



**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")
and
Precision Task Group, Inc. ("Contractor")
for
ServiceNow Products and Professional Services**

Contract Number: MA 5600 NC220000008

The City accepts the Contractor's Offer for the above requirement and enters into the following Contract. This Contract is between Precision Task Group, Inc. having offices at 9801 Westheimer, Suite 803, Houston, Texas 77042 and the City, a home-rule municipality incorporated by the State of Texas.

1.1 This Contract is composed of the following documents in order of precedence:

- 1.1.1 This Document
- 1.1.2 Supplemental Terms, incorporated herein and attached as Exhibit A hereto.
- 1.1.3 Scope of Work, attached as Exhibit B hereto.
- 1.1.4 DIR-TSO-4209, incorporated herein by reference.
- 1.1.5 Contractor's Offer, incorporated herein and attached as Exhibit C hereto.
- 1.1.6 ServiceNow Public Sector Subscription Service Terms, incorporated herein and attached as Exhibit D hereto.

1.2 Term of Contract.

This Contract shall remain in effect for a term of 60 months or the City terminates the Contract.

- 1.3 Designation of Key Personnel.** The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor shall promptly notify the City and obtain approval for the replacement. Such approval shall not be unreasonably withheld. The Contractor's and City's key personnel are identified as follows:

| | <u>Name</u> | <u>Phone Number</u> | <u>Email Address</u> |
|--|---------------------|---------------------|--|
| Contractor Contract Manager | Robert Ozuna | 713-787-1164 | Robert.Ozuna@ptg.com |
| City Contract Manager | Corina Preston | 512-974-7823 | Corina.Preston@austintexas.gov |
| City Contract Administrator, Procurement Specialist | Daniel Dellemonache | 512-974-2981 | Daniel.Dellemonache@austintexas.gov |

- 1.4 Invoices.** The City's preference is to have invoices emailed to CTMAPInvoices@austintexas.gov or mailed to the below address:

| | |
|-----------------------|--|
| | City of Austin |
| Department | CTM |
| Attn: | Accounts Payable |
| Address | 6800 Burleson Road, Building 312, Suite 265 |
| City, State, Zip Code | Austin, Texas 78744 |

For questions regarding your invoice/payment please contact the City Contract Manager.

This Contract (including any Exhibits and referenced Documents) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

By signing below, Contractor hereby certifies the following are true and will ensure the following will remain true throughout the term of this Contract:

1. That its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.
2. That it has not in any way directly or indirectly:
 - a. Colluded, conspired, or agreed with any other person, firm, or corporation, as to the amount of this contract or the terms or conditions of this contract.
 - b. paid or agreed to pay any other person, firm, or corporation any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the contract.
3. That it has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Contract documents.
4. In accordance with Chapter 176 of the Texas Local Government Code, that the Offeror:
 - a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;
 - b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$100 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that City is considering doing business with the Offeror; and
 - c. does not have a family relationship with a local government officer of the City in the third degree of consanguinity or the second degree of affinity.
5. Pursuant to City Council Resolution No. 20191114-056, that its firm and its principals are not currently and will not during the term of the Contract engage in practicing LGBTQ+ conversion therapy; referring persons to a healthcare provider or other person or organization for LGBTQ+ conversion therapy; or Contracting with another entity to conduct LGBTQ+ conversion therapy. If the City determines in its sole discretion that Contractor has

during the term of this Contract engaged in any such practices, the City may terminate this Contract without penalty to the City.

- 6. Pursuant to Texas Government Code §2271.002, the Contractor verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.
- 7. Pursuant to Texas Government Code Chapter 2274, the Contractor verifies that if it will have remote or direct access to communication infrastructure systems, cybersecurity systems, the electric grid, hazardous waste treatment systems, or water treatment facilities as a result of this contract, that it is not owned by or the majority of stock or other ownership interest of the Contractor is not held or controlled by:
 - a. individuals who are citizens of China, Iran, North Korea, Russia, or a Governor-designated country; or
 - b. a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a Governor-designated country; or
 - c. headquartered in China, Iran, North Korea, Russia, or a Governor-designated country.
- 8. Pursuant to Texas Government Code Chapter 2274, the Contractor verifies that if it has 10 or more full-time employees, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- 9. Pursuant to Texas Government Code Chapter 2274, the Contractor certifies that, if they have 10 or more full-time employees: (1) they do not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

PRECISION TASK GROUP, INC.

Michael Baudler

Printed Name of Authorized Person
Michael Baudler

Digitally signed by Michael Baudler
DN: CN = Michael Baudler email = michael.baudler@ptg.com C = US
O = Precision Task Group, Inc.
Date: 2021.10.22 08:55:05 -06'00'

Signature

CFO

Title:

10/22/2021

Date:

CITY OF AUSTIN

Brett Hardy

Printed Name of Authorized Person
Brett D. Hardy

Digitally signed by Brett D. Hardy
Date: 2021.12.09 15:25:43 -06'00'

Signature

Procurement Supervisor

Title:

09 December 2021

Date:

EXHIBIT A
SUPPLEMENTAL TERMS – COOPERATIVE

The Contractor agrees that the Contract shall be governed by the following terms and conditions.

1. GENERAL

1.1 INDEFINITE QUANTITY:

The quantities and/or services listed herein are estimates of the goods and services needed by the City for the period of the Contract. The City reserves the right to purchase more or less of these quantities and/or services as may be required during the Contract term. Quantities and/or services will be as needed and specified by the City for each order. Unless specified in the Contract, there are no minimum order quantities.

1.2 INVOICES:

- A. The Contractor shall submit separate Invoices for each Order after each delivery or on the schedule provided in the Contract. If partial shipments or deliveries are authorized by the City, a separate Invoice must be sent for each shipment or delivery made.
- B. Invoices shall be sent to the address on the Purchase Order or Delivery Order in the section entitled, "BILL TO". Proper Invoices must include a unique Invoice number, the purchase Order or delivery Order number, the master agreement number (if applicable), the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized according to pricing structure in the Contract. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the Invoice. The Contractor's name and, if applicable, the tax identification number on the Invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's Invoice. Invoices received without all required information cannot be processed and will be returned to the vendor.
- C. Invoices for labor shall include a tabulation of work-hours at the appropriate rates and grouped by work Order number. Time billed for labor shall be limited to hours actually worked.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontracting and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the Invoiced amount. The City will furnish a tax exemption certificate upon request.

1.3 PAYMENT:

- A. All proper Invoices received by the City will be paid within 30 calendar days of the City's receipt of the Deliverables or of the Invoice, whichever is later.
- B. If payment is not timely made, (per Paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code §2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until 10 calendar days after the grounds for withholding payment have been resolved.
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the Invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
 - i. Delivery of defective or non-conforming Deliverables by the Contractor;
 - ii. Third party claims, which are not covered by the insurance which the Contractor is required to provide under the terms of this Contract, are filed or there is reasonable evidence indicating probable filing of such claims;
 - iii. Failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
 - iv. Damage to the property of the City or the City's agents, employees or Contractors, which is not covered by insurance required to be provided by the Contractor;

- v. Reasonable evidence demonstrates that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - vi. Failure of the Contractor to submit proper Invoices with all required attachments and supporting documentation; or
 - vii. Failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, §1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.
- G. The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed, and obligations incurred prior to the date of notice of non-appropriation.

1.4 AUDITS AND RECORDS:

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract, at the City's expense. The Contractor agrees to refund to the City any overpayments disclosed by any such audit. The City agrees to protect from disclosure Contractor's confidential and proprietary information disclosed during an audit to the same extent it protects its own confidential and proprietary information, subject to the requirements of the Texas Public Information Act, Chapter 2251, Texas Government Code.
- B. Records Retention:
 - i. Contractor is subject to City Code Chapter 2-11 (Records Management), and as it may subsequently be amended.
 - ii. The Contractor shall retain all records for a period of three years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.

1.5 TEXAS PUBLIC INFORMATION ACT:

- A. All material submitted by the Contractor to the City related to the Contract shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
- B. In accordance with Texas Government Code §552.372, if this Contract has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a fiscal year, Contractor agrees to:

- i. Preserve all Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract;
- ii. Promptly provide to the City any Contracting information related to the Contract that is in the custody or possession of Contractor on request of the City; and
- iii. On completion of the Contract, either:
 - (1) Provide at no cost to the City all Contracting information related to the Contract that is in the custody or possession of Contractor; or
 - (2) Preserve the Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract.
- C. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Contract, and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that Subchapter.

1.6 ADVERTISING:

The Contractor shall not advertise or publish, without the City's prior written consent, the fact that the City has entered into the Contract, except to the extent required by law.

1.7 ASSIGNMENT DELEGATION:

The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third-party beneficiaries to the Contract.

1.8 NON-DEBARMENT CERTIFICATION:

When using Federal funds, the City of Austin does not Contract with or make prime or sub-awards to parties that are debarred or whose principals are debarred from Federal Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs. The Contractor shall notify the Procurement Specialist within five business days if they become debarred from doing business with the Federal Government during the term of the Contract.

1.9 EQUAL OPPORTUNITY:

- A. **Equal Employment Opportunity:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the Contract and the Contractor's suspension or debarment from participation on future City Contracts until deemed compliant with Chapter 5-4.
- B. **Non-Retaliation:** The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.
- C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

1.10 MANDATORY ANTI-ISRAEL BOYCOTT PROVISION:

Pursuant to *Amawi v. Pflugerville Independent School District*, 373 F.Supp.3d 717 (W.D. Texas 2019), the State of Texas is preliminarily enjoined from enforcing this provision. However, if that injunction is lifted, this provision may apply to the Contract:

Pursuant to Texas Government Code §2271.002, the City is prohibited from contracting with any “company” for goods or services unless the following verification is included in this Contract.

- A. For the purposes of this Section only, the terms “company” and “boycott Israel” have the meaning assigned by Texas Government Code §2271.001.
- B. If the Contractor qualifies as a “company”, then the Contractor verifies that he:
 - i. does not “boycott Israel”; and
 - ii. will not “boycott Israel” during the term of this Contract.
- C. The Contractor’s obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code Chapter 2271 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Contract.

1.11 PROHIBITION ON LGBTQ+ CONVERSION THERAPY:

The Contractor certifies that it is aware of City Council Resolution No. 20191114-056, which prohibits the City from Contracting with entities that engage in certain practices related to conversion therapy. By accepting this Contract, the Contractor agrees that: (1) its firm and its principals are not currently and will not during the term of the Contract engage in practicing LGBTQ+ conversion therapy; referring persons to a healthcare provider or other person or organization for LGBTQ+ conversion therapy; or Contracting with another entity to conduct LGBTQ+ conversion therapy; and (2) if the City determines in its sole discretion that Contractor has during the term of this Contract engaged in any such practices, the City may terminate this Contract without penalty to the City.

1.12 SUBCONTRACTORS:

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or Subcontractor Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Subcontractor Plan as approved by the City (the “Plan”). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor’s Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective Deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager no later than the 10th calendar day of each month.
- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written Contract between the Contractor and Subcontractor. The terms of the Subcontract may not conflict with the terms of the Contract and shall contain provisions that:
 - i. Require that all Deliverables and services to be provided by the Subcontractor be provided in strict accordance with the provisions, Specifications and terms of the Contract;
 - ii. Prohibit the Subcontractor from further Subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such

- further Subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
 - iii. Require Subcontractors to submit all Invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its Invoice or application for payment to the City in accordance with the terms of the Contract;
 - iv. Require that all Subcontractors obtain and maintain, throughout the term of their Contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
 - v. Require that the Subcontractor follow terms as defined in section, AUDITS AND RECORDS and City Code Chapter 2-11
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any Contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than 10 calendar days after receipt of payment from the City.

1.13 INSURANCE:

A GENERAL INSURANCE REQUIREMENTS:

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages and endorsements required in Section B., Specific Insurance Requirements, to the City prior to Contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- ii. All endorsements naming the City as additional insured, waivers, and notices of cancellation shall indicate, and the Certificate of Insurance shall be mailed to the following address:
 - City of Austin Purchasing Office
 - P.O. Box 1088
 - Austin, Texas 78767
 - OR
 - PURInsuranceCompliance@austinTexas.gov
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all Subcontractors prior to the Subcontractors commencing work on the project.
- v. The Contractor's and all Subcontractors' insurance coverage shall be written by companies authorized to do business in the State of Texas and have an A.M. Best rating of B+VII or better.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section B., Specific Insurance Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences

in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
 - ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in exposure, statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
 - x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
 - xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions greater than \$499,999 shall be disclosed on the Certificate of Insurance.
 - xii. If any required insurance is written on a claims-made basis, the Certificate of Insurance shall state that the coverage is claims-made and the retroactive date shall be prior to or coincident with the date of the Contract and the coverage continuous and shall be provided for 24 months following the completion of the Contract.
 - xiii. The insurance coverages specified in Section B., Specific Insurance Requirements, are required minimums and are not intended to limit the responsibility or liability of the Contractor.
- B. **Specific Insurance Coverage Requirements:** The Contractor, consistent with its status as an independent Contractor shall carry and will cause its Subcontractors to carry, at a minimum insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- i. **Commercial General Liability Insurance:** Coverage with minimum bodily injury and property damage per occurrence limits of \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
 - (1) The policy shall contain the following provisions:
 - a. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project;
 - b. Independent Contractors coverage (Contractor/Subcontracted work);
 - c. Products/Completed Operations Liability for the duration of the warranty period;
 - d. If the project involves digging or drilling, provide Explosion, Collapse, and Underground (X, C, & U) Coverage.
 - (2) The policy shall also include these endorsements in favor of the City of Austin:
 - a. Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage;
 - b. 30 Day's Notice of Cancellation, Endorsement CG 0205, or equivalent coverage;
 - c. The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.
 - ii. **Business Automobile Liability Insurance:** Coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - a. Waiver of Subrogation, Endorsement CA0444, or equivalent coverage;

- b. 30 Days' Notice of Cancellation, Endorsement CA0244, or equivalent coverage;
- c. The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

iii. **Cyber Liability Insurance:** Coverage of not less than \$1,000,000 each claim and annual aggregate providing coverage for damages and claims expenses, including notification expenses, arising from (1) breach of network security, (2) alteration, corruption, destruction or deletion of information stored or processed on a computer system, (3) invasion of privacy, including identity theft and unauthorized transmission or publication of personal information, (4) unauthorized access and use of computer systems, including hackers (5) the transmission of malicious code, and (6) website content, including claims of libel, slander, trade libel, defamation, infringement of copyright, trademark and trade dress and invasion of privacy.

Policy shall be endorsed to name City of Austin, its Affiliates, and their respective directors, officers, employees, and agents, as additional insureds.

C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. If endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

1.14 Pursuant to Texas Government Code Chapter 2274, the Contractor certifies that if we have remote or direct access to communication infrastructure systems, cybersecurity systems, the electric grid, hazardous waste treatment systems, or water treatment facilities as a result of any City contract, that we are not owned by or the majority of stock or other ownership interest of our firm is not held or controlled by:

- A. individuals who are citizens of China, Iran, North Korea, Russia, or a Governor-designated country; or
- B. company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a Governor-designated country; or
- C. headquartered in China, Iran, North Korea, Russia, or a Governor-designated country.

1.15 Pursuant to Texas Government Code Chapter 2274, the Contractor certifies that, if we have 10 or more full-time employees: (1) we do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the resulting contract against a firearm entity or firearm trade association.

2. SERVICES

2.1 TRAVEL EXPENSES:

All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the current United States General Services Administration Domestic Per Diem rates as published and maintained online at: <https://www.gsa.gov/travel/plan-book/per-diem-rates>

No amounts in excess of the Travel Policy or rates shall be paid. All Invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses

not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

2.2 WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):

- i. Contractors are required to obtain a certified criminal background report with fingerprinting (referred to as the “report”) for all persons performing on the Contract, including all Contractor, Subcontractor, and Supplier personnel (for convenience referred to as “Contractor’s personnel”).
- ii. The report may be obtained by reporting to one of the below governmental entities, submitting to fingerprinting and requesting the report [requestors may anticipate a two-week delay for State reports and up to a four- to six-week delay for receipt of a Federal report.].
 - i. Texas Department of Public Safety for any person currently residing in the State of Texas and having a valid Texas driver’s license or photo ID card;
 - ii. The appropriate governmental agency from either the U.S. state or foreign nation in which the person resides and holds either a valid U.S. state-issued or foreign national driver’s license or photo ID card; or
 - iii. A Federal Agency. A current Federal security clearance obtained from and certified by a Federal agency may be substituted.
- iii. Contractor shall obtain the reports at least 30 days prior to any onsite work commencement. Contractor also shall attach to each report the project name, Contractor’s personnel name(s), current address(es), and a copy of the U.S. state-issued or foreign national driver’s license or photo ID card.
- iv. Contractor shall provide the City a Certified Criminal Background Report affirming that Contractor has conducted required security screening of Contractor’s personnel to determine those appropriate for execution of the work and for presence on the City’s property. A list of all Contractor Personnel requiring access to the City’s site shall be attached to the affidavit.
- v. Upon receipt by the City of Contractor’s affidavit described in (D) above and the list of the Contractor’s personnel, the City will provide each of Contractor’s personnel a City-issued Contractor ID badge that is required for access to City property that shall be worn at all times by Contractor’s personnel while on the work site. Failure to wear or produce the ID badge may be cause for removal of an individual from the work site, without regard to Contractor’s schedule. Lost ID badges shall be reported to the City’s Contract Manager. Contractor shall reimburse the City for all costs incurred in providing additional ID badges to Contractor Personnel.
- vi. The City reserves the right to deny an ID badge to any Contractor personnel for reasonable cause, including failure of a Criminal History background check. The City will notify the Contractor of any such denial no more than 20 days after receipt of the Contractor’s reports. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work under the Contract, the Contractor shall so notify the City’s Contract Manager, in writing, within 10 calendar days of the receipt of notification of denial.
- vii. ID badges to enter and/or work on the City property may be revoked by the City at any time. ID badges must be returned to the City at the time of project completion and acceptance or upon removal of an individual from the work site.
- viii. Contractor is not required to obtain reports for delivery personnel, including but not limited to FedEx, UPS, Roadway, or other materials delivery persons, however all delivery personnel must

present company/employer-issued photo ID and be accompanied by at least one of Contractor's personnel at all times while at the work site.

- ix. Contractor shall retain the reports and make them available for audit by the City during regular business hours.



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MANAGEMENT
STATEMENT OF WORK
FOR
SERVICENOW IT SERVICE MANAGEMENT
PLATFORM



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1.0 Introduction

The Communications and Technology Management (CTM) department is the City of Austin's principal information technology service provider for the city of Austin and focuses on the implementation, delivery and operations of vital IT infrastructure network, platform solutions and telecommunications services, for continuous service improvement to enable our organizational partner's success of service delivery to the citizens of the City of Austin.

2.0 Purpose

The CTM Department is seeking a qualified vendor to provide new products and services for its ServiceNow IT Service Management (ITSM) platform service subscription, annual maintenance and support and managed services to develop and support their existing application platform. The ServiceNow platform has extend beyond ITSM and will include IT Asset Management (ITAM), and Integrated Risk Management (IRM) application suites rolled out in a FedRamp environment to serve our enterprise business departments. We are seeking a solicitation and an identified Statement of Work for deliverable based development work via a managed services contract for the ServiceNow platform and have identified the following expected deliverables for this solicitation. Qualified proposers must be able to enter into a multi-year agreement with annual payment options. Third party leasing or financing is not an option. Proposers not qualified to enter into a multi-year agreement will not be considered for evaluation.

3.0 Background

CTM's ServiceNow ITSM service subscription is listed in the table below including part numbers, SKUs and term dates beginning on 12/20/2021. This information is solely to provide the Contractor with context for CTM's current ServiceNow IT Service Management platform service subscription needs to be covered by the resulting contract once current services expire.

| Product Code | Subscription Product Name | Metric | New Units |
|--------------|--|----------------|-----------|
| PROD11355 | ServiceNow® IT Service Management Professional | Fulfiller User | 1000 |

CTM's ServiceNow ITAM service subscription is listed in the table below including part numbers, SKUs and term dates beginning on 12/20/2021. This information is solely to provide the Contractor with context for CTM's ServiceNow IT Asset Management platform service subscription needs to be covered by the resulting contract.

| Product Code | Subscription Product Name | Metric | New Units |
|--------------|---|--------------------|-----------|
| PROD15033 | ServiceNow® Software Asset Management Pro | Subscription Units | 10000 |
| PROD13583 | ServiceNow® Hardware Asset Management Pro | Subscription Units | 5000 |

CTM's ServiceNow IRM service subscription is listed in the table below including part numbers, SKUs and term dates beginning on 12/20/2021. This information is solely to provide the Contractor with context for CTM's ServiceNow Integrated Risk Management platform service subscription needs to be covered by the resulting contract.



| Product Code | Subscription Product Name | Metric | New Units |
|--------------|--|--------------|-----------|
| PROD12490 | ServiceNow® Integrated Risk Management Pro | IRM Operator | 10 |

CTM's ServiceNow FedRamp service subscription is listed in the table below including part numbers, SKUs and term dates beginning on 12/20/2021. This information is solely to provide the Contractor with context for CTM's ServiceNow FedRamp platform service subscription needs to be covered by the resulting contract.

| Vendor | Implementation Services | Metric |
|------------|-----------------------------|----------|
| ServiceNow | Migrate Instance to FedRAMP | 10 Weeks |

| Product Code | Subscription Product Name | Metric | New Units |
|--------------|---|--------------|-----------|
| | ServiceNow® FedRAMP Data Center | Per Instance | 4 |
| | ServiceNow® FedRAMP Annual Audit - Optional | | 1 |

4.0 Contract Term

The resulting contract shall be for a term of **12-months with four 12-month renewal options**. Current Annual Term to begin on 12/20/2021. Subscription renewals for maintenance and support will be paid on an annual basis for the next year of service.

5.0 Tasks/Deliverables

The Contractor shall:

- A** Provide ongoing project management for the vendor responsibilities in this solicitation. The purpose of this activity is to provide technical direction and control of vendor managed service development personnel and to provide a framework for project planning, communications, reporting and procedural and contractual activity. This activity is composed of the following tasks:
- Supplemental support to the City's Enterprise Development Program Manager to assist in current project implementation for project plan, tasks, schedules, and resources management for project implementation
 - Provide weekly status reports in line with City standards to include key activities completed each week, key activities to complete next week, risks & mitigation, executive decisions/roadblocks requiring action, and key upcoming milestones
 - Review the solicitation and the contractual responsibilities of both parties with the City's Enterprise Development Program Manager
 - Maintain project communications through the City's Enterprise Development Program Manager
 - Establish documentation and procedural standards for deliverable materials
 - Prepare and maintain a vendor project plan, which lists the activities, tasks, assignments, milestones, and estimates for performance of this solicitation project
 - Coordinate and manage the technical activities of vendor project development personnel
 - Measure and evaluate progress against the vendor Project Plan with the City's Enterprise Development Program Manager
 - Meet on an agreed upon regular basis to review project schedule with City's Enterprise Development Program Manager
 - Review project tasks, schedules, and resources and make changes or additions, as appropriate to vendor project plan



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- Review the City standard invoice format and billing procedure to be used on the project, with the City's Enterprise Development Program Manager
- Conduct regularly scheduled project development status meetings
- Administer the Project Change Control Procedure with the City's Enterprise Development Program Manager

B Provide ongoing product and services development configuration and code reviews with the CTM ServiceNow Development Team at CTMServiceNowDevelopmentTeam@austintexas.gov. If the Vendor has knowledge of any changes in the development configuration or code which arises under or concerns the current contract, and that could have a material adverse effect on CTM's portfolio plan, the Vendor shall give written notice thereof to CTM's ServiceNow Development team within 10 days of said discovery. Such changes shall include but are not limited to of end of life, end of service, end of development, and end of support.

C Provide ongoing product and services SDLC documentation to the City's Enterprise Development Program Manager which will be reviewed and approved by the CTM ServiceNow Development Team at CTMServiceNowDevelopmentTeam@austintexas.gov at a minimum to include:

- Requirement Specifications
- Minutes of Meeting
- Use Case Scenarios
- Requirements Traceability Matrix
- Technical Design
- Report Design
- Unit Test Plan
- Test Plan
- Test Cases
- Test Result

If the Vendor has knowledge of any changes in the SDLC documentation listed above which arises under or concerns the current contract, and that could have a material adverse effect on CTM's platform architecture, portfolio or project plan, the Vendor shall give written notice thereof to the City's Enterprise Development Program Manager within 5 days of said discovery.

D Provide and fulfill renewal orders in accordance with the resulting contract, negotiated discounts, and their current DIR terms and conditions.

E Provide a clearly defined escalation path within their organization within 14 days of contract execution and provide updates if organization changes occur. This includes a list of all applicable vendor contacts for all sales, support, finance, and technical contacts. The escalation path and any subsequent updates shall be provided to the CTM Contract Manager.

F Offer training and education opportunities to the City of Austin. Such opportunities may include on-site product training, on-line training, Lunch-n-Learns, annual conferences, Train-the-Trainer events, and Proof of Technology events. At a minimum and per the term of this Contract, Vendor shall provide to City of Austin as a part of this contract at no additional direct cost:

- Five (5) ServiceNow Knowledge Conference passes every twelve (12) months.
- ServiceNow Learning Credits (90 per year)
- Two (3) Lunch-n-Learn session every three (3) months, or minimum of (8) per contract year.

G Provide qualified experienced development and support resources that are eligible to support and



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develop on a FedRAMP environment in accordance with current and any future changes specified by ServiceNow and/or FedRAMP. The conditions of set managed service personnel resources and travel conditions are below:

- All vendor personnel must be US citizens and must pass a criminal background check to participate on this solicitation required as administrators on a ServiceNow FedRamp environment.
- Qualified experienced personnel configuring, developing, and implementing the ServiceNow ITSM, ITAM and IRM applications of this platform
- Services may be performed both at the City of Austin, CTM work location and/or remotely.
- Vendor may use personnel and resources in locations worldwide and third-party suppliers to support the delivery of products and services, as required.
- Vendor will provide the services under this solicitation during normal business hours, 8:00 AM to 5:00 PM Central Time, Monday through Friday, except national holidays. If necessary, City of Austin will provide after-hours access to facilities to vendor personnel. Out-of-town personnel may work hours other than those defined as normal business hours to accommodate their remote schedules.
- All travel, lodging and per diem expenses will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at: <http://www.gsa.gov/portal/category/21287>. No amounts more than the Travel Policy or Rates shall be paid. No reimbursement will be made for expenses not actually incurred.

H Provide ongoing product and services notifications via email to CTM ServiceNow Development Team at CTMServiceNowDevelopmentTeam@austintexas.gov If the Vendor has knowledge of any changes in the products or services provided which arises under or concerns the current contract, and that could have a material adverse effect on CTM's portfolio plan, the Vendor shall give written notice thereof to CTM's ServiceNow Development team within 30 days of said discovery. Such changes shall include but are not limited to end of life, end of service, end of development, and end of support.

I Hold an initial product portfolio meeting to review and reconcile CTM's portfolio and entitlements and to formalize initial account management solutions within the first 14 days of Contract execution, and on a quarterly basis thereafter. Meeting times shall be coordinated with the CTM Contract Manager. The meeting shall yield a portfolio report containing a complete list of CTM's current subscription portfolio and entitlements held with the manufacturer/ producer. The Vendor shall conduct this meeting on the customer site and create an action plan for issues identified during the review. The report/portal shall, at a minimum and as applicable, include data for: Product Manufacturer, Product Name, Product Description, Product Part Number/SKU, Serial Number, Product Edition, Product Version, Term Dates, License Count, Type of Entitlement, Price, Purchase Date, Purchase Order Number, Description, Invoice Number, Site ID, Vendor Name, Point of Contact Name and Contact Information.

J Conduct Capacity planning sessions with CTM ServiceNow Development team at an agreed upon interval determined after the first portfolio meeting.

K Conduct Product Briefings on an annual basis for CTM ServiceNow Development team. The annual Product Briefings shall, at a minimum, include:

- Current entitlements
- Roadmap
- Product Lifecycle
 - End of Life (EOL)



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- End of Marketing (EOM)
 - End of Support (EOS)
- Use Cases
- New product tie-ins and offering

L Provide a support and maintenance report or application tool outlining:

- Number of service calls made to vendor's and/or manufacturer's support desk
- Date and time of support calls
- Support level for calls made, actual response and final resolution times
- Root cause analysis for issues reported
- Steps taken to resolve issue
- Final resolution to support calls

EXHIBIT C



Precision Task Group

Offer No. RFQ5600 090121DD ServiceNow IT Service Management Platform



Submitted to:

**City of Austin, Daniel Dellemonache
Procurement Specialist IV**

512-974-2981, Daniel.Dellemonache@austintexas.gov
P.O. Box 1088 Austin, TX 78767
RFQ Ref.: RFQ 5600 090121DD

Submitted by:

Vanessa Ozuna

Chief Operating Officer
Precision Task Group, Inc.
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PUBLIC SECTOR SUBSCRIPTION SERVICE TERMS

PUBLIC SECTOR SUBSCRIPTION TERMS OF SERVICE

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

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

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

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

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

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

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

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

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

1.6 “Deliverable” means anything created for Customer in performance of Professional Services other than Newly Created IP.

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

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

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

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

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

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

1.13 “**Professional Services**” means any consulting, development, or educational services provided by or for ServiceNow pursuant to an agreed SOW or Service Description.

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

1.15 “**Service Description**” means the written description for a packaged Professional Service, attached to or referenced in an Ordering Document.

1.16 “**ServiceNow Core Technology**” means: **(1)** the Subscription Service, Ancillary Software, Documentation, and technology and methodologies (including products, software tools, hardware designs, algorithms, templates, software (in source and object forms), architecture, class libraries, objects, and documentation) created by or for, or licensed to, ServiceNow; and **(2)** updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related documentation.

1.17 “**SOW**” means a statement of work or work order that describes scoped Professional Services by and between ServiceNow and Reseller or ServiceNow’s authorized distributor, as applicable.

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

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

2. SERVICENOW RESPONSIBILITIES

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

2.2 PROTECTION AND RETURN OF CUSTOMER DATA. During the Subscription Term, ServiceNow will maintain a written Security Program that includes policies, procedures and controls aligned to ISO27001, or a substantially equivalent standard, that includes industry-standard practices designed to protect Customer Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access as described in the data security addendum (“**DSA**”) at <https://www.servicenow.com/upgrade-schedules.html>. The terms of the data processing addendum at <https://www.servicenow.com/upgrade-schedules.html> (“**DPA**”) shall apply to ServiceNow’s Processing of Personal Data (as defined in the DPA). Upon written request by Customer within 45 days after termination or expiration of the Subscription Service, ServiceNow will provide any Customer Data in the Subscription Service to Customer in ServiceNow’s standard

database export format at no additional charge to the Reseller under the applicable Reseller Order. After such 45 day period, ServiceNow shall have no obligation to maintain or provide any Customer Data and will, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control, delete Customer's instances of the Subscription Service, and upon written request, provide confirmation of such deletion.

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

3. ACCESS AND USE RIGHTS; RESTRICTIONS; PROFESSIONAL SERVICES

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

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

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

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

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

4. ORDERING

4.1 RESELLER ORDERS. Customer shall order and purchase the Subscription Service and Professional Services directly from Reseller pursuant to an agreement specifying price, payment, and other commercial terms reflected in an Ordering Document. ServiceNow is not a party to the Ordering Document, but will provide the purchased services pursuant to a Reseller Order and these Terms of Service. Reseller is not authorized to make any changes to these Terms of Service or bind ServiceNow to any additional or different terms or conditions, except as ServiceNow may expressly agree in writing in a

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

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

5. INTELLECTUAL PROPERTY

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

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

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

5.4 PROFESSIONAL SERVICES. Subject to this Section 5.4, ServiceNow assigns (and in the future is deemed to have assigned) to Customer any Newly Created IP upon receipt of payment in full to ServiceNow under the SOW that specifies the creation of Newly Created IP. If any ServiceNow Core Technology is incorporated into a Deliverable, ServiceNow grants to Customer a non-exclusive, royalty-free, non-transferable (except under Section 11.1), non-sublicensable worldwide license to use such ServiceNow Core Technology in connection with the use of Subscription Service under these Terms of Service during the applicable Subscription Term. Nothing in these Terms of Service may be construed to limit ServiceNow's right to perform (and to assign employees or contractors to perform) similar Professional Services for any other party or to use any information incidentally retained in the unaided memories of its employees providing Professional Services.

6. WARRANTIES; DISCLAIMER OF WARRANTIES

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

6.2 REMEDIES.

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

refund of any amounts paid for the same. This Section 6.2.1 sets forth Customers exclusive rights and remedies (and ServiceNow's sole liability) in connection with this warranty.

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

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

7. CONFIDENTIAL INFORMATION

7.1 RIGHTS AND OBLIGATIONS. To the extent permitted by law, the recipient of Confidential Information will: (1) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event less than reasonable care; and (2) not use it except to the extent necessary to exercise rights and obligations under the Ordering Document or these Terms of Service. Each party will limit the disclosure of the other's Confidential Information to those of its employees and contractors with a need to know such Confidential Information to exercise its rights and obligations under the Ordering Document and these Terms of Use, and then only to employees and contractors subject to binding disclosure and use restrictions at least as protective as those in these Terms of Service. Each party's obligations under this Section 7 will remain in effect during, and for 3 years after termination of the Subscription Term. Receiving party will, at disclosing party's request, return all originals, copies, reproductions, and summaries of Confidential Information and other tangible materials and devices provided to receiving party as Confidential Information, or at disclosing party's option, certify destruction of the same. Provisions for return of Customer Data are set forth in Section 11.2 (Return of Customer Data).

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

8. INDEMNIFICATION

8.1 BY SERVICENOW.

8.1.1. OBLIGATION. Subject to this Section 8, ServiceNow will: (1) defend Customer, and its and their officers, directors, and employees against any Claim to the extent alleging any: (a) ServiceNow Core Technology used in accordance with these Terms of Service infringes any IPR of any unaffiliated third-party ("IPR Claim"); or (b) ServiceNow personnel when onsite at Customer's premises caused death, bodily harm, or damage to tangible personal property due to their negligence or willful misconduct; and (2) pay any settlement amount or court-ordered damages award, under the forgoing clauses (1)(a) or (1)(b) to the extent arising from such Claim.

8.1.2. MITIGATION. In connection with any IPR Claim, ServiceNow may: (1) contest the Claim; (2) obtain claimant's permission for Customer's continued use of the applicable Subscription Service or ServiceNow Core Technology; (3) replace Customer's access to or use of the applicable Subscription Service or ServiceNow Core Technology with substantially similar functionality that avoids the Claim; or, (4) if ServiceNow determines the foregoing clauses (1), (2), and

(3) are commercially impracticable, terminate Customer's access to and use of the affected Subscription Service on 60-days' prior notice, whereupon Customer may submit to Reseller a claim for a refund of any prepaid subscription fees covering that part of the applicable Subscription Term for such Subscription Service remaining after the effective date of termination.

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

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

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

9. LIMITATION OF LIABILITY

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

9.2 EXCLUDED DAMAGES. To the extent permitted by Law, neither ServiceNow nor Customer will be liable to the other or any third party for lost profits (direct or indirect), for loss of use or data, or for any incidental, consequential, punitive, special, or exemplary damages (including damage to business, reputation, or goodwill), or indirect damages of any type however caused, whether by breach of warranty, breach of contract, in tort (including negligence), or any other legal or equitable cause of action, even if such party has been advised of such damages in advance or if such damages were foreseeable.

9.3 APPLICABILITY. The limits in Section 9.1 and exclusions in Section 9.2 do not apply: (1) obligations to pay for products, services, or taxes; (2) obligations to pay third parties under Section 8; (3) IPR infringement, or (4) an action in tort, separate or distinct from a cause of action for breach of these Terms of Service, for the party's gross negligence or willful misconduct.

10. TERM AND TERMINATION

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

10.2 SUBSCRIPTION SERVICE. On termination of an Ordering Document, Reseller Order, or expiration of a Subscription Term, Customer will stop accessing and using, and ServiceNow will stop providing, the Subscription Service and

all related rights granted to Customer in these Terms of Service terminate immediately, automatically, and without notice. Customer will, within 30 days after the effective date of termination by Customer for ServiceNow's breach, submit to Reseller a claim for refund for any prepaid fees paid to Reseller covering that part of the Subscription Term for the affected Subscription Service, if any, remaining after the effective date of termination.

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

11. GENERAL PROVISIONS

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

11.2 EXPORT. The Subscription Service is subject to U.S. and international laws, restrictions, and regulations that may govern the import, export, and use of the Subscription Service ("Export Laws"). Customer agrees to comply with Export Laws that apply to Customer's use of the Subscription Service. Without limiting the foregoing, Customer agrees it will not:

(1) export, re-export, transfer, or otherwise use the Subscription Service in any country subject to an embargo or other sanctions by the U.S. (currently including Cuba, Iran, North Korea, Sudan, Syria, and Crimea Region of Ukraine); **(2)** export, re-export, or transfer, either directly or indirectly, to a person or entity barred by the applicable Export Laws from participating in export activities; and **(3)** use the Subscription Service for any purpose prohibited by Export Laws, including the design, development, or production of nuclear, chemical, or biological weapons, or rocket systems, space launch vehicles, sounding rockets, or unmanned air vehicle systems.

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

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

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

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

11.7 LAW; JURISDICTION AND VENUE. If Customer is the U.S. Government, these Terms of Service shall be subject to the laws of the United States, and in the event of any dispute arising from or in relation to these Terms of Service, the parties consent to the exclusive jurisdiction of, and venue in, a court of competent jurisdiction under the laws of the United States. If Customer is a state or local government entity, these Terms of Service shall be subject to the laws of the state in which Customer is located, and in the event of a dispute arising from or in relation to these Terms of Service, the parties consent to the exclusive jurisdiction of, and venue in, a court of competent jurisdiction within such state. Otherwise, to the

extent permitted by law, these Terms of Service shall be governed by, and construed in accordance with the Laws of New York, without regard to its conflict of laws principles. The parties irrevocably consent to exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction in New York City, New York to adjudicate any dispute arising out of or related to these Terms of Service. To the extent permitted by applicable Law, the United Nations Convention on Contracts for the International Sale of Goods shall not apply. Notwithstanding the foregoing, either party, may at any time, and without waiving any other rights under these Terms of Service, seek appropriate legal or equitable relief, including but not limited to, emergency interim and/or injunctive relief, in any court of competent jurisdiction to protect its I P R.

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

11.9 ENTIRETY; EXECUTION. These Terms of Service (1) are the parties' entire agreement regarding its subject and supersedes all prior or contemporaneous oral or written agreements, representations, understandings, undertakings, negotiations, letters of intent, and proposals, with respect to that subject; excludes any other terms Customer seeks to impose or incorporate or that may be implied by trade, custom, practice, or course of dealing. Customer has not relied on any statement, promise, or representation not expressly included in these Terms of Service, including related to any possible future functionality that ServiceNow may provide or offer.

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