement, then this Order Form shall control only for use authorization, product description, quantity, price and other order terms set forth in the Order Form.

If Customer does not have a Master Agreement, Customer's terms for the purchase of the services set forth in this Order Form are governed by the Product Overview, the General Terms and Conditions, the Subscription Service Guide, and the applicable Service Description for the purchased packaged services, ALL OF WHICH ARE HEREBY INCORPORATED HEREIN BY REFERENCE IN THEIR ENTIRETY (if not attached herein, then as set forth on www.servicenow.com/schedules.do) (collectively, "Standard Agreement"). Customer may request printed copies of the documents incorporated herein by reference by emailing us at legal.request@servicenow.com. All undefined capitalized terms herein shall have the meanings ascribed to such terms in the Standard Agreement. "Agreement" hereunder means the Standard Agreement.

The terms of any purchase order or similar document submitted by Customer to ServiceNow will not modify the provisions of the Master Agreement or Standard Agreement.

ORDERS. Orders are not contingent on, and Customer has not relied on, the delivery of any future functionality regardless of any communication about ServiceNow's future plans. Prices are final and orders are non-cancellable and non-refundable. A breach by a party of its obligations with respect to one service shall not by itself constitute a breach by that party of its obligations with respect to another service even if the services are enumerated in the same Order Form.

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CUSTOMER RESPONSIBILITIES. Customer is responsible for complying with the Agreement. If Customer exceeds its permitted use of the Subscription Service, then, without limiting ServiceNow's other rights and remedies hereunder, Customer will promptly notify ServiceNow and within thirty (30) days thereafter: (i) disable unpermitted use; or (ii) purchase additional subscriptions. ServiceNow may review Customer's use of the Subscription Service, and Customer shall provide any reasonable assistance, to verify Customer's compliance with the Agreement. ServiceNow may suspend Customer's use of the Subscription Service after giving thirty (30) days written notice of non-compliance identified in such review.

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

LIMITATIONS 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 SERVICES PROVIDED HEREUNDER, WHETHER BASED ON CONTRACT, IN TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE 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) BODILY INJURY OR DEATH; (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) CUSTOMER'S OBLIGATION TO PAY AMOUNTS OWED FOR SERVICES PROVIDED HEREUNDER.

EXCLUSION OF DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER SERVICENOW NOR CUSTOMER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COSTS OF SUBSTITUTE GOODS, 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, TORT, OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) BODILY INJURY OR DEATH; AND (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

ACKNOWLEDGED AND AGREED:

| **Customer** County of Monterey | | **ServiceNow, Inc.** | |
|---|---|---|---|
| Signature: | | Signature: | _[signature]_ |
| Name: | | Name: | Michael P. Scarpelli |
| Title: | | Title: | CFO |
| Date: | | Date: | 12/27/13 |

**ServiceNow® Subscription Service**
**Product Overview – Order Form Addendum**

| ORDERING – PRODUCT TYPE | | | | | |
|---|---|---|---|---|---|
| **Products** / **Packages** | **IT Service Automation Suite (one or two app limit)** | **IT Service Automation Suite (Gold Edition)** | **IT Service Automation Suite (Platinum Edition)** | **IT Service Automation Suite (Diamond Edition)** | **CreateNow Development Suite** |
| Incident Management | Option[1] | Included | Included | Included | - |
| Problem Management | Option[1] | Included | Included | Included | - |
| Change Management | Option[1] | Included | Included | Included | - |
| Release Management | Option[1] | Included | Included | Included | - |
| Configuration Management (CMDB) | Included | Included | Included | Included | - |
| Asset Management | Option[1] | Included | Included | Included | - |
| Request Management | Option[1] | Included | Included | Included | - |
| IT Cost Management | Option[1] | Included | Included | Included | - |
| Work Management | Option[1] | - | Included | Included | - |
| Project Portfolio Management | Option[1] | - | Included | Included | - |
| Software Development Lifecycle (SDLC) | Option[1] | - | Included | Included | - |
| IT Governance, Risk and Compliance (IT GRC) | Option[1] | - | Included | Included | - |
| **DEVELOPMENT USAGE OPTIONS** | | | | | |
| Application Configuration[2] | Included | Included | Included | Included | - |
| ITSA-Based Custom Applications[3] | - | - | - | Unlimited Included | - |
| Custom Applications[4] | - | - | - | Unlimited Included | Per App or Unlimited as Purchased |
| Custom Applications (No Requesters)[5] | - | - | - | Unlimited Included | Per App or Unlimited as Purchased |
| **PRODUCT OPTIONS** | | | | | |
| Performance Analytics | Option | Option | Option | Included | Option |
| Discovery | Option | Option | Option | Option | Option |
| Orchestration Core | Option | Option | Option | Option | Option |
| Orchestration Cloud Provisioning Suite | Option | Option | Option | Option | Option |
| Orchestration Cloud Provisioning Application | Option | Option | Option | Option | Option |
| Orchestration Add-ons | Option | Option | Option | Option | Option |
| Public Catalog | Option | Option | Option | Option | Option |
| Service Automation Platform | Included | Included | Included | Included | Included |

1 – Customers have the right to purchase up to two (2) IT Service Automation Applications a la carte.

2 – "Application Configuration" means the authorization to change the values of pre-defined fields, add new fields to existing tables, add new tables that provide additional attributes around the process (i.e., people, place, and things), build workflow for the process (such as custom approval workflows), modify the UI and form layouts, integrate with external data sources, and tailor the process through custom scripting. Application Configuration is restricted to the process included in the IT Service Automation Application. Creating ITSA-Based Custom Applications is excluded, including without limitation Customer is prohibited from copying and re-labeling any of the tables associated with the IT Service Automation Application.

3 – "ITSA-Based Custom Applications" means the authorization to develop and use custom applications in production environments that are built by copying and re-labeling one or more IT Service Automation Applications. ITSA-Based Custom Applications involve the creation of new custom processes that are not addressed in the IT Service Automation Application (such as custom processes for requesting goods or services, scheduling resources or planning events) that may or may not have automation or workflow associated with them.

4 – "Custom Applications" means the authorization to develop and use custom applications in production environments that are not built by copying and re-labeling an IT Service Automation Application. Custom applications may be built as extensions of the Task table and cannot be an extension of an IT Service Automation Application table structure. Customers are prohibited from copying and re-labeling any of the tables associated with the IT Service Automation Suite of applications. Custom Applications may not be built for a process covered in one or more of the IT Service Automation Applications.

5 – "Custom Applications (No Requesters)" means the authorization to develop and use custom applications in production environments, without Requesters, that are not built by copying and re-labeling an IT Service Automation Application. Custom applications may be built as extensions of the Task table and cannot be an extension of an IT Service Automation Application table structure. Customers are prohibited from copying and re-labeling any of the tables associated with the IT Service Automation Suite of applications. Custom applications may not be built for a process covered in one or more of the IT Service Automation Applications.

**USER TYPE DEFINITIONS**

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

"Requester" is any User checked as "active" on his or her user profile in the subscription service other than a Fulfiller or Approver. A Requestor creates, edits, and views his or her own requests. A Requester may perform only the functions defined in the table below for Requester.

"Fulfiller" is any User given a role in the subscription service by Customer other than the Approver role. A Fulfiller has full administrative, developer, and use rights. A Fulfiller may only perform the functions set forth in the table below for Fulfiller. Customer is required to complete the Department table for each Fulfiller, and to identify each Department as IT (Yes/No).

"Approver" is any User given the ServiceNow provided "Approver" role in the subscription service by Customer and no other role. An Approver approves or denies a record routed to him or her. An Approver may only perform the functions set forth in the table below for Approver.

| FUNCTION | USER TYPES | | |
| --- | --- | --- | --- |
| | REQUESTER | APPROVER | FULFILLER |
| USER ROLE(S) DEFINED IN SERVICE | None | "Approver" role only | Any role other than "Approver" |
| Create its own request | included | included | included |
| View its own request | Included | included | included |
| Modify its own request | Included | included | included |
| Search the Service Catalog | Included | included | included |
| Search the Knowledge Base | Included | Included | included |
| Access public pages | Included | included | included |
| Take surveys | Included | included | included |
| Approve requests by email that are routed to User | Included | included | included |
| Set its own notification preferences | Included | included | included |
| View assets assigned to User | Included | included | included |
| Access and post to Live Feed | Included | included | included |
| Initiate Chat sessions | included | Included | included |
| Approve requests routed to User | - | included | included |
| Create any record | - | - | included |
| Delete any record | - | - | included |
| Modify any record | - | - | included |
| View any report | - | - | included |
| Create any report | - | - | included |
| Delete any report | - | - | included |
| Modify any report | - | - | included |
| Perform development activities | - | - | included |
| Perform administrative activities | - | - | included |

## IT SERVICE AUTOMATION SUITE – PURCHASING USAGE

Customer purchases its required capacity of the following:

**"IT Service Automation Suite – Fulfiller User":** Fulfillers in the IT department.

**"IT Service Automation Suite – Fulfiller Non-IT User":** Fulfillers outside the IT department.

**"IT Service Automation Suite – Requester User":** Each Requester in the subscription service is charged a fee for each IT Service Automation Suite – Fulfiller User.

**"IT Service Automation Suite – Requester Non-IT User":** Each Requester in the subscription service is charged a fee for each IT Service Automation Suite – Fulfiller Non-IT User.

**"Approver User":** Each Approver is charged unless already charged for the CreateNow Development Suite.

Each Fulfiller, Requester and Approver has the Fulfiller, Requester and Approver user type, respectively, in all IT Service Automation Applications, ITSA-Based Custom Applications (if any) and Custom Applications (if any) included in Customer's ordered edition of the IT Service Automation Suite.

## CREATENOW DEVELOPMENT SUITE – PURCHASING USAGE

Customer purchases its required capacity of the following:

**"CreateNow Development Suite (Single Application) – Fulfiller User":** Each CreateNow Development Suite (Single Application) – Fulfiller User has the Fulfiller user type for one (1) Custom Application that may be made available to Requesters.

**"CreateNow Development Suite (Unlimited Applications) – Fulfiller User":** Each CreateNow Development Suite (Unlimited Applications) – Fulfiller User has the Fulfiller user type for an unlimited number of Custom Applications that may be made available to Requesters.

**"CreateNow Development Suite (Single Application No Requesters) – Fulfiller User":** Each CreateNow Development Suite (Single Application No Requesters) – Fulfiller User has the Fulfiller user type for one (1) Custom Application that cannot be made available to Requesters.

**"CreateNow Development Suite (Unlimited Applications No Requesters) – Fulfiller User":** Each CreateNow Development Suite (Unlimited Applications No Requesters) – Fulfiller User has the Fulfiller user type for an unlimited number of Custom Applications that cannot be made available to Requesters.

**"CreateNow Development Suite – Requester User":** Each Requester in the subscription service is charged a fee for each CreateNow Development Suite (Single Application) – Fulfiller User and each CreateNow Development Suite (Unlimited Applications) – Fulfiller User. Each Requester has the Requester user type in all Custom Applications.

**"Approver User":** Each Approver is charged unless already charged for the IT Service Automation Suite. Each Approver has the Approver user type in all Custom Applications.

Note: Customer must be on the subscription service release family "Calgary" or later, and must list all Custom Applications on the "Sys_App" table. Each Fulfiller of a Custom Application must have a role that is not associated with an IT Service Automation Suite role, and any Fulfiller with use of unlimited applications must have the word "Unlimited" in his or her role in each Custom Application. Each application for a new process (such as processes for requesting goods or services, scheduling resources or planning events), that may or may not have automation or workflow associated with them, is a separate Custom Application that must be listed uniquely on the "Sys_App" table

## PERFORMANCE ANALYTICS APPLICATION – PURCHASING USAGE

Customer purchases its required capacity of the following:

**"Performance Analytics – Fulfiller User":** Each Performance Analytics – Fulfiller User has the right to use Performance Analytics with any IT Service Automation Application, ITSA-Based Custom Application or Custom Application for which he or she has the Fulfiller user type.

Requesters and Approvers have no use rights in Performance Analytics.

## DISCOVERY APPLICATION – PURCHASING USAGE

Customer purchases its required capacity of the following:

**"Discovery Application – Devices":** A Discovery Application Device is any physical or virtual device that is: (i) discovered by the Discovery Application; and (ii) assigned as a configuration item by the Configuration Management (CMDB) Application.

## ORCHESTRATION CORE – PURCHASING USAGE

Customer purchases Orchestration Core which includes the following:

Orchestration Core and one (1) Orchestration Activity Pack - 10-Pack Custom.

## ORCHESTRATION CLOUD PROVISIONING SUITE – PURCHASING USAGE

Customer purchases Orchestration Cloud Provisioning Suite which includes the following:

Orchestration Core; Orchestration Cloud Provisioning Application; Customer's choice of either Orchestration Activity Pack - Amazon EC2 or Orchestration Activity Pack - VMware vSphere; and twenty (20) Orchestration Cloud Provisioning Catalog Items - 10-Packs.

## ORCHESTRATION CLOUD PROVISIONING APPLICATION – PURCHASING USAGE

Customer purchases Orchestration Cloud Provisioning Application which includes the following:

Orchestration Cloud Provisioning Application; Customer's choice of either Orchestration Activity Pack - Amazon EC2 or Orchestration Activity Pack - VMware vSphere; and one (1) Orchestration Cloud Provisioning Catalog Items – 10-Pack.

Note: Requires Orchestration Core.

## ORCHESTRATION ADD-ONS – PURCHASING USAGE

Customer purchases its required capacity of the following add-ons:

"Orchestration Activity Pack - 10-Pack Custom": Authorizes ten (10) Custom Orchestration Activities.

"Orchestration Activity Pack - 200-Pack Custom": Authorizes two-hundred (200) Custom Orchestration Activities.

"Orchestration Activity Pack - VMware vSphere": Authorizes VMware vSphere Orchestration Activity.

"Orchestration Activity Pack - Amazon EC2": Authorizes Amazon EC2 Orchestration Activity.

"Orchestration Cloud Provisioning - Catalog Items – 10-Pack": Authorizes ten (10) Orchestration Catalog Items.

Note: Orchestration Add-Ons require Orchestration Core and Orchestration Cloud Provisioning Application, as applicable.

## PUBLIC CATALOG – PURCHASING USAGE

Customer purchases its required capacity of user types for the IT Service Automation Suite or the CreateNow Development Suite, as applicable, for Public Catalog use.

In addition, Customer purchases its required capacity of the following:

"Public Catalog – Request": A Public Catalog Request is a Service Catalog item initiated by Request Management or a Custom Application to facilitate approval or fulfillment of requests for goods and services made by a Public Catalog Requester. A "Public Catalog Requester" means any person that acts as a Requester for the Public Catalog that is not an employee or contractor of Customer.

Customer must not exceed the number of purchased Public Catalog – Requests at any time during an annual subscription term. Any purchased Public Catalog – Request is valid for and must be used within the annual subscription term and all purchased and unused requests shall expire at the end of the annual subscription term with no further credit or refund and shall have no value thereafter.

## PRODUCT DEFINITIONS

### IT SERVICE AUTOMATION APPLICATIONS

| | |
|---|---|
| Incident Management | Enables the customer to restore normal IT operations by providing capabilities to record, classify, distribute, and manage incidents through to resolution. |
| Problem Management | Facilitates the process of identifying the root causes of errors in the IT infrastructure by providing capabilities to record, escalate, and manage problems through to resolution. |
| Change Management | Allows repeatable methods and procedures to be used for introducing change into the IT infrastructure by providing capabilities for creating, assessing, approving, and executing changes. |
| Release Management | Facilitates the planning, design, build, configuration, testing, and release of hardware and software into the IT infrastructure. |
| Request Management | Provides capabilities to approve and fulfill requests for IT goods and services defined and presented in the service catalog. |
| Configuration Management (CMDB) | Provides capabilities to identify, record, and report on IT configuration items and their relationships. |
| Asset Management | Provides capabilities to track and manage the physical, contractual, and financial aspects of IT assets. |
| Project Portfolio Management | Provides capabilities to plan, organize, and manage IT projects and project portfolios including associated tasks and resources. |
| Software Development Lifecycle (SDLC) | Provides capabilities to manage the software development process in IT projects including enhancement requests, defect prioritization, definition of release content, and tasks. |
| IT Governance, Risk and Compliance (IT GRC) | Provides capabilities to document IT policies and procedures, define and assess risks and controls, audit and test controls, and track remediation tasks. |
| IT Cost Management | Provides capabilities to track one-time and recurring costs of configuration items used by IT, and allocate those costs to business units using allocation rules. |
| Work Management | Provides capabilities to create work order records for the repair and service of IT equipment. Includes capabilities to qualify, dispatch, and issue work tasks based on location and skill. |

### PRODUCT OPTIONS

| | |
|---|---|
| Performance Analytics | Provides advanced analytics and time series analysis for key performance indicators (KPIs). |
| Discovery | Locates Devices connected to an enterprise network. When Discovery locates a Device, it explores its configuration, status, software, and relationships to other connected Devices, and updates the Configuration Management Database (CMDB). |
| Orchestration Core | Enables orchestration of activities outside Customer's instance of the subscription service. Orchestration Core includes the following Orchestration Activities: Active Directory; PowerShell; and SSH. |
| Orchestration Activity – Amazon EC2 | A discrete Amazon EC2 task or activity provided by ServiceNow for use with Orchestration Core. |
| Orchestration Activity – VMware vSphere | A discrete VMware vSphere task or activity provided by ServiceNow for use with Orchestration Core. |

| | |
|---|---|
| Orchestration Activity - Custom | A discrete custom task or activity provided by Customer for use with Orchestration Core. |
| Orchestration Cloud Provisioning Application | Provides the capability to automate the lifecycle of public and private Orchestration Cloud Provisioning Catalog Items. |
| Orchestration Cloud Provisioning – Catalog Items | An item such as a VM Template or Amazon Machine Image that is placed in the Service Catalog and made available for provisioning by the Orchestration Cloud Provisioning Application. |
| Public Catalog | Service Catalog use in which requests are fulfilled using the ServiceNow Request Management Application or a Custom Application where the persons performing the Requester user type are not Customer's employees or contractors. |

**SERVICE AUTOMATION PLATFORM FEATURES**

| | |
|---|---|
| App Creator | A customization and configuration tool. |
| Business service maps | Graphically displays the configuration items related to a business service, and indicates the status of those configuration items. |
| Chat | Provides real-time communication capability via instant messaging between users. |
| Coaching loops | Provides the capability to monitor and provide feedback on a specific behavior of an individual or group. |
| Content management system | Provides the ability to create custom interfaces. |
| Custom application templates | Include tables, modules and other building blocks to assist the customer in creating custom applications that automate processes for sales force automation and facilities management. |
| Graphical workflow | Provides the capability to automate multi-step processes <u>within</u> the Customer's instance of the subscription service. E |
| Knowledge management | Provides role-based tools to create, store, and publish information. Provides mechanisms for version control and approvals of documents in the review process. |
| Live feed | Provides a place to post and share content. |
| Mobile | Provides a customizable ServiceNow interface for mobile devices. |
| Reporting | Provides the capability to create and share reports and dashboards. |
| Service Catalog | Displays a listing of the goods and services that the customer provides <u>within</u> the enterprise to its employees and contractors. |
| Service level management | Establishes and monitors status of service contracts and service level agreements between the organization and its customers or third party service providers. |
| Skills management | Assigns configured competencies to groups or users. |
| Survey management | Allows for polling and collection of data including configuration for specific events and/or conditions. |
| Time cards | Records time worked on tasks either manually or automatically. |

**ENABLING REQUIREMENTS AND RESTRICTIONS**

Customer shall restrict its use of the subscription service as specified in the order form and this product overview, including without limitation to its ordered product types and usage amounts.

Use of the subscription service to automate a process supported within an IT Service Automation Application requires purchase of an IT Service Automation Suite which includes that application. Customer shall not access the subscription service to develop or use a competing product or service to the subscription service.

Support is not included for Customer or third-party provided Application Configurations, ITSA-Based Custom Applications, Custom Applications or Custom Orchestration Activities, and any service level agreement of ServiceNow does not apply to any unavailability or degradation of performance of the subscription service caused by Customer or third-party provided Application Configurations, ITSA-Based Custom Applications, Custom Applications or Custom Orchestration Activities.

Custom Application templates and other development materials are provided by ServiceNow without warranty and support.

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

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