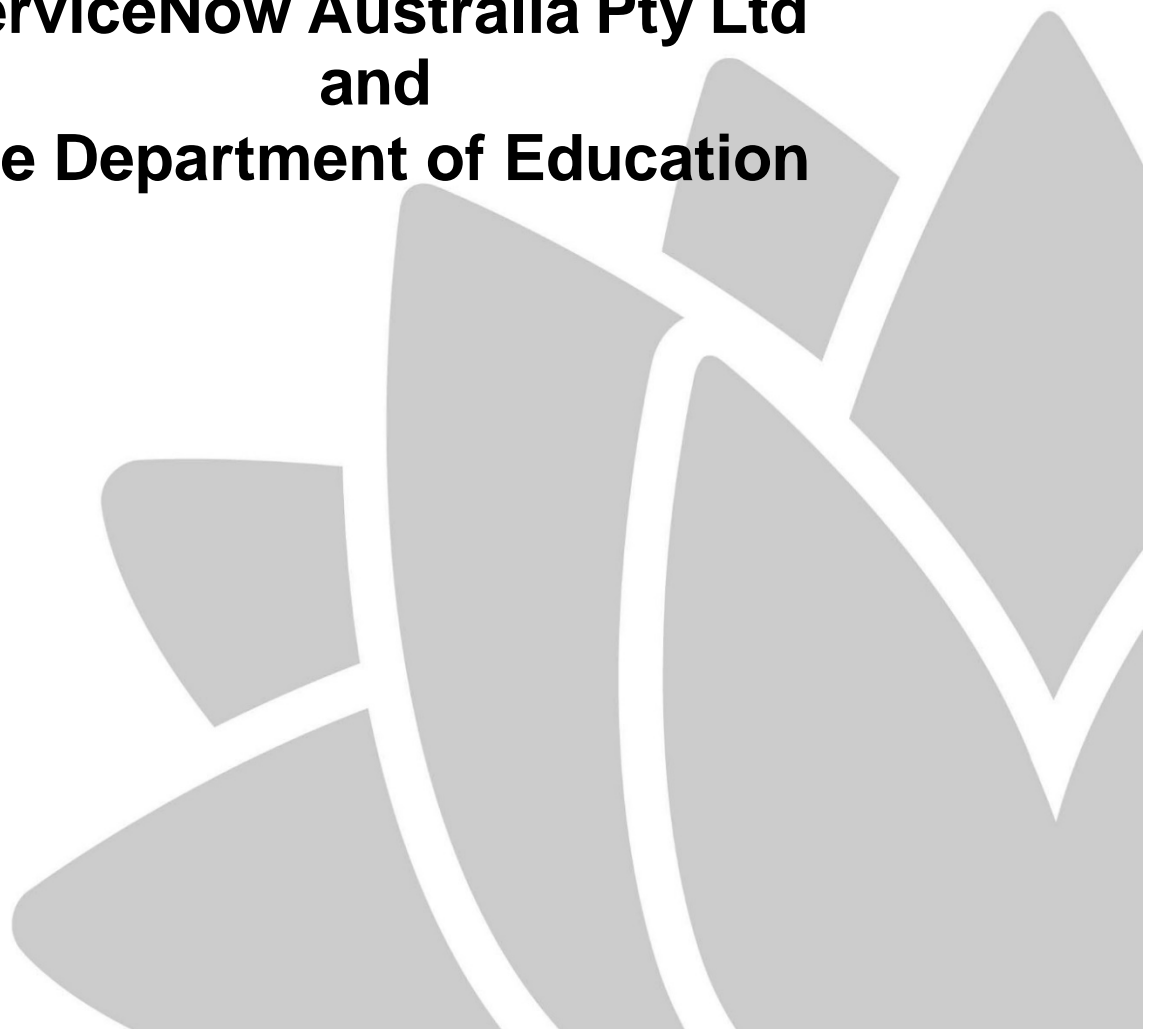




**ICT Agreement
(ICTA)
between
ServiceNow Australia Pty Ltd
and
the Department of Education**



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ICT Agreement (ICTA)

Parties The party identified at Item 1 of the Order Form (**Customer**)
 The party identified at Item 4 of the Order Form (**Supplier**)

Background

- A. The New South Wales Government's Digital.NSW ICT Purchasing Framework (**ICT Purchasing Framework**) is a suite of template documents which sets out standard terms and conditions to be used by Eligible Customers for the procurement of ICT related goods and services.
- B. The Supplier acknowledges and agrees that the New South Wales Procurement Board has directed that Government Agencies must, subject to applicable New South Wales Procurement Board Directions, use the ICT Purchasing Framework for the procurement of ICT related goods and services.
- C. This Agreement forms part of the ICT Purchasing Framework and contains the terms and conditions on which the Supplier agrees to carry out the Supplier's Activities.
- D. The Supplier has represented to the Customer that it has the relevant skills and experience to provide the Supplier's Activities.
- E. The Customer has agreed to appoint the Supplier, on a non-exclusive basis, to carry out the Supplier's Activities, subject to the Supplier's ongoing compliance with the terms and conditions of this Agreement, and the Supplier has agreed to accept that appointment.

PART A: PRELIMINARIES

1. **Definitions and Agreement documents**

1.1 **Defined terms and interpretation**

In this Agreement the definitions and interpretation provisions set out in Schedule 1 apply.

1.2 **Agreement documents**

This Agreement comprises the following documents:

- (a) any Additional Conditions;
- (b) these Core Terms and Schedule 1;
- (c) the applicable Module Terms;
- (d) the Order Form and Payment Schedule (excluding any Additional Conditions or Supplier's Documents);
- (e) any other schedule, attachment or annexure to this Agreement (excluding any documents forming part of the Order Form);
- (f) any other document expressly incorporated into this Agreement as set out in the Order Form; and
- (g) any Supplier's Documents.

1.3 Order of precedence

In the event of any conflict or inconsistency between the documents set out in clause 1.2, the document listed higher in the list will prevail over the document listed lower in the list to the extent of such conflict or inconsistency, regardless of anything to the contrary in those documents.

1.4 Role of the Master ICT Agreement

Where this Agreement is made under a MICTA, the Supplier acknowledges that its MICTA with the Contract Authority constitutes a standing offer under which it offers to supply the deliverables, services and/or activities specified in the MICTA to Eligible Customers, including the Customer:

- (a) pursuant to the terms of the MICTA and this Agreement; and
- (b) at rates and prices which are the same as or less than those set out in the MICTA (and, upon the commencement of any Renewal Period, at rates and prices which are the same as or less than any reduced rates and prices then applying under the MICTA at the time of such renewal).

1.5 Supplier's Documents

- (a) The parties acknowledge that the intent of incorporating any Supplier's Documents into this Agreement, where so agreed, is to supplement and elaborate the detail and specifications of particular Services and Deliverables and not to amend or contradict the terms set out in any of the documents listed in clauses 1.2(a) to 1.2(f).
- (b) The Supplier represents that the Supplier's Documents:
 - (i) set out specific details regarding how the Customer may access, use and interact with particular Services or Deliverables; and
 - (ii) may describe other elements of the Services or Deliverables which the Supplier offers to provide to the Customer, such as technical and functional specifications, service characteristics and performance standards.
- (c) No Supplier's Documents will be incorporated into this Agreement except to the extent expressly specified in, and attached to, Annexure A of the Order Form.
- (d) Notwithstanding the incorporation of Supplier's Documents under clause 1.5(c), those Supplier's Documents do not apply to the extent that they:
 - (i) deal with the same or similar subject matter as a provision of the Core Terms, Module Terms or any Additional Conditions (for example, provisions in the Supplier's Documents that deal with limitations of liability will not apply, in whole, as the Core Terms also deal with this subject matter);
 - (ii) are inconsistent, or in conflict, with the Core Terms, Module Terms or any Additional Conditions;
 - (iii) alter, or seek to alter, the legal obligations of, or relationship between, the Customer and the Supplier, as set out in the Core Terms, Module Terms or any Additional Conditions;

- (iv) impose additional obligations or requirements on the Customer, beyond those set out in the Core Terms, Module Terms or any Additional Conditions; or
- (v) limit any rights or remedies of the Customer or relieve the Supplier from any of its obligations or responsibilities under the Core Terms, Module Terms or any Additional Conditions.
- (e) Where any of the Supplier's Documents purport to override or otherwise vary the Core Terms, Module Terms or any Additional Conditions those terms will have no legal effect.
- (f) Except to the extent expressly set out in the Module Terms, no subsequent changes, amendments or updates to the Supplier's Documents will have any effect other than where made pursuant to a written variation under clause 39.5.

2. Supplier's acknowledgments

- (a) The Supplier warrants, represents, acknowledges and agrees that it:
 - (i) has the expertise to carry out the Supplier's Activities;
 - (ii) has satisfied itself as to the availability and suitability of the Materials, labour and resources necessary to perform its obligations under this Agreement;
 - (iii) has satisfied itself of the nature and extent of the Supplier's Activities and its obligations under this Agreement; and
 - (iv) entered into this Agreement based on its own investigations, interpretations, deductions, information and determinations; and
- (b) The Supplier further acknowledges and agrees that, where this Agreement is entered into under a MICTA, the Customer may appoint or delegate the enforcement of any of its rights from time to time under this Agreement to the Contract Authority.

3. Purchasing Services and/or Deliverables by Order

3.1 Order Form

The Supplier must provide all Services and/or Deliverables specified in the Order Form and carry out all other Supplier's Activities on the terms of this Agreement.

3.2 Electronic execution

Subject to applicable Laws, the parties may execute this Agreement and any document entered into under it, electronically (including through an electronic platform) and in one or more counterparts. Notwithstanding the manner in which a document under this Agreement is submitted or accepted, the terms of this Agreement will apply and any click-wrap, "pop-up" or other like terms and conditions of the Supplier appearing in the course of such submittal or acceptance will have no force or effect.

3.3 Additional Orders

- (a) This clause applies where it is specified in Item 10 of the Order Form that the Customer may place Additional Orders for Services and/or Deliverables within the scope of this Agreement.

- (b) If, at any time during the Term, the Customer wishes to increase the volume or quantum of Services and/or Deliverables, the Customer may, in its sole discretion, do so by submitting a written notice to the Supplier for those increased Services and/or Deliverables. The written notice will be in the form required by the Customer and will include information relating to the Additional Order, including the number of additional Services and/or Deliverables required.
- (c) Except to the extent agreed by the parties in writing, any increased Deliverables and/or Services will be supplied for the same rates and charges specified in the Payment Particulars.
- (d) The parties agree that each time the Customer submits an Additional Order to the Supplier:
 - (i) that Additional Order forms part of this Agreement, and will not constitute a separate contractual relationship between the parties; and
 - (ii) the Supplier must increase the supply of the Deliverables and/or Services in accordance with that Additional Order, subject to any reasonable qualifications specified in Item 10 of the Order Form.

3.4 No exclusivity or minimum commitment

The Supplier acknowledges and agrees that:

- (a) except to the extent expressly set out in the Payment Particulars, the Customer is under no obligation to acquire any minimum volumes of Services or Deliverables or to meet any minimum spend level under this Agreement; and
- (b) the Supplier is not an exclusive provider of the Supplier's Activities (nor activities which are the same as or similar to them) to the Customer, and the Customer is not, by executing this Agreement, restricted in any way from engaging any other person to provide activities which are the same as, or similar to, the Supplier's Activities.

3.5 Additional Conditions

The parties agree to comply with any Additional Conditions.

3.6 Reseller arrangements

Where specified in Item 12 of the Order Form, the parties agree that the Supplier may provide particular Services and/or Deliverables in the Supplier's capacity as a reseller and subject to any Additional Conditions relating to the reseller arrangement.

4. Relationship and governance

4.1 General

The parties must perform their respective roles and responsibilities as set out in the Order Documents.

4.2 Nature of relationship

Nothing in this Agreement creates or is intended to constitute a relationship between the parties of employer and employee, principal and agent, partnership or joint venturers, and neither party has authority to bind the other party. Neither party may hold itself out in any manner which is contrary to this clause 4.2.

4.3 Governance

- (a) Each party agrees to comply with any governance arrangements specified in the Order Documents, including any governance framework approved by the Customer pursuant to clause 4.3(b) (**Governance Framework**).
- (b) If specified in the Order Form, the Supplier must prepare and submit to the Customer for its approval a Governance Framework that contains the details specified in the Order Form. The Governance Framework must be submitted by the Supplier to the Customer's Representative by the time specified in the Order Form or such other time as reasonably required by the Customer's Representative.

5. Term

5.1 Initial Term

This Agreement begins on the Commencement Date and continues for the Initial Term, unless terminated earlier by agreement in writing between the parties or in accordance with the terms of this Agreement.

5.2 Renewal Period

- (a) Where a Renewal Period has been specified in Item 9 of the Order Form, the Customer may, in its sole discretion, extend the Term for a period not exceeding the relevant Renewal Period (up to, if any, the maximum number of renewals specified in that Item), by giving the Supplier a notice in writing at least 15 Business Days prior to the end of the then current Term (or such other notice period as may be specified in Item 9 of the Order Form).
- (b) Subject to clause 1.4(b), any Renewal Period exercised in accordance with clause 5.2(a) will be on the same terms and conditions of this Agreement as in effect at the end of the then current Term, unless the parties agree to amend this Agreement in accordance with clause 39.5.

PART B: SUPPLIER'S ACTIVITIES

6. Performance of the Supplier's Activities

6.1 General

- (a) The Supplier must carry out the Supplier's Activities in accordance with the timeframes, Specifications and requirements of this Agreement, including all requirements specified in the Order Documents.
- (b) The parties acknowledge and agree that nothing in this clause 6 affects the Service Levels pursuant to which the Supplier provides the Cloud Services.

6.2 Customer Supplied Items

- (a) Other than any CSI or any items expressly specified in the Order Documents or the Additional Conditions to be provided by an Other Supplier in connection with this Agreement, the Supplier must provide all necessary Materials and resources to carry out the Supplier's Activities in accordance with this Agreement.
- (b) The Supplier acknowledges and agrees that:
 - (i) unless the Customer agrees otherwise in writing, the Supplier will only receive access to the CSI specified in the Order Form;

- (ii) the Supplier will obtain no title or interest to any CSI;
 - (iii) it is the Supplier's responsibility to inspect and assess any CSI before the Supplier or its Personnel use it to ensure the CSI is suitable and contains no defects; and
 - (iv) the Customer provides no warranty or representation about the suitability or fitness of any CSI for the Supplier's Activities or any other use (except to the extent the Order Form expressly contemplates CSI being put to a particular use or function in relation to this Agreement).
- (c) The following will not be a breach of this Agreement by the Customer:
- (i) the Customer failing to supply the CSI at the times and in accordance with any requirements specified in this Agreement;
 - (ii) the Customer failing to maintain the CSI to any minimum standards specified in the Order Documents; or
 - (iii) any Other Supplier failing to supply items in accordance with any requirements specified in this Agreement.
- (d) The Supplier must:
- (i) take all reasonable care of all CSI, including accounting for, preserving and handling all CSI in accordance with any requirements in the Order Form;
 - (ii) take reasonable steps to protect the CSI from any loss, destruction or damage;
 - (iii) not use any CSI other than:
 - A. for the purpose for which the CSI was designed and manufactured;
 - B. for the purpose of carrying out the Supplier's Activities in accordance with this Agreement; and
 - C. in accordance with any applicable third party terms and conditions relating to the use of, or dealing with, such CSI;
 - (iv) not modify or adapt any CSI without the prior written consent of the Customer;
 - (v) promptly inform the Customer's Representative of any loss, destruction or damage to any CSI and (to the extent known) its cause and comply with any directions of the Customer in relation to such CSI;
 - (vi) not part with possession of any CSI unless the Customer has provided its prior written consent to do so, nor create or allow the creation of any lien, security interest or mortgage over any CSI; and
 - (vii) if specified in the Order Form, pay the costs for the CSI as stated in the Order Form, and pay those costs in accordance with the timeframes for payment set out in the Order Form or otherwise agreed by the Customer.

- (e) Unless other arrangements have been agreed by the Customer in writing, the Supplier must, at its cost, return any CSI to the Customer (or otherwise deal with CSI as directed by the Customer's Representative in writing) once it is no longer required for the purposes of this Agreement.
- (f) The Supplier is liable to the Customer for any loss, destruction or damage to CSI to the extent that any such loss, destruction or damage is caused or contributed to by the Supplier or its Personnel or resulted from the failure of the Supplier to comply with its obligations under this clause 6.2.

6.3 ICT Accessibility

- (a) The Supplier acknowledges that the Customer is committed to:
 - (i) meeting Accessibility Standard AS EN 301 549 (**Accessibility Standard**); and
 - (ii) ensuring that the Services and Deliverables support access to information and communications technology for all Customer Users, regardless of disability.
- (b) Without limiting any other obligation under this Agreement, the Supplier must ensure that, to the extent reasonably practicable, all Services and Deliverables:
 - (i) are available to Customer Users on a non-discriminatory accessible basis and do not infringe anti-discrimination Laws; and
 - (ii) meet the Accessibility Standard and any other accessibility requirements to the extent specified in the Order Documents (unless otherwise required by the Order Form).

6.4 Co-operation with the Customer and Other Suppliers

- (a) Each party agrees to reasonably co-operate with the other party and its Personnel to promote the timely progress of the activities contemplated by this Agreement.
- (b) The Supplier acknowledges that the Customer may require the Supplier to co-operate and work collaboratively with any Other Suppliers in connection with the provision of the Supplier's Activities.
- (c) Where stated in the Order Documents or at the reasonable request of the Customer, the Supplier must:
 - (i) permit any Other Suppliers to carry out their work;
 - (ii) reasonably co-operate with any Other Suppliers;
 - (iii) carefully co-ordinate and interface the Supplier's Activities with the services and work being carried out by any Other Suppliers in a manner that:
 - A. is as efficient and non-disruptive as reasonably practicable;
 - B. integrates, where applicable, with the services, works and deliverables that the Supplier and any Other Suppliers will provide; and
 - C. minimises the need for the Customer to be involved in resolving service problems or managing the tasks that the Supplier and Other Suppliers perform;

- (iv) carry out the Supplier's Activities in a manner that minimises disruption or delay to the work of Other Suppliers; and
- (v) comply with any additional requirements with respect to Other Suppliers or interfacing arrangements as specified in the Order Documents.

6.5 Project management

- (a) The parties must perform their obligations in accordance with any initial project plan that is included in the Order Documents or such other project plan that is approved by the Customer pursuant to this clause 6.5 (**Project Plan**).
- (b) Where specified in the Order Form, the Supplier must prepare and submit to the Customer's Representative for the Customer's approval a Project Plan that contains the details specified in the Order Form or in an Order Document.
- (c) The Supplier must submit the Project Plan by the date specified in the Order Documents or, where no date is specified, within 20 Business Days following the Commencement Date.
- (d) The Supplier agrees to update the Project Plan at the times or intervals set out in the Order Documents or at such other times as reasonably required by the Customer, including to reflect any Change Requests.
- (e) For clarity, the Project Plan is a Document Deliverable. Clause 8 therefore applies to the Project Plan, including any updates to it.

6.6 Staged implementation

- (a) Where the Order Documents specify that the Supplier's Activities will be carried out in different Stages, the Supplier must:
 - (i) carry out each Stage in accordance with the requirements and staging so specified in the Order Documents; and
 - (ii) not commence work on a Stage until it receives written notice from the Customer to proceed with the work in that Stage. Unless otherwise agreed by the parties in writing, the execution of this Agreement by the Supplier and the Customer is deemed to be sufficient notice to proceed with work on any first Stage described in the Order Documents.
- (b) Without limiting the Customer's rights under clause 6.6(c), at any time during the Term, the parties may:
 - (i) change the order of any Stages; or
 - (ii) vary the Supplier's Activities by removing one or more Stages from the scope of the Supplier's Activities,by following the Change Control Procedure under this Agreement.
- (c) The Customer may, at any time during the Term, and without having to comply with clause 6.6(b) and the Change Control Procedure, by written notice to the Supplier, remove from the scope of this Agreement any future Stages in respect of which approval to commence work has not been given by the Customer under clause 6.6(a)(ii).

- (d) The Customer will have no liability to the Supplier in respect of any Stage(s) that may be removed from the scope of the Supplier's Activities, except for those costs stated in Item 28 of the Order Form (if any) as being recoverable by the Supplier in such circumstance or as otherwise agreed by the parties in writing.
- (e) Nothing in this clause 6.6 will prevent the parties adopting a different project delivery methodology to that described in clause 6.6 (including involving agile, iterative and/or parallel development activities or other project methodology which is not Stage-based). Where an alternative project delivery methodology is specified in the Order Form, the Supplier must carry out the Supplier's Activities in accordance with the requirements for that alternative methodology as specified in the Order Form.

6.7 Site

- (a) Where specified in Item 16 of the Order Form, the Supplier must carry out the Supplier's Activities at the locations or sites specified in that Item (**Site**).
- (b) Where physical delivery of any Deliverables to a Site is required, the Supplier must, at no additional cost to the Customer, deliver any Deliverables:
 - (i) to the delivery area at the Site specified in the Order Form; and
 - (ii) on the Date for Delivery and between the hours stated in the Order Form,
 or as otherwise agreed in writing between the parties.
- (c) The Supplier warrants, represents and undertakes that it has, and it will be deemed to have, done everything that would be expected of a prudent, competent and experienced supplier in assessing the risks which it is assuming under this Agreement in relation to carrying out the Supplier's Activities at the Site, including visiting and inspecting the Site and its surroundings and making its own assessment of the risks associated with the conditions at the Site and its surroundings.
- (d) Any failure of the Supplier to do any of the matters mentioned in clause 6.7(c) will not relieve the Supplier of its obligations to carry out the Supplier's Activities in accordance with this Agreement.
- (e) The Customer:
 - (i) is not obliged to:
 - A. provide the Supplier with sole access to the Site; or
 - B. carry out any work or provide any facilities or Materials to the Supplier (other than CSI or such other items specified in the Order Form) which may be necessary to enable the Supplier to obtain adequate access to carry out the Supplier's Activities; and
 - (ii) may engage Other Suppliers to work upon, or in the vicinity of, the Site at the same time as the Supplier.
- (f) In carrying out the Supplier's Activities, the Supplier must:
 - (i) minimise disruption or inconvenience to:

- A. the Customer, occupiers, tenants and potential tenants of the Site in their occupation, use of or attendance upon any part of the Site; and
 - B. others having a right of access to the Site;
- (ii) comply with all Policies, Codes and Standards of the Customer applicable to access to and attendance at the Site and any additional requirements specified in Item 16 of the Order Form;
 - (iii) at all reasonable times give the Customer's Representative, the Customer and any person authorised by the Customer access to the Supplier's Activities located at, or being carried out at, the Site (as applicable) or any location where the Supplier's Activities are being carried out; and
 - (iv) facilitate the Customer's supervision, examination or assessment of the Supplier's Activities at the Site or any location where the Supplier's Activities are being carried out.

7. Transition-In

7.1 Application

This clause 7 applies if specified in the Order Form that the Supplier is required to provide any Transition-In Services as part of any Stage or part of the Supplier's Activities.

7.2 Transition-In Plan

- (a) If the Order Form specifies that a Transition-In Plan must be prepared with respect to the Supplier's Activities, by the date specified in the Order Documents, the Supplier must prepare, and submit to the Customer's Representative for the Customer's approval, a plan setting out how the Supplier will carry out the Transition-In Services.
- (b) For clarity, the Transition-In Plan is a Document Deliverable. Clause 8 therefore applies to the Transition-In Plan, including any updates to it.

7.3 Transition-In Services

- (a) The Supplier must supply any Transition-In Services specified in the Order Documents or in any Transition-In Plan that is developed pursuant to clause 7.2.
- (b) The Transition-In Services must be provided by the Supplier for the period specified in the Order Documents. Where no period is specified in the Order Documents, the Transition-In Services must be provided in a prompt and timely manner that will ensure that the Supplier can meet the Dates for Delivery, Key Milestones and other timeframes under this Agreement.

8. Document Deliverables

8.1 General

- (a) The process in this clause 8.1 applies to all Deliverables that comprise written, printed, digital or electronic Materials on which there is writing or other text or symbols, including all Plans (**Documents**) and which are subject to the Customer's approval under this Agreement.

- (b) The Supplier must submit all Document Deliverables to the Customer for approval in accordance with this clause 8 and by the dates specified in this Agreement or the Order Documents.
- (c) Document Deliverables must be submitted to the Customer's Representative, unless otherwise directed by the Customer in writing.
- (d) The Document Deliverables must:
 - (i) be in English;
 - (ii) be fit for their intended purpose;
 - (iii) be free of Defects;
 - (iv) in relation to any User Documentation, be current, complete, accurate and sufficient to enable the Customer and its Personnel to make full and proper use of the applicable Services and/or Deliverables; and
 - (v) comply with any applicable Specifications and any other requirements in the Order Documents.
- (e) A Document Deliverable will not be deemed approved by the Customer until the Customer notifies the Supplier in writing that it approves the relevant Document Deliverable, except where clause 8.2(f) applies.

8.2 Review

- (a) The Customer may:
 - (i) review any Document Deliverable (including any resubmitted Document Deliverable) prepared and submitted by the Supplier; and
 - (ii) within 15 Business Days of the submission by the Supplier of such Document Deliverable or resubmitted Document Deliverable (or any alternative timeframe set out in the Order Documents or otherwise agreed between the parties in writing):
 - A. approve the Document Deliverable; or
 - B. reject the Document Deliverable if, in its reasonable opinion, the Document Deliverable does not comply with the Specifications and other requirements of this Agreement.
- (b) The Customer will accompany any rejection under clause 8.2(a)(ii)B with a description of why the relevant Document Deliverable does not comply with the Specifications and other requirements of this Agreement.
- (c) A Document Deliverable does not fail to comply with the Specifications and other requirements of this Agreement exclusively because of:
 - (i) any opinion expressed in the Document Deliverable, provided that the opinion expressed is the professional opinion held by the Supplier;
 - (ii) the style, formatting or layout of the Document Deliverable, unless the style, formatting or layout is of a nature that it:
 - A. fails to meet the requirements in clause 8.1(d); or

- B. affects the readability or useability of the Document Deliverable; or
- (iii) semantics which do not impact the interpretation of the substantive matters conveyed in the Document Deliverable.
- (d) If the Customer gives the Supplier a notice rejecting a Document Deliverable under clause 8.2(a)(ii)B, the Supplier must, within five Business Days (or any alternative timeframe set out in the Order Documents or otherwise agreed between the parties in writing), prepare a revised version of the Document Deliverable which addresses all of the amendments and issues required by the Customer.
- (e) The parties must repeat the process in this clause 8.2 until the Customer approves each Document Deliverable in accordance with clause 8 or terminates this Agreement.
- (f) Where the period referred to in clause 8.2(a)(ii) elapses without the Customer approving or rejecting the Document Deliverable, the Supplier must submit to the Customer's Representative a written reminder notice identifying the Document Deliverable in respect of which it requires a decision by the Customer. If the Customer does not approve or reject the relevant Document Deliverable or otherwise communicate with the Supplier in relation to that reminder notice within 10 Business Days of its receipt, then the relevant Document Deliverable will be deemed to have been approved by the Customer.

8.3 No obligation

- (a) The Customer does not assume or owe any duty of care to the Supplier to review any Document or Document Deliverable for errors, omissions or compliance with this Agreement.
- (b) No review, acceptance or approval of, comments upon, rejection of, or failure to review or comment upon or reject, any Document or Document Deliverable provided by the Supplier to the Customer under this Agreement or any other direction by the Customer about that Document or Document Deliverable will:
 - (i) relieve the Supplier from, or alter or affect, the Supplier's liabilities or responsibilities whether under this Agreement or otherwise at Law; or
 - (ii) prejudice the Customer's rights against the Supplier whether under this Agreement or otherwise at Law.

8.4 User Documentation

- (a) The Supplier must, at its sole cost, provide the User Documentation to the Customer's Representative except where otherwise specified in the Order Form.
- (b) The User Documentation must be supplied in an electronic format and by the time specified in the Order Documents or, where no timeframe is specified, where reasonably required by the Customer.
- (c) Where it is specified in the Order Form that the Customer also requires any User Documentation in a hard copy format (or where otherwise requested by the Customer), the Supplier must provide the Customer's Representative with at least one copy of the User Documentation at no additional charge to the Customer.
- (d) The Supplier must ensure that any User Documentation that is supplied to the Customer's Representative:

- (i) provides adequate instructions on how to enable the Customer and Customer Users to utilise the Services and Deliverables (as applicable) without reference to the Supplier; and
 - (ii) complies with the same requirements as specified in clause 8.1(d) in relation to Document Deliverables.
- (e) The Supplier must update the User Documentation as is needed for the Customer and Customer Users to be able to use the Services and Deliverables (as applicable) in an efficient and effective manner.

9. Defects

- (a) If, prior to the expiry of the Warranty Period, the Customer discovers or is informed that there is a Defect, the Customer may give the Supplier an instruction (with which the Supplier will comply) specifying the Defect and doing one or more of the following:
- (i) requiring the Supplier to correct the Defect, or any part of it;
 - (ii) advising the Supplier that the Customer will accept the Deliverable or Service, or any part thereof, despite the Defect; or
 - (iii) advising the Supplier that the Customer will accept the Deliverable or Service, or any part thereof, despite the Defect, in exchange for a reasonable reduction in, or adjustment to, the cost of the Deliverables or Services which were impacted by the Defect,
- and pursuing any other remedy it may have at Law or under this Agreement subject to compliance with the dispute resolution procedure in clause 35.
- (b) If, prior to the expiry of the Warranty Period, the Supplier identifies a Defect, the Supplier must notify the Customer in writing within one Business Day of identifying the Defect.
- (c) If, prior to the expiry of the Warranty Period, the Supplier identifies a Defect or an instruction is given under clause 9(a)(i), the Supplier must, at no cost to the Customer, correct the Defect:
- (i) in accordance with all applicable Service Levels, or if no applicable Service Levels apply, within 15 Business Days after the date on which the non-compliance was notified to, or identified by, the Supplier (or such other timeframe as agreed between the parties in writing); and
 - (ii) in a manner which will cause as little inconvenience to the Customer and Customer Users as is reasonably possible.
- (d) The parties acknowledge that where the Defect relates to any Services, the Customer may request that the Supplier, and the Supplier must, supply the affected Services again.
- (e) If multiple Defects are identified, the Customer may request the Supplier to prioritise the rectification of such Defects, and the Supplier must comply with any such request. However, for clarity, any prioritisation must remain consistent with any applicable Service Levels.
- (f) Unless otherwise agreed between the parties in writing, the Warranty Period will be increased by a period of time equivalent to the time that the relevant Services and Deliverables were unavailable or their functionality materially decreased due to a Defect.

- (g) The Customer's rights under this Agreement and at Law will not be affected or limited by:
 - (i) the rights conferred upon the Customer by this clause;
 - (ii) the failure by the Customer or the Customer's Representative to exercise any such rights; or
 - (iii) any instruction of the Customer under this Agreement.
 - (h) For clarity, the Warranty Period will not be deemed to exclude or restrict any guarantee that is provided at Law with respect to any Deliverable or Service.
-

10. Change Control Procedure

10.1 Change Requests

- (a) Either party may request a variation to the Supplier's Activities, including:
 - (i) varying the Specifications or the nature, quality or scope of the Deliverables and Services, the sequence or time in which they are performed or substituting alternative Materials (if applicable);
 - (ii) varying the order of any Stages or removing one or more Stages from the scope of the Supplier's Activities;
 - (iii) increasing, decreasing, omitting, deleting or removing any Deliverables and/or Services;
 - (iv) varying the CSI and/or any responsibilities or dependencies attributable to the Customer; and/or
 - (v) any change resulting in the Supplier providing services and/or deliverables that are materially different to the Services and Deliverables specified in the Order Form,

(Change Request).
- (b) Except to the extent expressly specified in the Module Terms, no Change Request is binding on either party or to be carried out by the Supplier until the Change Control Procedure specified in this clause 10 is followed.

10.2 Process for submitting and agreeing to Change Requests

- (a) Each Change Request must be submitted in a form substantially similar to the Change Request Form included at Schedule 5 (or such other form approved by the Customer) and containing the details specified in that Change Request Form or such other details as may be reasonably required by the Customer.
- (b) Where rates and charges for any Change Requests, and/or a pricing methodology, have been specified in the Payment Particulars, then the Prices in the relevant Change Request must not exceed those rates and charges and must be based on any applicable pricing methodology specified in the Payment Particulars. Where no rates, charges or methodology are specified, prices must be based on those costs and expenses reasonably and necessarily incurred by the Supplier to implement the relevant Change Request.

- (c) The party receiving the draft Change Request Form must notify the other party in writing as to whether it:
 - (i) approves or rejects the Change Request; or
 - (ii) requires further information in relation to any aspect of the Change Request.
- (d) The parties must respond to Change Requests and requests for information regarding Change Requests within seven Business Days of receiving the request or such other timeframe as reasonably agreed between the parties having regard to the nature and substance of the work required by the relevant request.
- (e) Each party will act reasonably in preparing, submitting, reviewing, considering and assessing Change Requests.
- (f) If a Change Request is approved, the:
 - (i) parties must promptly execute the relevant Change Request Form; and
 - (ii) Supplier must perform the Supplier's Activities in accordance with the executed Change Request Form.
- (g) No Change Request is binding on either party or to be carried out by the Supplier until the relevant Change Request Form is executed by both parties in accordance with this clause 10.

10.3 Electronic transactions

- (a) The parties may submit and execute Change Request Forms electronically (including through an electronic platform) and in one or more counterparts.
- (b) Unless otherwise directed by the Customer, either party may also submit Change Request Forms through its designated electronic ordering portal to which it may give the other party access from time to time.

10.4 Acknowledgements

The parties acknowledge and agree that:

- (a) the Change Control Procedure does not apply to changes to the Core Terms, the Module Terms or any Additional Conditions, which must be effected in accordance with the variation procedure specified in clause 39.5;
- (b) the Customer does not need to follow the Change Control Procedure with respect to:
 - (i) Additional Orders submitted in accordance with clause 3.3; or
 - (ii) the Customer's exercise of its unilateral right to:
 - A. remove from the scope of this Agreement any future Stages pursuant to clause 6.6(c); or
 - B. reduce the scope of this Agreement pursuant to clause 29;
- (c) the Customer is not obliged to pay the Supplier for implementing any Change Request unless the parties have complied with this clause 10;
- (d) the Customer is under no obligation to place Change Requests;

- (e) if any Change Request made pursuant to the Change Control Procedure omits or removes any part of the Supplier's Activities, the Customer may thereafter either provide those Supplier's Activities itself or employ or engage third parties to do so;
- (f) the Customer may, in its sole discretion, agree or reject a Change Request;
- (g) no Change Request will invalidate, or amount to a repudiation of, this Agreement; and
- (h) each party must bear its own costs in preparing, submitting and negotiating any Change Request.

11. Personnel

11.1 Nominated Personnel

- (a) The Supplier must ensure that:
 - (i) each of its Nominated Personnel is made available to perform their role/responsibilities as set out in Item 18 of the Order Form; and
 - (ii) it immediately notifies the Customer's Representative if the Supplier becomes unable or unwilling to comply with this clause 11.1 or otherwise breaches this clause 11.1.
- (b) The Supplier must not remove or replace any of the Nominated Personnel unless the:
 - (i) Customer requests that the Nominated Personnel are replaced pursuant to clause 11.3(e); or
 - (ii) Nominated Personnel are no longer available to carry out the Supplier's Activities due to a substantial change in the relevant Nominated Personnel's personal circumstances (including compassionate leave, carers' leave or other extended leave, serious illness, injury, death, termination of employment by the Supplier or resignation).

11.2 Replacement of Nominated Personnel

If the Supplier is required to replace any Nominated Personnel in accordance with clauses 11.1(b) or 11.3(e), the Supplier must ensure that any replacement is:

- (a) approved by the Customer. The Customer must act reasonably in granting or withholding approval, or granting approval subject to conditions. If requested by the Customer, the Supplier must provide the Customer with such information as the Customer requires concerning any proposed replacement of any Nominated Personnel (including a resume and an opportunity to interview them); and
- (b) of equal or superior ability to, and has the required experience of, the original Nominated Personnel and meets the Personnel requirements specified in this Agreement.

11.3 Supplier's Personnel

- (a) The Supplier must ensure that all of its Personnel engaged or employed by the Supplier in carrying out the Supplier's Activities:
 - (i) are aware of, and comply with, the Supplier's obligations under this Agreement as if they were the Supplier;

- (ii) prior to carrying out any part of the Supplier's Activities, are properly trained and qualified and have the requisite competencies, skills, qualifications and experience to:
 - A. perform the duties allocated to them; and
 - B. understand the Supplier's obligations under this Agreement, including with respect to privacy, security, confidentiality and safety; and
 - (iii) are provided with regular training to ensure that the Supplier's Personnel's skills and qualifications are maintained in accordance with all applicable Best Industry Practice.
- (b) On the Customer's request or as part of any audit conducted pursuant to clause 37.2, the Supplier must promptly provide the Customer or its nominee with evidence that the obligations under this clause 11.3 have been complied with (including with respect to the training of the Supplier's Personnel).
- (c) The Supplier must ensure that all of its Personnel, when on the Customer's premises or when accessing Customer Data or the Customer's systems, equipment or facilities, comply with the reasonable requirements and directions of the Customer (including with regard to the Customer's safety and security requirements).
- (d) The Supplier must ensure that its Personnel when entering any Site comply with any conditions of entry or other Site specific requirements as specified in the Order Documents or notified by the Customer to the Supplier from time to time.
- (e) The Customer may, acting reasonably and in its discretion, give notice in writing requiring the Supplier to remove any of its Personnel (including Nominated Personnel) from work in respect of this Agreement, together with its reasons for removal. The Supplier must promptly arrange for the removal of such Personnel and their replacement with Supplier Personnel reasonably acceptable to the Customer.
- (f) The Supplier must ensure that it (and where appropriate, its outgoing Personnel) effects a process that:
 - (i) minimises any adverse impact on, or delay in, the performance of the Supplier's Activities; and
 - (ii) effects a smooth transition between the outgoing and replacement Personnel, including by identifying and recording:
 - A. any processes and systems in place (or proposed) to manage the provision of the Supplier's Activities; and
 - B. the detail of any outstanding issues in relation to the Supplier's Activities,

for which any of the outgoing Supplier's Personnel were responsible.
- (g) The process for transition to the replacement Personnel by the Supplier must be performed as expeditiously as possible with regard to the Supplier's Activities, the Dates for Delivery and other timeframes under this Agreement, and to the reasonable satisfaction of the Customer.

- (h) The Supplier will be solely responsible, at its sole cost, for compliance with clause 11.2, including finding and replacing Supplier's Personnel in accordance with clause 11.3(e).
- (i) The Supplier must properly manage its Personnel resourcing (including any planned absences) to maintain a sufficient level of Personnel engaged or employed in the provision of the Supplier's Activities (both in terms of quality and quantity of such Personnel) to ensure that all relevant roles are, and continue to be, adequately resourced and that the Supplier's Activities are provided in accordance with this Agreement.

11.4 Deed of Confidentiality and Privacy

- (a) If specified in Item 19 of the Order Form or at the request of the Customer's Representative, the Supplier's Personnel involved in the provision of the Supplier's Activities (or who may receive or have access to the Customer's Confidential Information or Personal Information in connection with this Agreement), must sign a deed in substantially the same form as the document in Schedule 6 or such other deed as required by the Customer (**Deed of Confidentiality and Privacy**).
- (b) Where the Customer requires an alternate Deed of Confidentiality and Privacy to that specified in Schedule 6, it must include obligations that are consistent with the privacy and confidentiality obligations under this Agreement.
- (c) Unless otherwise agreed by the Customer in writing, the Deed of Confidentiality and Privacy must be signed and returned to the Customer's Representative prior to the Supplier's Personnel commencing the Supplier's Activities or being provided with access to the Customer's Confidential Information or Personal Information.

11.5 Subcontracting

- (a) The Supplier must not subcontract any of its obligations under this Agreement unless specified in Item 20 of the Order Form (or otherwise pre-approved by the Customer in writing). Such approval may also be given in respect of classes or categories of subcontractor or types of subcontracted activities and made subject to any applicable conditions. The use of permitted subcontractors may be withheld or given on such conditions as specified in the Order Form or otherwise notified by the Customer to the Supplier in writing.
- (b) If the Customer consents to the engagement of any subcontractor on a conditional basis, then the Supplier must comply with those conditions when it engages that subcontractor.
- (c) A permitted subcontractor may not further subcontract the relevant obligations to another person without the Customer's prior written consent.
- (d) The Customer may, by written notice to the Supplier, revoke its consent to any permitted subcontractor if the Customer, acting reasonably, has concerns about that permitted subcontractor's or its personnel's:
 - (i) performance of the Supplier's Activities; or
 - (ii) compliance with (or ability to comply with) the terms of this Agreement.
- (e) Where practicable to do so, the Customer must engage in reasonable advance consultation with the Supplier in relation to its concerns regarding a permitted subcontractor's (or its personnel's) performance or compliance, including whether those concerns may be otherwise addressed or remediated, before the Customer gives a notice of revocation under clause 11.5(d).

- (f) The Supplier is solely responsible for managing its supply chains and any risks in its supply chains, including ensuring any permitted subcontractor's compliance with clause 13.
- (g) Any subcontracting by the Supplier does not relieve the Supplier of any of its obligations under this Agreement.
- (h) The Supplier must ensure that each of its subcontractors comply with all of the terms of this Agreement to the extent that they are relevant to the subcontractor.
- (i) The Supplier is responsible for its subcontractors, and liable for their acts and omissions, as though they were the acts and omissions of the Supplier.
- (j) If specified in the Order Form or if required by the Customer as a condition of granting consent to the Supplier's use of any subcontractor, the Supplier must arrange for its subcontractors to enter into a subcontractor deed on terms consistent with, and no less onerous than, the parts of this Agreement applicable to the subcontractor's activities.
- (k) The Order Form may specify additional procurement policy requirements which the parties have agreed will apply to, or be prioritised in, any subcontracting arrangement by the Supplier, including the Policies, Codes and Standards. The parties agree to comply with any such requirements.

11.6 Background checks

- (a) The Supplier must:
 - (i) prior to involving any of its Personnel in carrying out the Supplier's Activities, undertake all necessary background checks of those Personnel to ensure that they are fit and proper to provide the Supplier's Activities; and
 - (ii) monitor and assess its Personnel throughout their involvement in the Supplier's Activities to ensure that they remain fit and proper to provide the Supplier's Activities.
- (b) Without limiting the generality of clause 11.6(a), if specified in Item 22 of the Order Form or where not so specified in that Item but reasonably required by the Customer, the Supplier must:
 - (i) carry out any specific background checks of its Personnel as specified in Item 22 of the Order Form or as requested by the Customer, including criminal record and "Working with Children" checks; and
 - (ii) provide the results of those checks to the Customer's Representative within the timeframe specified in Item 22 of the Order Form, or if no time is specified, within five Business Days of receipt (or within such other time as reasonably required by the Customer).
- (c) Where the outcome of a background check reveals that any of the Supplier's Personnel are not fit and proper to be involved in the provision of the Supplier's Activities, the Supplier must not use those Personnel with respect to such activities.
- (d) The Supplier acknowledges and agrees that:
 - (i) all background checks will be undertaken at the Supplier's sole cost, unless otherwise agreed by the Customer in writing;

- (ii) the Customer may provide the results of any background checks to the Contract Authority or any other Government Agency; and
- (iii) the Supplier is solely responsible for obtaining all necessary consents, in accordance with the Privacy Laws, in connection with the conduct of any background checks and the sharing and use of those background checks as contemplated under this clause 11.6.

11.7 Compliance with employment Laws

- (a) The Supplier undertakes to comply with all applicable employment Laws in relation to itself and its Personnel, including in relation to workers' compensation, payroll tax, fringe benefits tax, PAYG tax, group tax, superannuation contributions, leave entitlements and any other employment or related benefit or entitlement.
- (b) The Supplier acknowledges and agrees that:
 - (i) it is solely responsible for the obligations under clause 11.7(a); and
 - (ii) neither the Supplier, nor its Personnel have, pursuant to this Agreement, any entitlement from the Customer in relation to any form of employment or related benefit.

11.8 Non-solicitation

- (a) Neither party may, without the prior written consent of the other party, engage, employ, induce or cause a third party to induce the other party's Personnel engaged in the performance of this Agreement to enter into a contract for service or a contract of employment with it.
- (b) The restrictions in clause 11.8(a) will apply during the Term and for a period of six months after the end of the Term.
- (c) General solicitation for employment which is placed in good faith, such as on a jobs website or in a newspaper advertisement, will not constitute a breach of this clause 11.8.
- (d) The parties agree that the restrictions in this clause 11.8 are necessary to protect the legitimate interests of each party.

12. Compliance

12.1 Compliance with Laws and directions

While carrying out the Supplier's Activities, the Supplier must:

- (a) acquire and maintain all Authorisations necessary for the performance of the Supplier's Activities; and
- (b) ensure that the Supplier's Activities comply with all applicable Laws (including all applicable Australian Laws, even if the Supplier is not domiciled in Australia).

12.2 Policies, Codes and Standards

- (a) The Supplier acknowledges that:
 - (i) the Customer's Supplier Code of Conduct as set out Attachment 7 to Annexure B to the Order Form (**Customer Code of Conduct**) is an important part of the Customer's approach to procurement and describes

- the Customer's minimum expectations regarding the conduct of its suppliers;
- (ii) the Supplier has read the Customer Code of Conduct; and
 - (iii) the expectations set out in the Customer Code of Conduct are not intended to reduce, alter or supersede any other obligations which may be imposed on the Supplier, whether under this Agreement or at Law.
- (b) The Supplier is committed to legal compliance and ethical conduct and, during the Term, the Supplier will:
- (i) extend the principles of fair and honest dealing to all others with whom the Supplier does business, including employees, subcontractors and third parties;
 - (ii) not use or condone child labour, forced labour or slavery or human trafficking in any of its global operations, offices or facilities;
 - (iii) conduct its business in accordance with acceptable and ethical worker treatment, which includes not engaging in any form of harassment, discrimination or retaliation;
 - (iv) comply with all wage and labour Laws, including the WHS Legislation and minimum wage, overtime and maximum hours requirements;
 - (v) avoid situations in which the personal interests of the Supplier's officers, directors or employees conflict, or appear to conflict, with the interests of the Supplier;
 - (vi) comply with all environmental Laws;
 - (vii) prohibit bribes, kickbacks or any other form of improper payment, direct or indirect, to any third party;
 - (viii) ensure third parties acting on behalf of the Supplier will comply with the obligations in this clause 12.2;
 - (ix) not, without prior written approval from the Customer, discuss or disclose to the media dealings with the Customer and New South Wales Government;
 - (x) protect and prevent the release of Confidential Information in accordance with this Agreement;
 - (xi) respond to reasonable requests for advice and information from the Customer in respect of this clause 12.2; and
 - (xii) report to the Customer material breaches of this clause 12.2.
- (c) The Supplier's code of conduct and other ethical and business policies are available upon request and provided subject to Customer's confidentiality obligations under this Agreement.

12.3 Policy Changes – not used

12.4 Work health and safety

Without limiting the Supplier's obligations under any other provision of this Agreement, the Supplier must:

- (a) comply, and must ensure that its Personnel comply, with the WHS Legislation (including any obligation under the WHS Legislation to consult, co-operate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter);
- (b) if requested by the Customer's Representative or required by the WHS Legislation, demonstrate compliance with the WHS Legislation, including providing evidence of any approvals, prescribed qualifications or experience, or any other information relevant to work health and safety matters;
- (c) notify the Customer's Representative promptly (and in any event within 12 hours of such matter arising) of all work health, safety and rehabilitation matters arising out of, or in any way in connection with, the Supplier's Activities;
- (d) insofar as the Supplier, in carrying out the Supplier's Activities, is under any duty imposed by the WHS Legislation, do everything necessary to comply with any such duty;
- (e) ensure that it does not do anything or fail to do anything that would cause the Customer to be in breach of the WHS Legislation; and
- (f) comply with any additional work health and safety requirements specified in the Order Form or as otherwise reasonably required by the Customer from time to time.

12.5 Work health and safety where Supplier's Activities include construction work

- (a) This clause applies where construction work forms part of the Supplier's Activities.
- (b) In this clause 12.5, the terms "**construction work**", "**principal contractor**" and "**workplace**" have the same meanings assigned to those terms under the WHS Legislation.
- (c) Where the Customer engages the Supplier as the principal contractor:
 - (i) the Customer authorises the Supplier to have management and control of each workplace at which construction work is to be carried out and to discharge the duties of a principal contractor, under the WHS Legislation;
 - (ii) the Supplier accepts the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor by the WHS Legislation; and
 - (iii) the Supplier's engagement and authorisation as principal contractor will continue until:
 - A. the Supplier delivers the Supplier's Activities in accordance with this Agreement;
 - B. the Supplier achieves Acceptance in respect of each Deliverable subject to Acceptance Testing under this Agreement; and

- C. any rectification work that is "construction work" that is carried out during the Warranty Period is completed,

unless sooner revoked by the Customer, including by terminating this Agreement at Law or pursuant to this Agreement.

12.6 The environment

Where applicable to the performance of the Supplier's Activities, the Supplier must:

- (a) provide all Supplier's Activities in a manner that does not cause or threaten to cause pollution, contamination or environmental harm to, on or outside a Site or other location;
- (b) ensure that it and its Personnel comply with all applicable environmental Laws and Policies, Codes and Standards; and
- (c) follow New South Wales Government policies and guidelines concerning the safe disposal of any hazardous substances.

12.7 Conflicts of Interest

- (a) The Supplier must:
 - (i) promptly notify the Customer in writing if a Conflict of Interest arises or is likely to arise during its performance of the Supplier's Activities; and
 - (ii) take all necessary action as may be reasonably required by the Customer to avoid or minimise such a Conflict of Interest.
- (b) If such a Conflict of Interest, in the Customer's view, significantly affects the interests of the Customer, and the Supplier is unable to resolve the Conflict of Interest to the satisfaction of the Customer within 14 days of receipt of a notice from the Customer, then the Customer will be entitled to terminate this Agreement under clause 29.1(a)(v).

13. Modern Slavery

13.1 Compliance

The Supplier warrants that, as at the date of its execution of this Agreement, neither the Supplier, any entity that it owns or controls or, to the best of its knowledge, any subcontractor of the Supplier, has been convicted of a Modern Slavery offence under the Modern Slavery Laws.

13.2 Information

- (a) For the purpose of this clause, "**Information**" may include (as applicable) information as to any risks of, actual or suspected occurrences of, and remedial action taken in respect of, Modern Slavery but excludes Personal Information.
- (b) The Supplier must:
 - (i) subject to any restrictions under any applicable Laws by which it is bound, provide to the Customer any reasonable Information, as reasonably requested by the Customer, to enable the Customer to meet any of its obligations under the Modern Slavery Laws and associated Laws; and

- (ii) notify the Customer in writing as soon as it becomes aware of either or both of the following:
 - A. a material change to any of the Information it has provided to the Customer in relation to Modern Slavery; and
 - B. any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or those of any entity that it owns or controls).
- (c) The Supplier may provide any Information or report requested by the Customer in the form of a previously-prepared statement or re-purposed report, for example a statement provided in response to a similar request for Information from another Australian public sector agency, or refer the Customer to its publicly available Modern Slavery Statement, provided that such statement or report provides generally the same Information as that sought by the Customer.
- (d) The Supplier must, during the Term and for a period of seven years thereafter:
 - (i) maintain; and
 - (ii) upon the Customer's reasonable request, give the Customer access to, and/or copies of,

records in the possession or control of the Supplier to trace, so far as practicable, the supply chains of all Services and Deliverables provided under this Agreement and to enable the Customer to assess the Supplier's compliance with this clause 13.

13.3 Modern Slavery due diligence

The Supplier must take reasonable steps to ensure that Modern Slavery is not occurring in the operations and supply chains of the Supplier and any entity that it owns or controls.

13.4 Subcontractors

In respect of any subcontracts that relate to the Supplier's Activities, or the whole or any part of this Agreement (and without limiting the Supplier's obligations under any Modern Slavery Laws), the Supplier must take reasonable steps to ensure that those subcontracts contain:

- (a) in relation to subcontracts that relate exclusively to the Customer, provisions in relation to Modern Slavery that are substantially the same provisions as this clause 13; and
- (b) in all other cases, Modern Slavery provisions that are reasonably consistent with:
 - (i) Modern Slavery requirements under Australian Modern Slavery Laws, if the subcontract is governed by the Laws of the Commonwealth of Australia or any Australian State or Territory; or
 - (ii) equivalent or similar Modern Slavery requirements in the applicable jurisdiction as such Modern Slavery requirements under Australian Modern Slavery Laws, if the subcontract is governed by the Laws of a jurisdiction outside of the Commonwealth of Australia and the Australian States and Territories.

13.5 Response to Modern Slavery Incident

- (a) If the Supplier becomes aware of any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls), the Supplier must take reasonable steps to respond to the occurrence in accordance with any internal Modern Slavery strategy and procedures of the Supplier and any relevant policies, codes and standards (including any code of practice or conduct) or other guidance issued by any relevant Authority or (if the Customer notifies the Supplier that it requires the Supplier to comply with any relevant New South Wales Procurement Board Code/guidance) by the New South Wales Procurement Board.
- (b) Any action taken by the Supplier under clause 13.5(a) will not affect any rights of the Customer under this Agreement, including its rights under clause 13.6.

13.6 Termination

In addition to any other rights or remedies under this Agreement or at Law, the Customer may terminate this Agreement, upon written notice and with immediate effect if, in the Customer's reasonable view, the Supplier has:

- (a) failed to notify the Customer as soon as it became aware of an actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls);
- (b) failed to take reasonable steps to respond to an actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls); or
- (c) otherwise committed a substantial breach or multiple minor (non-trivial) breaches of its obligations under clause 13 and the breach (or breaches) is not remedied within 15 days of the Supplier receiving a notice to remedy.

14. Acceptance Testing

14.1 General

- (a) Unless otherwise specified in the Order Form, this clause 14 will apply in relation to the supply of any Deliverables that are not Documents.
- (b) Where the parties have agreed further details as to the form or the conduct of Acceptance Tests in the Order Documents, those details apply in addition to this clause 14, except to the extent expressly stated in the Order Form.

14.2 Testing by Supplier

- (a) Before delivery by the Supplier to the Customer of any Deliverable (or any component thereof) that is subject to Acceptance Testing, the Supplier must:
 - (i) carry out the tests in accordance with any Test Plan and to ensure that the Deliverable meets the Acceptance Criteria for the Deliverable;
 - (ii) following testing, supply the Customer with the test results in accordance with the requirements and timeframes in the Test Plan and Order Documents, or where no requirements or timeframes are specified in those documents, promptly on completion of each test;

- (iii) if the Supplier determines that a Deliverable (or component thereof) does not meet any Acceptance Criteria, promptly remedy that non-compliance; and
 - (iv) when appropriate, notify the Customer that the relevant Deliverable (or applicable component thereof) is ready for Acceptance Testing by the Customer.
- (b) Where directed by the Customer, the Supplier must:
- (i) permit the Customer or its nominee to witness any tests conducted pursuant to this clause 14.2; and
 - (ii) provide the Customer with evidence as reasonably required by the Customer,
- to demonstrate that the tests have been successfully completed in accordance with clause 14.2.

14.3 Testing by the Customer

- (a) The Customer may carry out Acceptance Tests in respect of each Deliverable to which Acceptance Testing applies and the Supplier must provide all reasonable assistance required by the Customer in connection with the Customer's Acceptance Testing.
- (b) If the Customer carries out Acceptance Tests, the Customer must conclude the Acceptance Tests in accordance with any timeframes specified in the Order Documents or, where no timeframes are specified, within a time reasonably determined by the Customer.
- (c) Following completion of the Customer's Acceptance Testing in respect of a Deliverable, the Customer must either:
 - (i) provide to the Supplier an Acceptance Certificate in respect of that Deliverable; or
 - (ii) notify the Supplier that the Acceptance Criteria in respect of that Deliverable have not been met.
- (d) Neither the full or partial Acceptance of any Deliverable nor any exercise by the Customer of any option or other right under this clause 14 will:
 - (i) operate as a sole or exclusive remedy; or
 - (ii) limit or prejudice any rights or remedies of the Customer under this Agreement or at Law.
- (e) Where the Deliverable meets the Acceptance Criteria, the Customer must issue the Acceptance Certificate no later than 10 Business Days from completion of the Acceptance Testing, or within such other timeframe specified in the Order Documents.

- (f) Where the period referred to in clause 14.3(e) elapses without the Customer either providing an Acceptance Certificate to the Supplier in respect of that Deliverable or notifying the Supplier that the Acceptance Criteria have not been met, the Supplier must submit to the Customer's Representative a written reminder notice identifying the Deliverable in respect of which it requires a decision by the Customer. If the Customer does not take one of the actions referred to in clause 14.3(c) or otherwise communicate with the Supplier in relation to that reminder notice within 15 Business Days of its receipt, then the relevant Deliverable will be deemed to have been Accepted by the Customer.

14.4 Effect of failure to meet Acceptance Criteria

- (a) If the Acceptance Criteria in respect of a Deliverable have not been met, the Customer may, at its option, do any of the following:
 - (i) issue a notice to the Supplier that requires the Supplier to comply with clause 14.4(b), accompanied with a description of the areas in which the relevant Deliverable has failed to meet the Customer's Acceptance Testing;
 - (ii) Accept the Deliverable subject to a reasonable reduction in the Price as reasonably agreed between the parties or, in the absence of agreement, as reasonably determined by the Customer to reflect the greater of the:
 - A. cost to the Customer of correcting the Defects in the Deliverable; or
 - B. reduced features, functionality or quality of operation as a result of those Defects; or
 - (iii) if the Deliverable contains a Material Defect that, in the Customer's reasonable opinion, is incapable of remedy or the Supplier has failed to remedy that Material Defect within 20 Business Days after delivery of the Deliverable (or such other time as specified in the Order Form or agreed between the parties in writing), immediately terminate this Agreement or reduce its scope pursuant to clause 29.1(a)(v).
- (b) If the Supplier receives a notice under clauses 14.4(a)(i) or 14.4(c)(i), the Supplier must, at its cost, within 20 Business Days (or such other time as specified in the Order Form or agreed between the parties in writing) after the date of the notice:
 - (i) supply such additional services to rectify any Defect in the Deliverable as may be necessary to enable the Deliverable to meet the Acceptance Criteria, including, if necessary, replacing the Deliverable;
 - (ii) co-operate with the Customer with respect to any repeat Acceptance Testing; and
 - (iii) provide all assistance required by the Customer in relation to the repeated Acceptance Tests.
- (c) If the Acceptance Criteria in respect of a Deliverable have not been met following repeat Acceptance Testing, the Customer may, at its option, do any of the following:
 - (i) require the Supplier to again comply with clause 14.4(b);
 - (ii) Accept the Deliverable subject to a reduction in the Price as reasonably agreed between the parties or, in the absence of agreement, as reasonably determined by the Customer in accordance with the same principles as described in clause 14.4(a)(ii); or

- (iii) immediately terminate or reduce the scope of this Agreement pursuant to clause 29.1(a)(v).
- (d) The Customer reserves the right to remedy any Defects or to appoint third parties to do so if the Supplier fails to correct any Defect that has been notified by the Customer to the Supplier and which the Supplier has not corrected within the timeframe required by this clause 14.4. At the Customer's request, the Supplier must reimburse the Customer for the costs incurred by the Customer in relation to the remediation of the relevant Defects, based on commercially reasonable rates and charges.

14.5 Effect of Acceptance Certificate

An Acceptance Certificate will constitute Acceptance for the purposes of this clause 14, but will not be taken as an admission or evidence that the Deliverables comply with, or that the Supplier has performed its obligations under, this Agreement.

15. Performance

15.1 Performance obligations

The Supplier must:

- (a) carry out the Supplier's Activities:
 - (i) in accordance with this Agreement, including the Order Documents;
 - (ii) with all due skill, care and diligence and in a proper, regular and timely manner;
 - (iii) in a manner that encourages the most efficient use of resources and promotes the achievement of any Customer objectives specified in the Order Documents;
 - (iv) to a high standard and in accordance with Best Industry Practice for work of a similar nature to the Supplier's Activities;
 - (v) in a manner that is safe to both people and the environment;
 - (vi) in a manner that minimises any disruption, interference or inconvenience to the Customer or its operations, Personnel or Other Suppliers;
 - (vii) to enable all Deliverables to operate in accordance with this Agreement, and to meet the Acceptance Criteria applicable to them;
 - (viii) to ensure that all timeframes under this Agreement are met, including all Key Milestones and Dates for Delivery;
 - (ix) in accordance with any relevant Statement of Work;
 - (x) in accordance with the Specifications; and
 - (xi) otherwise in accordance with the other requirements of this Agreement; and
- (b) provide Deliverables to the Customer which:
 - (i) are of high quality;

- (ii) in the case of the Customer's production instance of the Cloud Service, will materially conform to the Specifications set out at Item 23;
- (iii) will materially conform to the applicable Specifications;
- (iv) achieve Acceptance;
- (v) where applicable, will (on delivery, or at the time of performance of the relevant Supplier's Activities in relation to the applicable Deliverable(s)):
 - A. have been tested and verified, in accordance with Best Industry Practice, to be free from any Viruses; and
 - B. be compatible and interoperable with those features or characteristics of the Customer Environment described in the Order Documents and will not detrimentally affect the operation or performance of the Customer Environment or any part thereof.

15.2 Service standards and Service Levels

- (a) The Supplier must carry out the Supplier's Activities in a manner that meets or exceeds any Service Levels or, if none are specified in the Order Documents, in a timely and efficient manner taking into account the Supplier's obligations under this Agreement.
- (b) Unless otherwise specified in the Order Documents, the Supplier agrees to:
 - (i) measure its performance under this Agreement against any Service Levels;
 - (ii) provide the Customer with the results of all performance reviews;
 - (iii) use appropriate measurement and monitoring tools and procedures to measure performance accurately; and
 - (iv) provide the Customer with sufficient information in relation to the Supplier's assessment and monitoring of its performance pursuant to this clause 15.
- (c) The Supplier's liability under clause 15.2(a) is reduced to the extent that the failure to meet or exceed a Service Level was caused or contributed to by the:
 - (i) breach or negligence of the Customer;
 - (ii) unavailability or failure of any Critical CSI; or
 - (iii) acts or omissions of an Other Supplier.

15.3 Consequences for failing to meet a Service Level

- (a) If the Supplier fails to meet any applicable Service Levels, it will
 - (i) notify the Customer of the Service Level failure;
 - (ii) provide updates to the Customer's Representative;
 - (iii) take action that is commercially reasonable to minimise the impact of the failure;

- (iv) correct the failure; and
- (v) take actions to prevent the recurrence of the failure and investigate the circumstances of the failure

in accordance with the terms set out in the Customer Support Addendum).

- (b) Without limiting any right or remedy available to the Customer under this Agreement or at Law, if the Supplier does not meet a Service Level, then the consequences for failing to meet a Service Level will be as set out in the Order Documents (such as service credits, service rebates or termination rights).
- (c) The parties acknowledge and agree that any service credits or service rebates calculated in accordance with the Order Documents:
 - (i) reflect the provision of a lower level of service than is required under this Agreement; and
 - (ii) are reasonable and represent a genuine pre-estimate of the diminution in value the Customer will suffer, as represented by an adjustment to the Price, as a result of the delivery by the Supplier of a lower level of service than that required by the applicable Service Level, but are not an exclusive remedy with respect to other categories of Loss.

15.4 Performance reports

The Supplier must provide to the Customer:

- (a) access to a real time report on the performance and availability of the Services and/or Deliverables via the Support Portal, including detail relating to the matters specified in the Order Form; and
- (b) the additional reports specified in the Module Terms and Order Form for the time period specified in those documents (which may include, where so specified, access to real-time or near-real time reporting capability),

in human readable form.

15.5 Performance reviews

- (a) If it is stated in Item 25 of the Order Form that the parties must conduct a service and performance review of the Supplier's performance under this Agreement, then the parties must conduct such reviews at the intervals and in accordance with any requirements in the Order Form (or as otherwise agreed between the parties).
- (b) All reviews must be undertaken by representatives of both parties who have the authority, responsibility and relevant expertise in financial and operational matters appropriate to the nature of the review. Where this Agreement is made under a MICTA, either party may request the involvement of the Contract Authority in any review.

15.6 Meetings

- (a) The Supplier's Representative must meet with the Customer's Representative or other Personnel at the times and at the locations specified in the Order Form or as otherwise agreed between the parties in writing.
- (b) The parties agree that meetings may be held by video or teleconference if required by the Customer.

16. Liquidated Damages

- (a) This clause 16 applies if Item 29 of the Order Form provides for Liquidated Damages to be payable in relation to a failure by the Supplier to meet a Key Milestone.
- (b) If the Supplier fails to meet a Key Milestone, the Supplier must pay the Customer the amount of Liquidated Damages set out in, or otherwise calculated in accordance with, Item 29 of the Order Form in relation to the period between the relevant Key Milestone and the date on which the:
 - (i) Supplier achieves the relevant Key Milestone; or
 - (ii) Customer terminates the relevant Order (or this Agreement),but subject always to the maximum number of days (if any) for which Liquidated Damages are payable, or maximum percentage of the value of applicable Prices, as may be specified in Item 29 of the Order Form.
- (c) The Supplier acknowledges that the Liquidated Damages payable under this clause 16 are a reasonable and genuine pre-estimate of the Loss likely to be suffered by the Customer in respect of a failure by the Supplier to meet the relevant Key Milestone. However, they do not limit the rights or remedies of the Customer to claim Loss from the Supplier in the event that the amount of Loss actually incurred by the Customer exceeds such genuine pre-estimate, in the amount of the difference between such Loss actually incurred and the Liquidated Damages payable under this clause 16.
- (d) The Supplier will not be liable to pay Liquidated Damages to the extent that the Supplier's failure to achieve a Key Milestone was caused or contributed to by the:
 - (i) breach or negligence of the Customer;
 - (ii) unavailability or failure of any Critical CSI; or
 - (iii) acts or omissions of an Other Supplier.

17. Intellectual Property

17.1 Ownership of Existing Materials

Unless otherwise specified in Item 37 of the Order Form, the parties agree that nothing in this Agreement will affect the ownership of the Intellectual Property Rights in any Existing Materials.

17.2 Licence to use Existing Materials

- (a) Unless otherwise specified in the applicable Module Terms or in Item 37 of the Order Form, the Supplier grants to the Customer an irrevocable, non-exclusive, worldwide, transferable, royalty-free licence to use, copy, adapt, translate, reproduce, modify, communicate and distribute any Intellectual Property Rights in the Supplier's Existing Materials for any purpose in connection with the:
 - (i) Customer performing its obligations and exercising its rights under this Agreement;

- (ii) full use of any Services and/or Deliverables in which the Supplier's Existing Material is incorporated, including installing, operating, upgrading, modifying, supporting, enhancing and maintaining the Deliverables or integrating them with any other software, systems, equipment or infrastructure owned, operated or maintained by the Customer or a Government Agency;
- (iii) performance of tests and other quality assurance processes, including Acceptance Tests, in relation to the Deliverables and systems that may integrate or interoperate with the Deliverables; or
- (iv) carrying out, or exercise, of the functions or powers of the Customer, a Government Agency or the Crown, including any statutory requirements concerning State records or auditing.

(b) Where:

- (i) the Supplier's Existing Material is incorporated into any New Materials; and
- (ii) clause 17.4(b) applies in respect of those New Materials,

then the licence granted in clause 17.2(a) will also include, in respect of the Supplier's Existing Materials, an equivalent right and licence to that described in clause 17.4(b), to the extent required to support the exploitation and commercialisation of the Intellectual Property Rights in the relevant New Materials under that clause (but excluding commercial exploitation of the Supplier's Existing Materials independently of the New Materials in which they are incorporated).

(c) The rights and licences granted by the Supplier to the Customer under clause 17.2(a):

- (i) do not permit the Customer to sell, monetise or commercialise the Supplier's Existing Materials, except as otherwise stated in Item 37 of the Order Form; and
- (ii) are sub-licensable by the Customer (on the same terms, for the same period and for the same purposes as set out in clause 17.2(a)), without additional charge to any:
 - A. contractor, subcontractor or outsourced service provider (subject to such persons being under reasonable obligations of confidentiality owed to the Customer or another Government Agency) acting on behalf of, or providing products and/or services for the benefit of, the Customer or a Government Agency; or
 - B. Government Agency.

(d) Unless otherwise specified in Item 37 of the Order Form, the Customer grants to the Supplier, a non-exclusive, non-transferable, revocable, worldwide, royalty-free licence to use the Intellectual Property Rights in the Customer's Existing Materials, to the extent required for the Supplier to perform, and solely for the purposes of the Supplier performing, its obligations under this Agreement. For the avoidance of doubt, the Supplier is not granted a right to commercialise, modify or create derivative works of the Customer's Existing Materials.

17.3 Ownership of New Materials

- (a) Unless otherwise specified in Item 37 of the Order Form, where the Supplier creates New Materials in carrying out the Supplier's Activities, the ownership of all Intellectual Property Rights in those New Materials vests in, or is transferred or assigned to, the Supplier immediately on creation.
- (b) If the parties agree in Item 37 of the Order Form that the Intellectual Property Rights in any New Materials will be owned by the Customer, then ownership of all Intellectual Property Rights in those New Materials vests in the Customer immediately on creation or is transferred or assigned by the Supplier to the Customer immediately on creation, free of any encumbrances, security interests and third party rights.

17.4 Customer licence to use Supplier owned New Materials

- (a) Where the Supplier owns the Intellectual Property Rights in any New Materials, unless otherwise specified in the applicable Module Terms or in Item 37 of the Order Form, the Supplier grants to the Customer an irrevocable, non-exclusive, worldwide, transferable, royalty-free licence to use, copy, adapt, translate, reproduce, modify, communicate and distribute the Intellectual Property Rights in such New Materials, for any purpose in connection with the:
 - (i) Customer performing its obligations and exercising its rights under this Agreement;
 - (ii) full use of any Services and/or Deliverables in which New Material is incorporated, including installing, operating, upgrading, modifying, supporting, enhancing and maintaining the Deliverables or integrating them with any other software, systems, equipment or infrastructure owned, operated or maintained by the Customer or a Government Agency;
 - (iii) performance of tests and other quality assurance processes, including Acceptance Tests, in relation to the Deliverables and systems that may integrate or interoperate with the Deliverables; or
 - (iv) carrying out, or exercise, of the functions or powers of the Customer, a Government Agency or the Crown, including any statutory requirements concerning State records or auditing.
- (b) Where specified in Item 37 of the Order Form, the licence granted in clause 17.4(a) will also include the right and licence to exploit and commercialise the Intellectual Property Rights in New Materials for the purposes specified in clause 17.4(a) or such other purposes specified in Item 37 of the Order Form.
- (c) Subject to clause 17.11, the rights and licences granted by the Supplier to the Customer under clauses 17.4(a) and 17.4(b) are not sub-licensable by the Customer.

17.5 Licence term

Except where otherwise specified in Item 37 of the Order Form or in the applicable Module Terms, the licences granted under clauses 17.2 and 17.4 will be perpetual in relation to the purposes specified in those clauses.

17.6 Supplier Licence to use Customer owned New Materials

Where it is specified in Item 37 of the Order Form that Intellectual Property Rights in any New Materials are owned by the Customer, then to the extent required to enable the Supplier to

perform its obligations under this Agreement, the Customer grants to the Supplier, a non-exclusive, non-transferable, revocable, worldwide, royalty-free licence to use the Intellectual Property Rights in those New Materials, to the extent required for the Supplier to perform, and solely for the purposes of the Supplier performing, its obligations under this Agreement.

17.7 Third party Intellectual Property Rights

Unless stated otherwise in Item 37 of the Order Form or the applicable Module Terms, the Supplier must, in respect of any third party Intellectual Property Rights used in the production of Deliverables, included in any Deliverables, or required by the Customer to receive the Services:

- (a) ensure that it procures for the Customer a licence on terms no less favourable than:
 - (i) the terms set out in this clause 17 or any applicable Module Terms; or
 - (ii) on such other terms specified in Item 37 of the Order Form;
- (b) ensure that the use of such third party Intellectual Property Rights does not constrain the Customer's use of the Services or any Deliverables; and
- (c) otherwise, not use any third party Intellectual Property Rights in the provision of the Services or the production of any Deliverables.

17.8 Open Source Software

- (a) The Supplier must not, without the prior written consent of the Customer:
 - (i) develop or enhance any Deliverable using Open Source Software; or
 - (ii) incorporate any Open Source Software into any Deliverable.
- (b) In requesting any consent from the Customer under clause 17.8(a), the Supplier must provide the Customer with:
 - (i) complete and accurate copies of any licence agreement, the terms and conditions of which would apply to the proposed use or incorporation of the Open Source Software into a relevant Deliverable; and
 - (ii) a description of how such use or incorporation may affect the provision of the Supplier's Activities, the Customer's licence rights under this Agreement and the Customer's and Customer Users' uses or other dealings with the relevant Deliverable,for the Customer's review and consideration.
- (c) Where the Customer provides its consent in relation to the use or incorporation of any Open Source Software under clause 17.8(a) the:
 - (i) Customer must comply with the terms and conditions notified to it in clause 17.8(b)(i) in relation to the use of that Open Source Software: and
 - (ii) Supplier must ensure that the use of that Open Source Software will not:
 - A. result in an obligation to disclose, licence or otherwise make available any part of the Customer Environment, software of the Customer, Customer Data or Confidential Information to any third party; or

- B. diminish the Supplier's obligations or the Customer's rights under this Agreement.
- (d) For the purpose of this clause 17.8, the Customer acknowledges and provides its written consent for the Supplier's use of Open Source Software in developing or enhancing any Deliverable and inserting Open Source Software into any Deliverable, provided that:
- (i) the terms of this Agreement govern the Customer's use of any such Deliverable; and
 - (ii) the Supplier complies with all license terms of any such third party software and any Open Source Software.
- (e) Notwithstanding anything to the contrary in this Agreement, Deliverables deemed Ancillary Software may include Open Source Software, which is governed by the terms of its applicable third-party open source licences. The provisions of clause 17.8(c)(ii) are subject to the Customer's use of the Deliverable being in full compliance with the Agreement and the Customer not causing the outcomes listed in paragraphs A and B of clause 17.8(c)(ii). For the avoidance of doubt, the Supplier has no obligation to further obtain Customer's written consent with regard to the future use of Open Source Software in the Deliverables.

17.9 Consents and Moral Rights

- (a) Prior to provision to the Customer or use in connection with this Agreement, the Supplier must ensure that it obtains all necessary consents from all authors of all Materials and Deliverables provided or licenced to the Customer under this Agreement to any use, modification or adaptation of such Materials and Deliverables to enable the Customer to fully exercise its Intellectual Property Rights under this Agreement, including:
- (i) the use, modification or adaptation of the Materials or Deliverables; or
 - (ii) any other dealing which might otherwise constitute an infringement of the author's Moral Rights.
- (b) To the extent the Customer provides any CSI for use by the Supplier and that CSI incorporates any Intellectual Property Rights, the Customer must procure all necessary:
- (i) licences of Intellectual Property Rights in that CSI; and
 - (ii) Moral Rights consents from all authors of that CSI,
- to the extent required to enable the Supplier to perform, and solely for the purposes of the Supplier performing, its obligations under this Agreement with respect to that CSI.

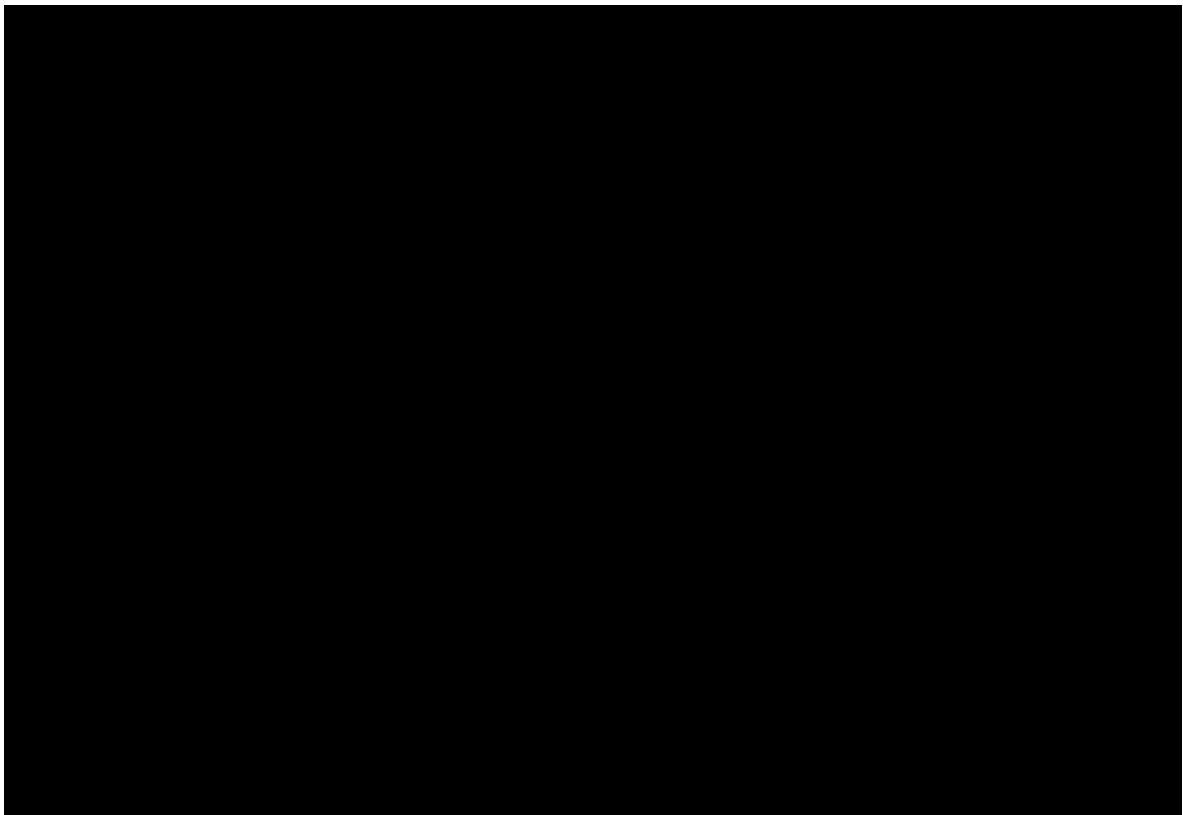
17.10 Prohibited activities

The licences granted to the Customer under clauses 17.2 and 17.4 do not permit the Customer to disassemble, decompile or reverse engineer any software-based elements of the materials licensed under those clauses, provided that this restriction shall not apply to the extent it would not be permissible under the *Copyright Act 1968* (Cth) in relation to particular acts conducted for certain purposes, as specified in that legislation.

17.11 Additional obligations

- (a) The Supplier must, at its cost, do all acts (and procure that all relevant persons do all acts) as may be necessary to give effect to the intellectual property provisions in this clause 17, including by executing (or procuring the execution of) any required documents or effecting any required registrations.
- (b) The Customer grants to the Supplier a royalty-free, fully paid, non-exclusive, non-transferable (except under clause 39.11), worldwide, right to use Customer Data and Customer Technology solely to provide and support the Customer performing its obligations and exercising its rights in accordance with the Customer Support Addendum. For the avoidance of doubt, the Supplier is not granted a right to commercialise, modify or create derivative works of Customer Data or Customer Technology.
- (c) In addition to the use rights set out in the applicable ServiceNow Order Form, the Customer may permit third party suppliers of products or services (**Service Providers**) to use the Cloud Services for the limited purpose of providing services to the Customer and supporting the Customer's operations provided that the Customer shall ensure compliance of such Service Providers with the terms of this Agreement that are applicable to the Service Provider's use of the Cloud Services and further provided that the Customer remains fully responsible for all of the Service Providers' acts or omissions in connection with the Service Providers' use of the Cloud Services under this Agreement, as if such acts or omissions were those of the Customer.

17.12 Warranties and acknowledgements



17.13 Replacement of Deliverables

Without limiting the Customer's rights under clause 34.1, if any Claim of the kind described in that clause is made or brought in respect of Intellectual Property Rights or Moral Rights, the Supplier must, at its election and at no additional cost to the Customer:

- (a) procure for the Customer the right to continue to use the Services and/or Deliverables on terms no less favourable than those set out in this Agreement;
- (b) promptly replace or modify the Services and/or Deliverables so that the alleged infringement ceases and the replaced or modified Services and/or Deliverables provides the Customer with no less functionality and performance as that required by this Agreement; or
- (c) only where the options in paragraphs (a) and (b) are not reasonably possible and subject to prior consultation with and receipt of approval from the Customer, accept return of the affected Deliverable or cease to provide the affected Service (as applicable) and, within 30 days, refund the Customer any fees paid for the relevant Service and/or Deliverable, subject to any reasonable deduction for any in-production use already made by the Customer of the relevant Service and/or Deliverable.

18. Escrow

- (a) If specified in Item 38 of the Order Form (or if otherwise agreed between the parties in writing) that any Escrow Materials are to be held in escrow, the Supplier must arrange for:
 - (i) itself, the Customer and an escrow agent approved by the Customer to enter into an escrow agreement in substantially the same form as Schedule 7 (or such other form as may be prescribed by the relevant escrow agent and agreed by the parties in writing); or
 - (ii) the Customer to become a party to an escrow arrangement which already covers the Escrow Materials which the Customer regards as a satisfactory arrangement.
- (b) Any escrow arrangement to which the Customer becomes a party under clause 18(a) must continue in effect for at least the period stated in Item 38 of the Order Form, unless otherwise agreed between the parties in writing.
- (c) The Supplier must consult with, and comply with the reasonable directions of, the Customer in any negotiations with the escrow agent arising under clause 18(a).
- (d) Any escrow arrangement must be entered into by the timeframe specified in Item 38 of the Order Form, or if no timeframe is specified, as otherwise reasonably required by the Customer.

PART C: DATA AND SECURITY

19. Customer Data

19.1 Obligations in relation to Customer Data

- (a) This clause 19 applies where the Supplier or its Personnel obtains access to, or collects, uses, holds, controls, manages or otherwise processes, any Customer Data in connection with this Agreement.

- (b) The Supplier acknowledges and agrees that it obtains no right, title or interest with respect to any Customer Data, other than a right to use Customer Data for the sole purpose of, and only to the extent required for, the carrying out of the Supplier's Activities in accordance with this Agreement.
- (c) As between the Supplier and Customer, all rights in and in relation to Customer Data remain with the Customer at all times and the Supplier assigns all rights, title and interest in the Customer Data to the Customer on creation. The Supplier agrees to do all things necessary to assign or vest ownership of all rights in Customer Data to the Customer on creation.
- (d) The Supplier must:
 - (i) not use any Customer Data for any purpose other than for the sole purpose of, and only to the extent required for, carrying out the Supplier's Activities in accordance with this Agreement;
 - (ii) not sell, assign, lease or commercially transfer or exploit any Customer Data;
 - (iii) not perform any data analytics on Customer Data, except to the sole extent permitted by this Agreement;
 - (iv) ensure that all of its Personnel who access, or have the ability to access, Customer Data are appropriate to do so, including passing any background or security checks as required by this Agreement;
 - (v) apply to the Customer Data the level of security and (if applicable) encryption that is required under this Agreement;
 - (vi) apply technical and organisational controls which are appropriate to ensure that all Customer Data is at all times protected from any unauthorised access, modification or disclosure and only handled and processed in accordance with the terms of this Agreement; and
 - (vii) ensure that its Personnel (including subcontractors) comply with this clause 19.1(d) and manage and safeguard Customer Data in accordance with all other requirements of this Agreement.

19.2 Security of Customer Data

- (a) The Supplier must comply with the security requirements set out in this Agreement, including in the Order Documents (**Information Security Requirements**) in carrying out the Supplier's Activities.
- (b) The Supplier must establish, maintain, enforce and continuously improve its safeguard and security measures, and take all reasonable steps, to ensure that Customer Data is protected against misuse, interference and loss, and from unauthorised access, modification or disclosure.
- (c) The Supplier must immediately notify the Customer where it is or may be required by Law to disclose any Customer Data to any third party contrary to the terms of this Agreement.

19.3 Location of Customer Data

- (a) The Supplier must not:
 - (i) transfer, store, process, access, disclose or view Customer Data; or

- (ii) at no additional charge to the Customer;
- (iii) in a human readable, commonly accepted format which does not require the Customer to purchase additional licences it does not already hold, or in the same format as the Customer Data was uploaded (for example, a semi-structured format); and
- (iv) in order to maintain the relationships and integrity of those copies of the Customer Data.

19.7 Record, retention, return and destruction of the Customer Data

- (a) If specified in the Order Form, the Supplier must:
 - (i) establish, keep and maintain complete, accurate and up-to-date records of all Customer Data accessed, collected or changed by it; and
 - (ii) make copies of the records referred to in clause 19.7(a)(i) available to the Customer immediately upon request.
- (b) On the date that any Customer Data is no longer needed for the purposes of the Supplier carrying out the Supplier's Activities (or should the Customer notify the Supplier that the Customer Data is no longer needed), the Supplier must at its sole cost:
 - (i) immediately stop using the relevant Customer Data (except as permitted under this Agreement); and
 - (ii) at the Customer's direction (subject to clause 19.7(c)):
 - A. securely and permanently destroy all records and backups of the Customer Data in accordance with the timeframes under this Agreement and supply the Customer's Representative with a certificate of destruction that confirms that this has occurred; or
 - B. securely return all records of Customer Data to the Customer in accordance with the timeframes under this Agreement.
- (c) The Supplier will be entitled to retain copies of records of Customer Data to the extent, and only for the period, that such retention is mandated by any Laws to which the Supplier is subject.
- (d) The Supplier acknowledges and agrees that:
 - (i) where the Order Documents specify additional requirements for the capture and retention of audit log data, including categories of data and periods of retention, the Supplier must comply with those requirements; and
 - (ii) notwithstanding anything to the contrary in this Agreement, no Customer Data should be destroyed until the Supplier has met the data retrieval requirements under clause 32.1.

19.8 General

- (a) If requested by the Customer, the Supplier must provide the Customer with a report setting out how it will comply, and has complied, with its obligations under this clause 19.

- (b) Where applicable, the Supplier must comply with any additional obligations relating to Customer Data as may be specified in the Order Documents.
- (c) For clarity, nothing in this clause 19 relieves the Supplier of its obligations under clause 20.

20. Privacy

20.1 Protection and use of Personal Information

- (a) If the Supplier or its Personnel obtains access to, or collects, uses, holds, controls, manages or otherwise processes, any Personal Information in connection with this Agreement (regardless of whether or not that Personal Information forms part of the Customer Data), the Supplier must (and must ensure that its Personnel):
 - (i) comply with all Privacy Laws, as though it were a person subject to those Privacy Laws;
 - (ii) only use that Personal Information for the sole purpose of carrying out the Supplier's Activities;
 - (iii) not disclose the Personal Information to any other person without the Customer's prior written consent, which may be given in respect of classes or categories of subcontractors or types of subcontracted activities and made subject to any applicable conditions;
 - (iv) not transfer the Personal Information outside New South Wales, Australia or access it, or allow it to be accessed, from outside New South Wales, Australia unless permitted in Item 39 of the Order Form or relevant Module Terms and subject to the Supplier's and its Personnel's compliance with the Data Location Conditions;
 - (v) protect the Personal Information from unauthorised access, use, disclosure, modification and other misuse and in accordance with the security requirements under this Agreement;
 - (vi) comply with the agreed timeframes and procedures for notification of Security Incidents as set out in the Data Security Addendum; and
 - (vii) notify the Customer as soon as reasonably possible if the Supplier is approached by any privacy commissioner or other Authority concerning any Personal Information.
- (b) Where the Supplier is required by Law to produce or disclose any information or to develop or provide any response or explanation to an Authority in relation to any incident (including any privacy breach) concerning the handling, management, safekeeping or protection of any Personal Information in connection with this Agreement, it must (to the extent such action is permitted by Law), provide notice to the Customer as soon as reasonably possible of the nature and content of the information to be produced or disclosed and, prior to providing a response to the Authority or disclosing any Personal Information, engage in reasonable consultation with the Customer regarding its proposed response or explanation.

20.2 Data Processing Addendum

The parties will comply with the terms set out in the Data Processing Addendum in relation to any Personal Information which forms part of the Customer Data.

20.3 No limitation of obligations

Nothing in this clause 20 is intended to limit any obligations that the Supplier has at Law with respect to privacy and the protection of Personal Information.

21. Security

21.1 Scope of the Supplier's security obligations

- (a) Without limiting any other security obligation under this Agreement, the Supplier's security obligations under this clause apply to:
 - (i) the Supplier's Activities; and
 - (ii) Customer Data and Personal Information, where and to the extent that the Supplier or its Personnel is in the possession of, controls, or is able to control, such data and information.
- (b) For the purposes of this clause 21, "**control**" includes controlling, managing, processing, generating, capturing, collecting, transferring, transmitting, deleting and destroying.

21.2 Supplier's security obligations

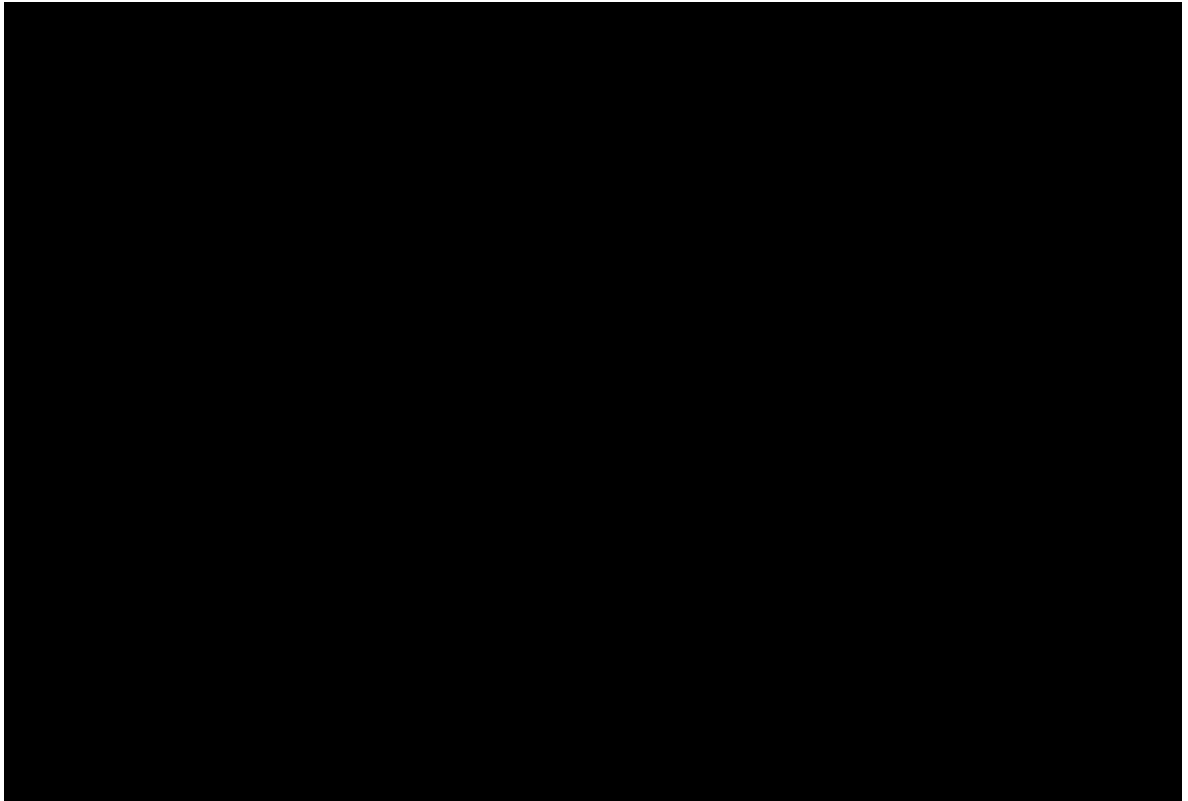
- (a) The Supplier must implement, maintain and enforce a formal program of technical and organisational security measures (including an audit and compliance program) relating to ICT security and cyber security that is in accordance with:
 - (i) this clause 21; and
 - (ii) the standards or requirements specified in Item 40 of the Order Form,

(Security Program), provided that, where clause 21 and the standards or requirements specified in the Order Form both address standards in respect of the same subject matter, the Security Program must reflect the higher standard. Notwithstanding this clause 21.2(a), where this clause 21 and the standards or requirements specified in the Data Security Addendum both address standards in respect of the same subject matter, the provisions of the Data Security Addendum will apply.
- (b) The Security Program must be designed to:
 - (i) monitor, audit, detect, identify, report and protect against Security Incidents, Viruses, and any other threats or hazards to the security or integrity of the Customer's operations or the Services and Deliverables in carrying out the Supplier's Activities;
 - (ii) ensure the security (including the confidentiality, availability and integrity) of the Services and Deliverables in accordance with the requirements of this Agreement;
 - (iii) ensure the continuity of the Customer's access to, and use of, the Services and Deliverables and in a manner that achieves any applicable Service Levels. This includes continuity of access and use during any business continuity event, Disaster recovery event, scheduled or unscheduled maintenance and similar events;
 - (iv) manage any potential security risks in the Supplier's supply chains that bear upon the Supplier's Activities;

- (v) monitor, detect, identify and protect against fraud and corruption by the Supplier's organisation and the Supplier's Personnel; and
 - (vi) ensure that the Security Program is comprehensive in covering all components of the Supplier's Activities and protects data in accordance with this Agreement.
- (c) Without limiting its obligations under clause 21.2(a), the Supplier must ensure its Security Program complies, and is consistent, with the Policies, Codes and Standards (to the extent applicable to security). The Supplier will be deemed to have complied with the requirements of clause 21.2(c) if it complies with its obligations under the Data Security Addendum.
- (d) The Supplier must regularly review and continuously improve the Security Program to ensure it remains current and up-to-date and continues to satisfy the requirements of this clause 21.2 and is in accordance with Best Industry Practice.
- (e) If specified in Item 40 of the Order Form, the Supplier must have, obtain and maintain from the Commencement Date and for the duration of the Supplier's Activities the security certifications specified or referenced in Item 40 of the Order Form from an accredited, independent, third party register or accredited, independent third party certification body. Unless otherwise specified in Item 40 of the Order Form, the certifications must be updated at least annually and must comply with any specific certification requirements set out in the Order Form.
- (f) Without limiting this clause 21.2, the Supplier must comply with any additional security obligations or standards specified in the Order Form.

21.3 Audits and compliance

Without limiting the remaining provisions of this clause 21, the Supplier will audit its compliance with its Security Program and security obligations under this Agreement in accordance with the terms set out in the Data Security Addendum and:



22. Security Incidents

22.1 Actions required in relation to a Security Incident

(a) Where the:

- (i) Supplier becomes aware of any Security Incident; or
- (ii) Customer notifies the Supplier that the Customer reasonably believes a Security Incident has occurred or is about to occur,

then, the Supplier must comply with the agreed timeframes and procedures for notification of Security Incidents as set out in the Data Security Addendum, but in any case within the time specified in Item 42 of the Order Form.

(b) For clarity, nothing in this clause 22:

- (i) requires the Supplier to provide the Customer with specific details that relate to the Supplier's other customers or would breach any applicable Laws; and
- (ii) limits the Supplier's obligations at Law with respect to the notification and resolution of Security Incidents.

23. Confidentiality

(a) Where either party (**Recipient**) receives or otherwise possesses Confidential Information of the other party (**Discloser**), the Recipient must:

- (i) keep it confidential;
- (ii) in the case of the Supplier or its Personnel, only use it where required to exercise its rights or perform its obligations under this Agreement; and
- (iii) not disclose it to anyone other than:
 - A. with the prior consent of the Discloser and on the condition that the subsequent recipient is bound by the same or substantively equivalent confidentiality requirements as specified in this Agreement;
 - B. where required by the GIPA Act (or any other similar Laws) which may require the Customer to publish or disclose certain information concerning this Agreement;
 - C. where required by any other Laws, provided that the Recipient gives the Discloser reasonable notice of any such legal requirement or order to enable the Discloser to seek a protective order or other appropriate remedy (unless it would be in violation of a court order or other legal requirement);
 - D. in the case of the Customer, to:
 - 1) the Contract Authority or responsible Minister (where this Agreement is made under a MICTA); or

- 2) any Government Agency or Eligible Customer or responsible Minister for a Government Agency or an Eligible Customer; or
- E. to its Personnel and directors, officers, lawyers, accountants, insurers, financiers and other professional advisers where the disclosure is in connection with advising on, reporting on, or facilitating the party's exercise of its rights or performance of its obligations under this Agreement.
- (b) The Supplier must not issue any press release or make any other public statement regarding this Agreement or the Supplier's Activities without the prior written consent of the Customer, except as required by Law.
- (c) This clause 23 does not preclude the Customer from disclosing any information (including Confidential Information) of the Supplier to the extent that this Agreement otherwise permits the disclosure of such information.

PART D: FEES AND PAYMENT

24. Payment and invoicing

24.1 Price

- (a) In consideration for the performance of the Supplier's Activities in accordance with this Agreement, the Customer agrees to pay to the Supplier the Price set out in the Payment Particulars, subject to any additional discounts, rebates, credits or other similar benefits specified in the Payment Particulars. Other than as expressly set out in this Agreement, such amounts are the only amounts payable by the Customer in respect of the Supplier's performance of the Supplier's Activities and its other obligations under this Agreement.
- (b) Subject to clause 1.4(b), the Price and any rates or charges specified in the Payment Particulars will be fixed for the Term, unless otherwise specified in the Payment Particulars.

24.2 Benchmarking

- (a) Clauses 24.2 and 24.3 apply if it is specified in the Order Form that benchmarking applies.
- (b) No more than once per annum during the Term and commencing on the first anniversary of the Commencement Date, the Customer may, in its sole discretion, notify the Supplier in writing (**Benchmarking Notice**) that the Customer is seeking to implement a formal independent benchmarking of the cost of the Supplier's Activities in order to consider whether the rates and prices under this Agreement are competitive with the current Australian market for like deliverables and services (**Benchmarking Activities**).
- (c) An independent benchmarker may be agreed between the parties. If the parties cannot agree upon an independent benchmarker within 10 Business Days of the Benchmarking Notice, the Customer may appoint an independent third party benchmarker which the Customer reasonably considers to possess the adequate expertise to carry out the Benchmarking Activities, subject to such third party not being a direct competitor of the Supplier.

- (d) The parties will work together in good faith to expeditiously develop terms of reference which will form the basis of joint instructions for the benchmarker to follow in conducting the Benchmarking Activities. Those terms of reference must, unless otherwise agreed by the parties, be based on the following principles:
 - (i) a "like-for-like" comparison in respect of the Supplier's Activities, conducted by reference to one or both of:
 - A. a "whole of offering" basis in relation to all Services and Deliverables; and
 - B. a product and service category basis; and
 - (ii) appropriate normalisation, including with respect to volumes, method of delivery, quality of service and, in respect of clause 24.2(d)(i)B, taking into account any cross-subsidies offered between different product and service categories.
- (e) The parties will instruct the benchmarker to:
 - (i) conduct the Benchmarking Activities on an objective and independent basis; and
 - (ii) use reasonable efforts to access and rely on recent, accurate and verifiable data in respect of its Benchmarking Activities.
- (f) The parties must ensure that the benchmarker signs a confidentiality deed in favour of the Supplier and the Customer (in a form acceptable to the Customer) prior to undertaking any Benchmarking Activities pursuant to this Agreement.
- (g) Unless otherwise agreed by the parties in writing, the Customer will bear the cost of engaging a benchmarker to undertake the Benchmarking Activities under this clause.
- (h) The parties must each appoint a reasonable number of Personnel to work under the direction of the benchmarker in collecting data necessary for the purposes of the benchmarking exercise.
- (i) The parties agree that the benchmarker may, in its own discretion, determine the information required to carry out the Benchmarking Activities and may carry out the benchmark as he or she sees fit (including by determining the benchmarking methodology).
- (j) The parties must reasonably co-operate with the benchmarker in connection with the Benchmarking Activities carried out under this clause 24.2.

24.3 Outcome of benchmarking

- (a) The benchmarker will be required to deliver a benchmarking report (**Benchmarking Report**) to the parties within 60 days of the Benchmarker's appointment, or within such other period as agreed by the parties in writing.
- (b) If the Benchmarking Report concludes that the rates and prices (or certain rates and prices) under this Agreement exceed the rates and prices offered by the current Australian market for comparable goods, services and activities, then the parties must use all reasonable endeavours to agree on an adjustment to the Payment Particulars to reduce the relevant rates and/or prices to align with the conclusions of the Benchmarking Report.

- (c) If the parties are unable to agree on adjustments to the rates and prices in the Payment Particulars in accordance with clause 24.3(b) within 20 Business Days of the issue of the Benchmarking Report, then, subject to the Supplier's rights under clause 24.3(g), the Customer may, acting reasonably, determine the adjustments required to reduce the rates and prices in the Payment Particulars to reflect the conclusions contained in the Benchmarking Report.
- (d) If the Customer determines that an adjustment to the rates and prices in the Payment Particulars is required in accordance with clause 24.3(c), the Customer may issue a notice to the Supplier notifying it of the adjustment (**Adjustment Notice**).
- (e) The parties acknowledge and agree that if an adjustment to the rates and prices in the Payment Particulars is determined under clauses 24.3(b) or 24.3(c), the Payment Particulars will be deemed to have been amended to reflect the relevant adjustment, on and from the date:
 - (i) on which the parties reach an agreement in respect of the adjustment to the rates and prices under clause 24.3(b); or
 - (ii) specified in an Adjustment Notice issued by the Customer under clause 24.3(d), provided that the Customer will not specify a retrospective date in the Adjustment Notice.
- (f) A party may dispute the results of the Benchmarking Report if it reasonably considers that the findings in, and/or the conclusions of, the Benchmarking Report are based on incorrect facts, assumptions or comparisons. Any such dispute must be notified within 20 Business Days of the issue of the Benchmarking Report and must be resolved in accordance with clause 35.
- (g) The Supplier may dispute an Adjustment Notice if it reasonably considers that the adjustment to the rates and prices proposed in that notice are materially inconsistent with the conclusions contained in the Benchmarking Report. Any such dispute must be notified within 20 Business Days of the issue of the relevant Adjustment Notice and must be resolved in accordance with clause 35.

24.4 Invoicing

- (a) The Supplier must Invoice the Customer at the time stated in the Order Form or Payment Particulars or, if the time for payment is not stated, then the Supplier must Invoice the Customer within 30 days from the end of the calendar month in which the relevant Deliverables or Services are provided to the Customer in accordance with this Agreement.
- (b) The Supplier must:
 - (i) ensure that its Invoice is a valid tax invoice for the purposes of the GST Law;
 - (ii) together with any Invoice provided under clause 24.4(a), provide the Customer with a subcontractor's statement regarding workers' compensation, payroll tax and remuneration in the form specified at <https://www.revenue.nsw.gov.au/help-centre/resources-library/opt011.pdf> (or such other site or form as advised by the Customer from time to time); and
 - (iii) provide any further details in regard to an Invoice that are set out in the Order Form or reasonably required by the Customer.

24.5 Payment

- (a) Subject to the Supplier satisfying any conditions precedent to payment specified in Item 46 of the Order Form, the Customer will pay any Correctly Rendered Invoice:
 - (i) by electronic funds transfer to the bank account details nominated by the Supplier in Item 46 of the Order Form, or as otherwise stipulated in writing by the Supplier from time to time; and
 - (ii) within 30 days following receipt of the Correctly Rendered Invoice, or such other time as specified in the Order Form.
- (b) The making of a payment is not an acknowledgment that the Supplier's Activities have been provided in accordance with this Agreement.
- (c) If the Supplier has overcharged the Customer in any Invoice, the Supplier must promptly refund any amounts that the Supplier has overcharged the Customer, and adjust current Invoices that have not been paid by the Customer to ensure that the Customer is only liable to pay the correct amount.

24.6 Payment disputes

If the Customer disputes or is unable to reconcile part of an Invoice, the Customer may withhold payment for the amount in dispute or in discrepancy until such dispute or discrepancy is resolved. In such case, the Customer must promptly notify the Supplier of the amount in dispute and the reasons for disputing it.

24.7 Taxes

- (a) Subject to clause 24.7(b), the Price is inclusive of, and the Supplier is responsible for paying, all Taxes levied or imposed in connection with the provision of the Supplier's Activities under this Agreement.
- (b) Unless otherwise specified, all amounts specified in this Agreement are exclusive of GST.
- (c) The Customer must, subject to receipt from the Supplier of a Correctly Rendered Invoice, pay any GST that is payable in respect of any taxable supply made under this Agreement in addition to the amount payable (exclusive of GST) for the taxable supply. GST is payable at the same time as the amount payable for the taxable supply to which it relates.
- (d) Where the Customer is required by any applicable Law to withhold any amounts from the payments made by it to the Supplier under this Agreement, the Customer:
 - (i) may withhold such amounts and will not be required to gross-up its payments to the Supplier for any amounts withheld; however
 - (ii) will provide the Supplier with a certificate of withholding or such other reasonable evidence of such withholding, to facilitate the Supplier's claims or deductions with the relevant taxing authority.

PART E: RISK ALLOCATION AND MANAGEMENT

25. Business contingency and Disaster recovery

25.1 Business contingency

While carrying out the Supplier's Activities, the Supplier must have reasonable business continuity and contingency measures and procedures in place to ensure business continuity and no disruption to the Customer or any Customer User.

25.2 Business Contingency Plan

- (a) The Supplier's business contingency plan as at the Commencement Date is set out in Attachment 6 to Annexure B to the Order Form (**Business Contingency Plan**).
- (b) Notwithstanding any other clause of the Agreement, the Business Contingency Plan will not be subject to the approval of the Customer.

25.3 Disasters

On the occurrence of a Disaster, the Supplier must immediately:

- (a) notify the Customer's Representative that a Disaster has occurred; and
- (b) implement any measures set out in the Business Contingency Plan or such other measures as reasonably required by the Customer to mitigate and respond to the Disaster.

26. Step-in

26.1 Step-In Rights

- (a) This clause 26 applies where specified in Item 48 of the Order Form that the Customer may exercise Step-In Rights.
- (b) Without limiting any other right or remedy under this Agreement or at Law, if the Customer reasonably forms the opinion that:
 - (i) the Supplier is unable or unwilling to provide any of the Supplier's Activities in accordance with this Agreement;
 - (ii) a Disaster or emergency has occurred, which the Supplier is unable to prevent or overcome and which will or does materially affect the operations of the Customer;
 - (iii) a Security Incident has occurred and the Supplier has failed to take, or delayed in taking, the actions required in relation to the Security Incident under clause 22.1; or
 - (iv) the Supplier has materially breached its obligations under this Agreement or there is a real and reasonable prospect of the Supplier materially breaching its obligations under this Agreement,

the Customer may give written notice to the Supplier that it intends to exercise its rights under this clause 26 (**Step-In Rights**).

- (c) To the extent reasonably practicable, before exercising Step-In Rights the Customer agrees to consult with the Supplier in relation to measures to mitigate or manage the impact of events and circumstances giving rise to the Step-In Rights.
- (d) For the purpose of exercising Step-In Rights, the Customer:
 - (i) will be entitled to act as the Supplier's agent under all contracts entered into by the Supplier that relate to the Supplier's Activities and are necessary for the Customer to exercise the Step-In Rights; and
 - (ii) may:
 - A. give reasonable instructions to any employee of the Supplier (and the Supplier must ensure that such requests are complied with); and
 - B. contract with any of the subcontractors engaged by the Supplier,as is reasonably required by the Customer to exercise the Step-In Rights.
- (e) Upon receiving notice from the Customer stating that the Customer is exercising the Step-In Rights, the Supplier must:
 - (i) at the Customer's request, allow the Customer or a third party engaged by the Customer to provide part or all of the Supplier's Activities; and
 - (ii) maintain all third party agreements, consents and approvals necessary to enable the Customer to exercise its rights under this clause 26.
- (f) If the Customer exercises its Step-In Rights under this clause 26:
 - (i) the Customer will be relieved from paying any component of the Price that relates to those Supplier's Activities in respect of which it has exercised Step-In Rights, for the period of such exercise, however will continue to pay those components of the Price which relate to Supplier's Activities unaffected by the Step-In Rights; and
 - (ii) the Supplier must pay to the Customer on demand an amount equal to:
 - A. any costs incurred by the Customer in connection with the exercise of its Step-In Rights (including any costs relating to the Customer or its Personnel providing any part or all of the Supplier's Activities) under clause 26.1(e)(i)); and
 - B. the quantum of any increase in the fees or costs paid by the Customer to any third party (including any substitute supplier) in respect of the period of the exercise of the Step-In Rights.
- (g) The Customer will use its reasonable efforts to minimise the quantum of any increase under clause 26.1(f)(ii)B.
- (h) The Supplier will not be responsible for any default or delay in the delivery of the Supplier's Activities to the extent that it was caused by the Customer or any third party providing part or all of the Supplier's Activities as contemplated in clause 26.1(e)(i), except to the extent contributed to by the Supplier or any of its Personnel.
- (i) If the Customer exercises its Step-In Rights for 60 days or more (or such other period as specified in Item 48 of the Order Form), then the Customer may, at its

sole discretion, elect to terminate this Agreement or reduce its scope pursuant to clause 29.1(a)(v).

26.2 Conclusion of Step-In

- (a) The Customer may cease to exercise its Step-In Rights at any time by giving the Supplier at least five Business Days written notice or such other period specified in Item 48 of the Order Form (**Step-Out Notice**).
- (b) Upon the Customer ceasing to exercise a Step-In Right, the Supplier must recommence performance of the Supplier's Activities on the date specified in the Step-Out Notice.
- (c) The Customer must relinquish the control and possession of any of the Supplier's resources utilised for the performance of the Step-In Rights and must provide the Supplier with details of its actions taken during the period in which the Customer was exercising its Step-In Rights.

26.3 No prejudice

The parties acknowledge and agree that:

- (a) except as specified in clause 26.1(g), nothing in this clause 26 will prejudice the rights of the Customer (including with respect to termination) or relieve the Supplier of its liabilities or responsibilities whether under this Agreement or otherwise according to Law; and
- (b) the Customer is under no obligation to exercise Step-In Rights before it exercises any termination rights under this Agreement.

27. Insurance

- (a) Unless otherwise specified in Item 49 of the Order Form, the Supplier must hold and maintain each of the following types of insurances, for the periods and in the amounts specified below:
 - (i) public liability insurance with a limit of cover of at least \$20 million in respect of each occurrence, to be held for the duration of the Supplier's Activities;
 - (ii) product liability insurance with a limit of cover of at least \$20 million in respect of each occurrence and in the aggregate, to be held for the duration of the Supplier's Activities and for at least seven years thereafter;
 - (iii) workers' compensation insurance as required by Law;
 - (iv) professional indemnity insurance with a limit of cover of at least \$20 million in respect of each occurrence and in the aggregate, to be held for the duration of the Supplier's Activities and for at least seven years thereafter; and
 - (v) such other insurances as specified in Item 49 of the Order Form.
- (b) Without limiting clause 27(a), where specified in the Order Form, the Supplier must hold and maintain:

- (i) cyber security insurance with a limit of cover of at least \$20 million in respect of each claim (or such other amount specified in Item 49 of the Order Form), to be held for the duration of the Supplier's Activities; and
 - (ii) insurance that covers Losses that may be suffered as a result of a data security breach or the wrongful disclosure and use of Personal Information by the Supplier or its Personnel.
- (c) Within 10 Business Days following a request from the Customer, the Supplier must provide the Customer with:
- (i) a certificate of currency issued by its insurer or insurance broker (or other form of evidence acceptable to the Customer) confirming that all insurance policies required by this Agreement are current and that the insurance has the required limits of cover; and
 - (ii) any information reasonably requested by the Customer regarding the policies for each of the insurances required to be held and maintained by the Supplier under clauses 27(a) and 27(b) (which may include reasonably redacted policy provisions or summarised policy terms where disclosure of the full policy terms is restricted by confidentiality obligations owed by the Supplier to third parties).

28. Performance Guarantee and Financial Security

28.1 Performance Guarantee

If specified in Item 50 of the Order Form, the Supplier must arrange for a guarantor approved in writing by the Customer to enter into an agreement with the Customer in substantially the same form as the document in Schedule 8 or such other document reasonably acceptable to the Customer. This Performance Guarantee must be provided to the Customer within 15 Business Days following the Commencement Date or at such other time as specified in Item 50 of the Order Form.

28.2 Financial Security

- (a) If specified in Item 51 of the Order Form, the Supplier must provide a financial security in the amount stated in the Order Form and in substantially the same form as the document in Schedule 9 or such other document reasonably acceptable to the Customer (**Financial Security**). The Financial Security must be provided to the Customer within 15 Business Days following the Commencement Date or at such other time as specified in Item 51 of the Order Form.
- (b) If the Prices payable for the Supplier's Activities are increased pursuant to this Agreement (including due to a Change Request approved under clause 10), the Customer may, acting reasonably, direct the Supplier to provide additional security in an amount that is proportionate to the increase in Price, and the Supplier must promptly comply with such a direction.
- (c) Subject to its rights to have recourse to the Financial Security, the Customer must release the Financial Security on the sooner of:
 - (i) one year from the date of issue of the Acceptance Certificate for the last Deliverable under the Order Form, or if no Acceptance Tests were required, one year following the termination or expiry of this Agreement (or such other period specified in the Order Documents);
 - (ii) the date the Customer and the Supplier agree in writing to release the issuer of the Financial Security; and

- (iii) the date the Customer notifies the issuer of the Financial Security in writing that the Financial Security is no longer required.

28.3 Costs

Unless otherwise specified in the Order Form, the Supplier will be responsible for the costs that it incurs in complying with its obligations under this clause 28.

29. Termination

29.1 Termination for cause by the Customer

- (a) The Customer may (in its sole discretion) immediately terminate this Agreement or reduce its scope by written notice to the Supplier:
 - (i) if the Supplier breaches a term of this Agreement which is:
 - A. not capable of remedy; or
 - B. capable of remedy, but the Supplier fails to remedy it within 30 days of receiving a notice to do so;
 - (ii) if an Insolvency Event occurs in respect of the Supplier, to the extent there is no prohibition at Law in respect of such termination;
■ [REDACTED];
 - (iv) if the Supplier or any parent company of the Supplier involved in the performance of the Supplier's Activities undergoes a Change in Control or Other Changes, without the Customer's prior written consent; or
 - (v) in any of those circumstances specified in clauses 12.7(b), 13.6, 14.4(a)(iii), 14.4(c)(iii), 26.1(i) and 36.4 or as otherwise set out in this Agreement, including the Additional Conditions,

in which circumstances the Customer's sole liability for exercising its termination right under this clause will be to pay the Supplier (subject to substantiation by the Supplier and the Supplier submitting a Correctly Rendered Invoice in accordance with this Agreement) for work carried out and annual subscription fees invoiced prior to the date of termination or reduction in scope. For clarity, the Customer is not required to pay to the Supplier any component of the Price in respect of subscription fees in relation to the Cloud Services for periods after the then current annual subscription period during which the Agreement is terminated in accordance with this clause 29.1.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

29.2 Termination for cause by the Supplier

- (a) The Supplier may immediately terminate this Agreement by written notice to the Customer if:
 - (i) the Customer has not paid an amount due and payable by it under this Agreement and the:
 - A. amount has been properly invoiced in a Correctly Rendered Invoice and is not the subject of any unresolved dispute under clause 24.6;
 - B. Supplier has issued a notice to the Customer, stating that the amount is overdue and that the Supplier intends to terminate unless the amount is paid; and
 - C. Customer does not pay the amount within 90 days of the date it receives the Supplier’s notice under clause 29.2(a)(i)B; or
 - (ii) the Customer has:
 - A. breached this Agreement in a manner which results in the Supplier being in breach of a Law; or
 - B. intentionally and wilfully:
 - 1) breached clauses 17.10 or 23; or
 - 2) misappropriated the Intellectual Property Rights of the Supplier in its Existing Materials in a manner that is contrary to the Intellectual Property Rights granted or licenced to the Customer under this Agreement,and the Customer does not cease the relevant conduct within 30 days of receiving a written notice from the Supplier requesting it to do so; or
 - (iii) if there is:
 - A. any actual infringement of any third party Intellectual Property Rights or Moral Rights; or
 - B. a claim is filed in a court against the Supplier that is not frivolous or vexatious in respect of the infringement of any third party Intellectual Property Rights or Moral Rights,as a result of the Supplier’s use of the Customer Data or the Customer’s Existing Materials in compliance with the terms of this Agreement, where such use by the Supplier is not in breach of the Customer’s written instructions or directions;
 - (iv) the Customer:
 - A. materially breaches any of the terms of the Data Processing Addendum; or

- B. repetitively breaches any of the terms of the Data Processing Addendum such as to constitute, in aggregate, a material breach of the terms of the Data Processing Addendum.

- (b) This clause 29.2 exhaustively sets out the Supplier's rights to terminate this Agreement.

29.3 Dispute resolution

For clarity, the processes described in clause 35 are independent of, may be undertaken contemporaneously with, and do not constrain or delay, a party exercising its rights under this clause 29.

29.4 Survival of rights on termination or reduction in scope

Termination of this Agreement will be without prejudice to any other rights or obligations which may have accrued under this Agreement on or before termination.

30. Suspension – not used

31. Transition-Out Services

31.1 Application of this clause

This clause 31 applies if it is specified in the Order Form that the Supplier is required to provide Transition-Out Services as part of any Stage or part of the Supplier's Activities.

31.2 Transition-Out Plan

- (a) If the Order Form specifies that a Transition-Out Plan must be prepared by the Supplier with respect to the Supplier's Activities, by any date specified in the Order Form or otherwise promptly on request, the Supplier must prepare, and submit to the Customer's Representative for the Customer's approval in accordance with clause 8, a plan setting out how the Supplier will effect:
 - (i) the orderly disablement of the Supplier's Activities; or
 - (ii) where applicable, the transfer of the performance of the Supplier's Activities under this Agreement to the Customer or a third party, including complying with the obligations set out in this clause 31.
- (b) The Supplier must ensure that the Transition-Out Plan sets out:
 - (i) the timeframes within which the Supplier will perform its obligations under the Transition-Out Plan;
 - (ii) any specific transition-out or disengagement obligations specified in the Order Documents; and
 - (iii) any charges, or the basis or methodology for the calculation of charges, which the Customer will pay the Supplier to perform the Services described in the Transition-Out Plan (if not otherwise specified in the Order Documents).
- (c) The Supplier must:
 - (i) review and update the Transition-Out Plan periodically throughout its engagement under this Agreement or at the Customer's reasonable request; and

- (ii) make any updates to the Transition-Out Plan that are reasonably requested by the Customer.
- (d) For clarity, the Transition-Out Plan is a Document Deliverable. Clause 8 therefore applies to the Transition-Out Plan, including any updates to it.

31.3 General

The Supplier must for the duration of the Transition-Out Period (or such other period as agreed between the parties in writing):

- (a) carry out all transition-out or disengagement Services specified in the Module Terms and other Order Documents or that are necessary to ensure the smooth transition of the Supplier's Activities to the Customer or its nominee;
- (b) if a Transition-Out Plan has been approved by the Customer, perform its obligations as set out in the Transition-Out Plan; and
- (c) co-operate with the Customer and its Personnel in relation to the performance of all Transition-Out Services.

32. Consequences of expiry or termination

32.1 Extracting or retrieving Customer Data

Without limiting clause 37.1, subject to any applicable Laws with respect to data retention:

- (a) if this Agreement is terminated or not extended, then upon written request by Customer within 45 days after such termination or expiry, the Supplier will provide to the Customer, the Customer Data in the Cloud Service in Open Database Connectivity (**ODBC**), MySQL or JSON format at no additional charge.
- (b) the Supplier agrees not to delete any of the Customer Data until 45 days after the termination or expiry date of this Agreement; and
- (c) for clarity, after 45 days following the termination or expiry date of this Agreement, the Supplier has 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 Services provided under the Cloud Module.

32.2 Confidential Information and intellectual property

Subject to clauses 23 and 32.1 and any requirements at Law applicable to the parties, on the expiry or termination of this Agreement, the Supplier and its Personnel must cease to access, and at the Customer's election, securely:

- (a) return; or
- (b) destroy,

the Customer's:

- (c) Confidential Information; and
- (d) Existing Materials, New Materials and other Materials that comprise the Customer's Intellectual Property Rights.

33. Warranties

33.1 Mutual warranties

Each party represents, warrants and undertakes to the other party that:

- (a) as at the date that this Agreement is entered into, it is properly constituted and has sufficient power, capacity and authority to enter into this Agreement and perform the activities required under it;
- (b) in so far as it uses Personnel to perform activities on its behalf under this Agreement, those Personnel are duly authorised by it; and
- (c) it will reasonably co-operate with the other party and its respective Personnel to promote timely progress and fulfilment of this Agreement.

33.2 General Supplier warranties

Without limiting any other warranty under this Agreement, the Supplier represents, warrants and undertakes to the Customer that:

- (a) to the best of its knowledge and belief after making due and reasonable enquiries, there is no Conflict of Interest in respect of itself and its Personnel, which relates to the Supplier's ability to perform its obligations under this Agreement;
- (b) the information that is provided to the Customer in terms of the structure, viability, reliability, insurance cover, capacity, experience and expertise of the Supplier and its Personnel is, to the best of the Supplier's knowledge and belief, correct and not misleading as at the date it was (or is to be) supplied to the Customer;
- (c) it is not aware of any information which, if it had provided that information to the Customer, may reasonably be expected to have had a material effect on the decision made by the Customer to enter into this Agreement;
- (d) the office holders of the Supplier and any associate of the Supplier (as defined under section 11 of the Corporations Act) or its Related Body Corporate are of good fame and character; and
- (e) the Supplier has all the Authorisations necessary to perform its obligations under this Agreement.

33.3 Warranties in relation to Supplier's Activities

Without limiting any other warranty under this Agreement, the Supplier represents and warrants to the Customer that:

- (a) the Supplier's Activities will be carried out with due skill, care and diligence;
■ [REDACTED]
[REDACTED];
- (c) the Supplier's Activities will only be carried out by Supplier's Personnel who meet the Personnel requirements under this Agreement; and
- (d) it will perform the Supplier's Activities in accordance with all applicable Laws.

33.4 Implied warranties

The express warranties given by the Supplier under this Agreement are provided by the Supplier to the exclusion of any implied representations or warranties not set out in this Agreement, provided that this Agreement (including clause 33.4) does not operate to exclude any statutorily implied representations, warranties, conditions or guarantees which cannot legally be excluded. To the extent that any such statutorily non-excludable representations, warranties, conditions or guarantees apply, the Supplier limits its liability for their breach to the maximum amount permitted by Law.

33.5 Customer’s warranty

Customer warrants that:

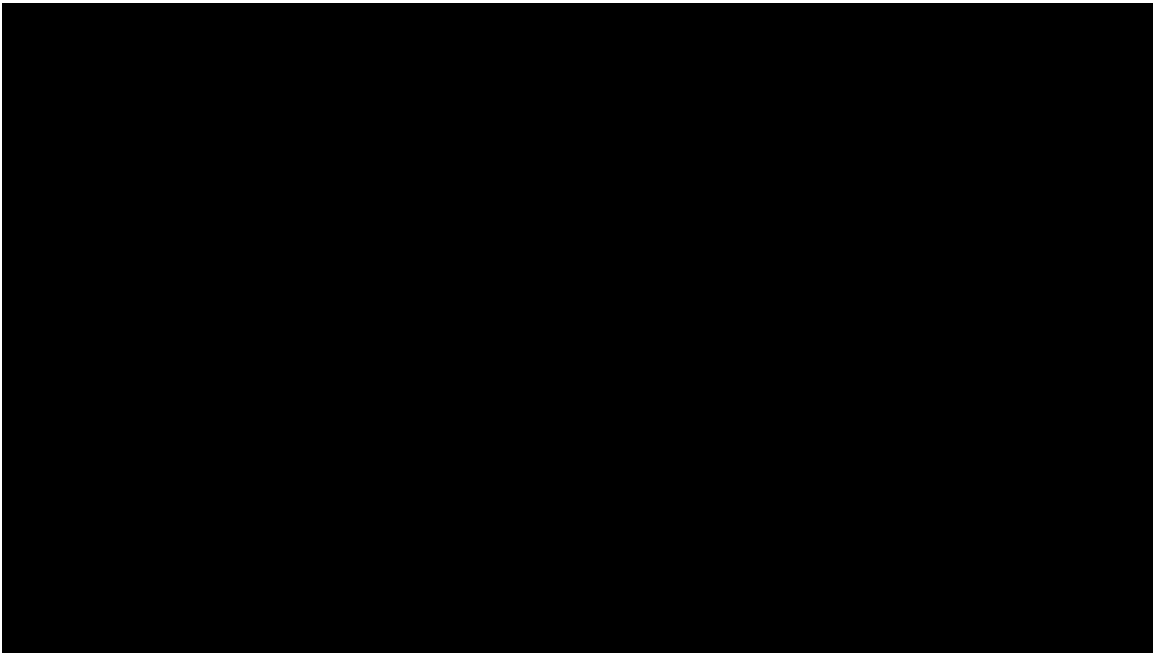
- (a) the Customer Data;
- (b) the Customer Technology; or
- (c) a modification to the Cloud Services:
 - (i) where requested by the Customer that is made to the Customer’s specifications by the Supplier; or
 - (ii) otherwise made by, or under the authorisation of, the Customer by any person other than the Supplier or a person acting at the Supplier’s direction,

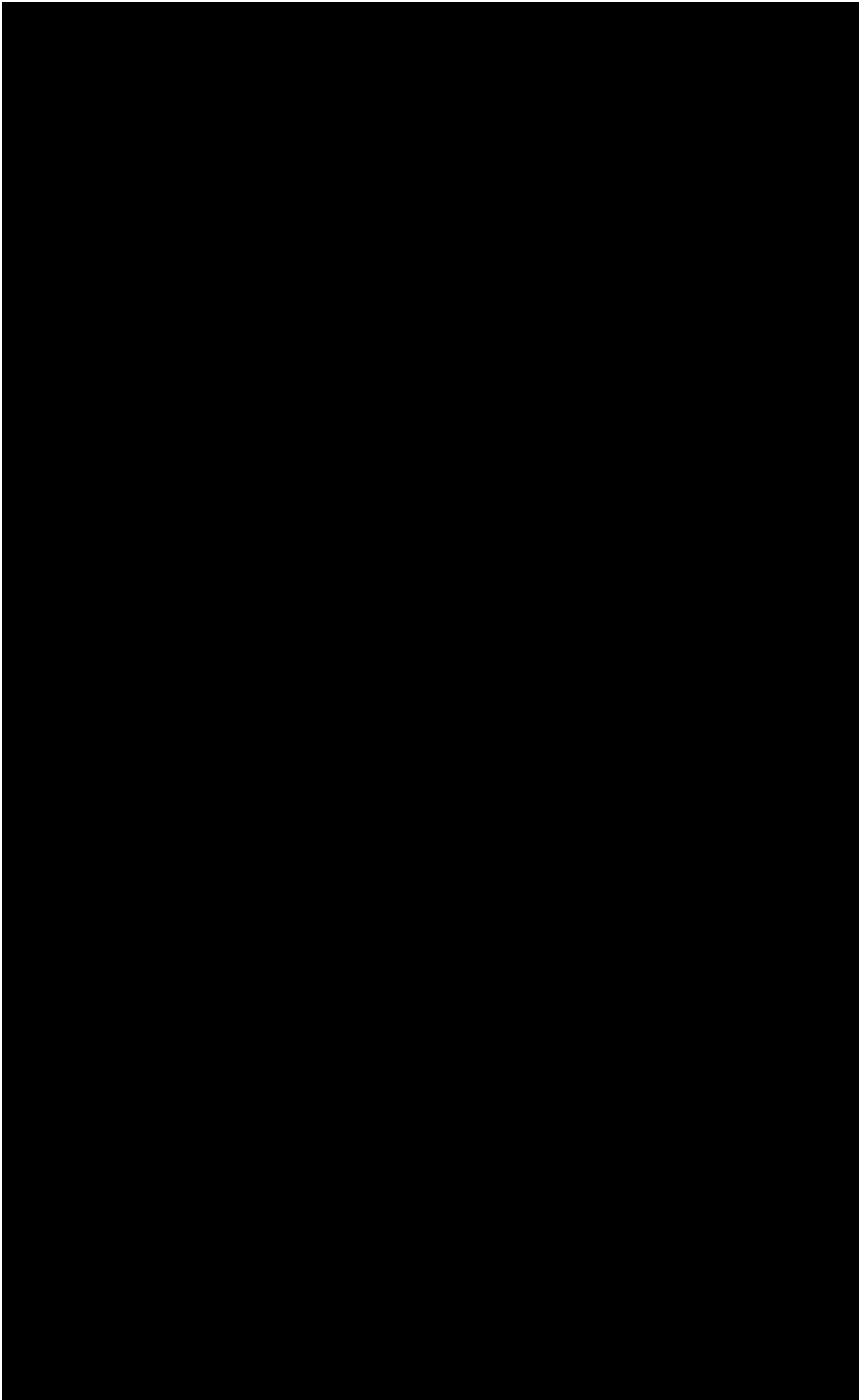
(but only if the infringement would have been avoided by use of the unmodified Cloud Service),

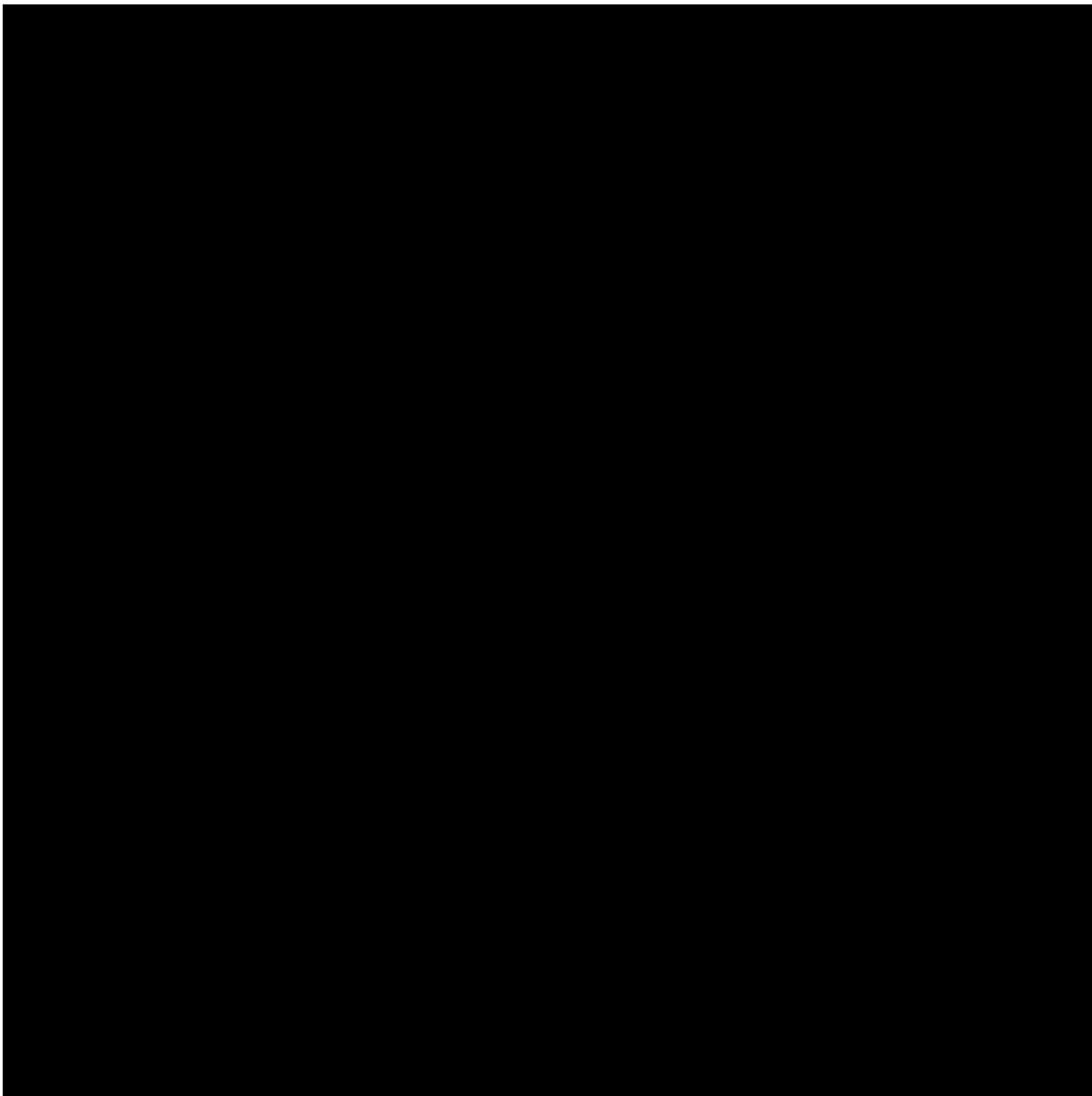
does not infringe any Intellectual Property Right, misappropriate any third party trade secret, or violate any third party privacy rights.

34. Indemnities and liability

34.1 Indemnities and other rights







34.2 Third Party IP Claims

The parties agree that the Supplier’s liability under clause 34.1(b) is reduced to the extent that Loss arising under that provision is caused or contributed to by:

- (a) the Customer’s combination, operation or use of a Deliverable or Service with any other product, equipment, software or document of the Customer or a third party, except where:
 - (i) such combination, operation or use is authorised under this Agreement;
 - (ii) the Supplier supplied the Deliverable or Service on the basis that it can be combined, operated or used with the Customer's or the relevant third party's products; or
 - (iii) such combination, operation or use should have been reasonably anticipated by the Supplier having regard to the nature and purpose of the Deliverable or Service;

- (b) the Customer's unauthorised modification of a Deliverable without the knowledge of the Supplier, except where such modification was contemplated in the Order Documents or reasonably anticipated having regard to the nature and purpose of the Deliverable; or
- (c) in relation to Licensed Software:
 - (i) the Supplier following the Customer's written technical directions in relation to the coding and configuration of the Licensed Software, to the extent that verifying or validating such directions is not within the scope of the Supplier's Activities; or
 - (ii) the Customer's continued use of old versions of the Licensed Software after the Supplier has notified the Customer in writing of the relevant infringement and provided the Customer (at no additional cost) a remedial software version, patch or correction, or a replacement part or other correction, that would have overcome the relevant infringement without affecting the performance or availability of the Licensed Software.

34.3 Indemnities not affected by insurance

For clarity, the Supplier's obligations and liability to indemnify the Indemnified Entities under this Agreement or otherwise, will not be affected in any way by any terms of insurance or any refusal by the insurer to indemnify the Supplier under the policies of insurance.

34.4 Status of indemnities

The Supplier's obligations to indemnify any Indemnified Entities who are not the Customer, under this Agreement or otherwise, are held on trust by the Customer and may be fully and effectively enforced by the Customer on behalf of those other entities.

34.5 Liability cap

- (a) Subject to clause 34.5(c), the liability of each party under this Agreement, howsoever arising and whether for breach, in tort (including negligence) or for any other common law or statutory cause of action is limited to the Limitation Amount.
- (b) In clause 34.5(a), the "**Limitation Amount**" means the amount specified in Item 53 of the Order Form, which may be:
 - (i) a fixed amount;
 - (ii) a multiple of the total amounts paid or payable by the Customer under this Agreement; or
 - (iii) an amount determined by reference to any other mechanism,

in the aggregate or otherwise, provided that where no such amount is specified or Item 53 of the Order Form is left blank, the Limitation Amount (in that case, being the aggregate liability of a party under this Agreement), will be the Default Amount. The "**Default Amount**" will be determined in accordance with the table below:

Total Fees Paid or Payable*	Default Amount
Under \$1,000,000 (including GST)	\$2,000,000

\$1,000,000 and above (including GST)	Two times the total fees paid or payable by the Customer under this Agreement.
* "Paid or payable" includes amounts that at the relevant time have not been paid but which would have become payable if the parties performed all of their obligations under this Agreement. It is not limited to amounts that at the relevant time have become due and payable.	

(c) The Supplier's liability under this Agreement is uncapped, and the limitation of liability set out in clause 34.5(a) does not apply, in relation to liability arising:

- (i) under clause 34.1; or
- (ii) in respect of any of the matters referenced in that clause,

except to the extent that the parties expressly agree to, in Item 53 of the Order Form, an alternative approach in relation to regulating the quantum of any such liability.

34.6 Exclusions of liability

(a) In no event will either party's liability to the other party, howsoever arising and whether for breach, in tort (including negligence) or for any other common law or statutory cause of action, include any liability for indirect or consequential loss or damage. For the avoidance of doubt, court-awarded damages or a settlement amount paid to a third party as a result of an IPR Claim in accordance with clause 34.1 will be considered to be direct damages.

(b) Nothing in clause 34.6(a) will preclude a party from recovering:

- (i) Loss which may fairly and reasonably be considered to arise naturally, in the usual course of things, from the breach or other act or omission giving rise to the relevant liability; and
- (ii) any kinds of Loss which the parties expressly agree, in Item 53 of the Order Form, will be treated as Loss of the kind referred to in clause 34.6(b)(i).

34.7 Application and contribution

(a) Each party's liability will be reduced proportionately to the extent caused or contributed by the other party.

(b) The limitations and exclusions of liability in this clause 34 only apply to the extent permitted by Law.

34.8 Mitigation

The Supplier's obligation to indemnify the Indemnified Entities against Loss under clause 34.1 is reduced to the extent that the relevant Loss arose due to a failure of the relevant Indemnified Entity to take reasonable steps to mitigate that Loss.

35. Dispute resolution

35.1 General

- (a) The parties agree to resolve any dispute between them that arises out of, or in connection with, this Agreement in accordance with the procedure set out in clauses 35.2 to 35.3 or such other procedure set out in Item 54 of the Order Form.
- (b) Either party may give written notice of a dispute to the other party setting out the particulars of the dispute and, where the notice is issued by the Customer, indicating whether the Contract Authority is to be involved in the dispute resolution process (**Dispute Notice**).
- (c) Nothing in this clause 35 limits the ability of either party to commence legal action against the other party for urgent interlocutory relief.

35.2 Escalation

- (a) Within 10 Business Days of a party receiving a Dispute Notice, the Customer's Representative and the Supplier's Representative must meet and try to resolve the dispute in good faith.
- (b) If the parties have not:
 - (i) resolved the dispute; or
 - (ii) met,

within the period specified in clause 35.2(a), a senior executive of each party must meet and try to resolve the dispute in good faith within 10 Business Days or such other period as may be agreed by the parties in writing.

35.3 Alternative dispute resolution

- (a) Unless otherwise specified in the Order Form, if the dispute remains unresolved after 20 Business Days of the date of the Dispute Notice (or such longer period as may be agreed by the parties in writing), then either party may issue a notice in writing to the other party requiring the dispute to be determined by mediation in accordance with, and subject to, the Resolution Institute Mediation Rules or any equivalent and replacement rules.
- (b) If the dispute still remains unresolved 20 Business Days after a party becomes entitled to issue a notice in writing under clause 35.3(a) requiring the dispute to be determined by mediation, and by that time:
 - (i) *neither party has referred the dispute to mediation*: then either party may commence any other form of dispute resolution, including court proceedings, to determine the dispute; or
 - (ii) *the dispute has been referred to mediation*: then neither party may commence any other form of dispute resolution to determine the dispute, until a further 10 Business Days has elapsed following the commencement of mediation.

35.4 Acknowledgment

The parties acknowledge and agree that neither party may commence any other form of dispute resolution to determine the dispute, until the procedure set out in clauses 35.2 to 35.3 (or such other procedure set out in Item 54 of the Order Form) has been complied with in relation to the dispute.

35.5 Costs

Each party will bear its own costs in respect of complying with this clause 35.

35.6 Continue to perform

Notwithstanding the existence of a dispute, the parties must continue to perform their obligations under this Agreement.

36. Force Majeure

36.1 Force Majeure Event

Subject to clauses 36.2 and 36.3, non-performance as a result of a Force Majeure Event by a party of any obligation required by this Agreement to be performed by it will, during the time, and to the sole extent, that such performance is prevented, wholly or in part, by that Force Majeure Event:

- (a) be excused; and
- (b) not give rise to any liability to the other party for any Losses arising out of, or in any way connected with, that non-performance.

36.2 Notification and diligence

A party which is, by reason of a Force Majeure Event, unable to perform any obligation required by this Agreement to be performed will:

- (a) notify the other party as soon as possible giving:
 - (i) full particulars of the event or circumstance of the Force Majeure Event;
 - (ii) the date of commencement of the Force Majeure Event and an estimate of the period of time required to enable it to resume full performance of its obligations where these particulars are available at the time of the Force Majeure Event notice; and
 - (iii) where possible, the means proposed to be adopted to remedy or abate the Force Majeure Event;
- (b) use all reasonable diligence and employ all reasonable means to remedy or abate the Force Majeure Event as expeditiously as possible;
- (c) resume performance as expeditiously as possible after termination of the Force Majeure Event or after the Force Majeure Event has abated to an extent which permits resumption of performance;
- (d) notify the other party when the Force Majeure Event has terminated or abated to an extent which permits resumption of performance to occur; and
- (e) notify the other party when resumption of performance will occur.

36.3 Liability not relieved

A Force Majeure Event affecting a party's performance under this Agreement will not relieve that party of liability in the event, and to the extent that:

- (a) its negligence, failure to comply with any applicable Business Contingency Plan or breach of this Agreement (which was not caused by the Force Majeure Event) caused or contributed to its failure to perform under this Agreement; or
- (b) it failed to use all reasonable endeavours to remedy the situation and to remove the event or circumstances giving rise to the Force Majeure Event.

36.4 Prolonged Force Majeure Event

If a Force Majeure Event prevents or inhibits the Supplier's performance of any obligation required to be performed under this Agreement for 60 days or more (or such other period as specified in the Order Form), then the Customer may, at its sole discretion, elect to terminate this Agreement or reduce its scope pursuant to clause 29.1(a)(v).

37. Reports and audits

37.1 Records and reports

- (a) For the purposes of clause 37.2, the Supplier must keep and maintain true and accurate records and accounts of:
 - (i) all of the Supplier's Activities performed under this Agreement, including all records specified in the Module Terms;
 - (ii) the Supplier's compliance with its obligations under this Agreement; and
 - (iii) all associated records and accounts, including all supporting material, used to generate and substantiate the Invoices that it submits under this Agreement,in human readable format.
- (b) Subject to any applicable Laws with respect to data retention, the Customer may during the Term, at no additional charge, directly export Customer Data from the Customer's instance via the management interface in the Cloud Service, through integrations or through the ODBC connector (or then-current equivalent functionality). The schedule and frequency of such transfers will be as determined by the Customer at its sole discretion.

37.2 Audits and inspections

- (a) Any audit of the Supplier's performance of its obligations under this Agreement in respect of the provision of the Cloud Services will be in accordance with the terms set out in the Data Security Addendum.
- (b) This clause 37.2 does not in any way operate to fetter or limit, and the Supplier agrees to comply with, any audits or other rights required or authorised by applicable Law (including where performed by any relevant Authorities or where the Customer is directed in writing by any relevant Authorities (including the Auditor-General or Information and Privacy Commission NSW) to conduct an audit or obtain information from the Supplier, with relevant evidence provided to substantiate the foregoing to the Supplier).

37.3 Conduct of audits and inspections

The Customer and its nominee must, in conducting an audit or inspection under this clause 37:

- (a) to the extent it obtains any Confidential Information of the Supplier as a result of such audit or inspection, treat that information in accordance with clause 23; and
- (b) not delegate the conduct of an audit or inspection under this clause to any person who may reasonably be considered to be a direct competitor of the Supplier in relation to the Supplier's Activities (unless such person is otherwise approved by the Supplier, acting reasonably).

37.4 Survival

This clause 37 survives for the Term and a period of seven years following the termination or expiry of this Agreement.

38. Proportionate liability

- (a) To the extent permitted by Law, Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provision in any other state or territory) is excluded in relation to all and any rights, obligations or liabilities of either party under or in any way in connection with this Agreement whether such rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise.
- (b) Without limiting clause 38(a), the rights, obligations and liabilities of the Customer and the Supplier under this Agreement with respect to proportionate liability are as specified in this Agreement and are not otherwise, whether such rights, obligations or liabilities are sought to be enforced in contract, in tort or otherwise.

PART F: GENERAL PROVISIONS

39. General

39.1 Government information

- (a) Subject to clause 39.1(b), the Supplier acknowledges that the Customer is subject to the GIPA Act and agrees that the Customer may disclose any part or all of this Agreement on its nominated website established for GIPA Act disclosures.
- (b) The Supplier consents to the Customer exercising its rights as set out in clause 23(a)(iii)B and the GIPA Act, only to the extent disclosure is required pursuant to the GIPA Act.
- (c) For the purposes of clause 39.1(b), information does not include information that:
 - (i) discloses or would tend to disclose the Supplier's financing arrangements, financial modelling, cost structure or profit margin;
 - (ii) the Supplier is prohibited from disclosing to the Customer by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth; or
 - (iii) if disclosed to the Customer, could reasonably be expected to place the Supplier at a substantial commercial disadvantage in relation to the Customer whether at present or in the future.

- (d) The Supplier must provide copies of any of the information referred to in clause 39.1(b), as requested by the Customer, at the Supplier's own expense and in such medium as the Customer may reasonably require.
- (e) Without limiting any other provision of this clause 39.1, the Supplier:
 - (i) authorises the Customer to make information concerning the Supplier available to other Government Agencies or Eligible Customers (including to the relevant head of any Government Agency or Eligible Customer and any responsible Minister of a Government Agency) for any purpose in connection with facilitating the Customer's exercise of its rights under this Agreement or the carrying out, or exercise, of the functions or powers of the Customer, any Government Agency, Eligible Customer or the Crown. Such information may include any information provided by the Supplier to the Customer and any information relating to the Supplier's performance under this Agreement (including any reports provided under clause 15.4);
 - (ii) acknowledges that information about the Supplier from any source, including substantiated reports of unsatisfactory performance, or any conduct including, any civil and/or criminal or alleged criminal conduct, by any officers or associates of the Supplier or a Related Body Corporate may be taken into account by Government Agencies and Eligible Customers considering whether to offer the Supplier future opportunities for working with those entities, for assessing the terms of their own contracts (or proposed contracts) with the Supplier or any other third party, for governance or reporting purposes or for any other reasonable business or government purposes; and
 - (iii) agrees that the communication of such information to any Government Agency is a communication falling within section 30 of the *Defamation Act 2005* (NSW).

39.2 No use of the Customer's name or logo

The Supplier must not use the Customer's name or any of the Customer's logos, trade marks or branding, without the prior written consent of the Customer.

39.3 Prior work

Except as otherwise agreed between the parties in writing:

- (a) the terms of this Agreement apply to all of the work performed by the Supplier in connection with the Supplier's Activities even if it was performed prior to entry into this Agreement; and
- (b) any payment made to the Supplier by the Customer in connection with this Agreement or the Supplier's Activities prior to entry into this Agreement will be treated as a payment under this Agreement and will be in part discharge of the Customer's obligation to pay the Price.

39.4 Entire agreement

This Agreement is the entire agreement between the parties about its subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter.

39.5 Variation

No variation to this Agreement is effective unless made in writing and executed by each party.

39.6 Survival and merger

- (a) No term of this Agreement merges on completion of any transaction contemplated by this Agreement.
- (b) The following provisions survive the termination and expiry of this Agreement:
 - (i) 9, 13, 17, 18, 19, 20, 21, 23, 27(a)(iv), 29.3, 31, 32, 33.4, 34.8, 37, 38 and this clause 39; and
 - (ii) any other provisions that are expressed to or which by their nature survive termination or expiry.

39.7 Severability

Any term of this Agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this Agreement is not affected.

39.8 Waiver

- (a) No waiver of a right or remedy under this Agreement is effective unless it is in writing and signed by the party granting it. It is only effective in the specific instance and for the specific purpose for which it is granted.
- (b) A single or partial exercise of a right or remedy under this Agreement does not prevent a further exercise of that or of any other right or remedy. Failure to exercise or a delay in exercising a right or remedy under this Agreement does not operate as a waiver or prevent further exercise of that or of any other right or remedy.

39.9 Cumulative rights

Except as expressly provided in the Additional Conditions, the rights and remedies of a party under this Agreement (including under an indemnity) are in addition to and do not exclude or limit any other rights or remedies provided by Law.

39.10 Further assurances

Each party must do all things, and execute all further documents, necessary to give full effect to this Agreement.

39.11 Assignment, novation and other dealings

- (a) The Supplier must not, in whole or in part, assign or novate this Agreement or otherwise deal with the benefit of it or a right under it, or purport to do so without obtaining the prior written consent of the Customer, which consent may be withheld at the Customer's sole discretion.
- (b) The Supplier acknowledges that the Customer may conduct financial and other inquiries or checks on the entity proposing to take an assignment or novation of this Agreement before determining whether or not to give consent to an assignment or novation.
- (c) Subject to clause 39.11(d), the Customer must not, in whole or in part, assign or novate this Agreement or otherwise deal with the benefit of it or a right under it, or purport to do so, without the prior written consent of the Supplier, which consent may not be unreasonably withheld.

- (d) Notwithstanding clause 39.11(c), the Customer may, at its sole discretion, assign or novate this Agreement in whole or in part:

■ [REDACTED]

- (ii) for machinery of government changes, including if, by operation of Law, the Customer is reconstituted into a new body or legal entity or the functions of the Customer, relevant to this Agreement, are transferred to a different body or legal entity.
- (e) The Supplier agrees to co-operate in good faith and provide all reasonable assistance to the Customer in respect of any such assignment or novation made by the Customer under this clause 39.11.
- (f) The Supplier must (to the extent permitted by Law):
- (i) notify the Customer if the Supplier or any parent company of the Supplier is about to undergo a Change in Control or Other Changes, as soon as it becomes aware that the Change in Control or Other Changes will or may occur; and
- (ii) provide the Customer with all information reasonably requested by the Customer in respect of the Change in Control or Other Changes, including in respect of any incoming owner or other person who is to obtain control over the Supplier or any parent company.

39.12 Notices

- (a) A notice, consent or other communication under this Agreement (**Notice**) is only effective if it is in writing and received in full and legible form at the addressee's address or email address.
- (b) For the purposes of this clause 39.12, a party's address and email address is that set out in the Order Form (as applicable), unless the party has notified a changed address, then the notice, consent, approval or other communication must be sent to that address.
- (c) A Notice will be regarded as received at the time and on the day it is actually received, but if it is received on a day that is not a Business Day or after 5:00pm on a Business Day it is regarded as received at 9:00am on the following Business Day.
- (d) Unless there is evidence to the contrary:
- (i) a letter sent by post will be taken to be received on the fifth Business Day after posting (or seventh, if posted to or from a place outside of Australia);
- (ii) in the case of email:
- A. production of a delivery notification statement from the computer from which the email was sent which indicates that the email was sent in its entirety to the email address of the recipient will be prima facie evidence that the email has been received;
- B. where there is no delivery notification statement from the computer from which the email was sent, the date and the time of dispatch of the email will be prima facie evidence of the date and time that the email was received; and

- C. where a delivery error or similar response is returned in response to that email, the email will not be taken to be received and the sender must use an alternative method of giving that notice in accordance with this clause 39.12.

39.13 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement.

39.14 Expenses

Except as otherwise expressly provided in this Agreement, each party must pay its own costs and expenses in connection with the negotiation, preparation and execution of this Agreement.

39.15 English language

All communications between the parties and all documentation provided in connection with this Agreement and the Supplier's Activities must be in the English language.

39.16 Governing Law

This Agreement is governed by the Laws applicable in the State of New South Wales, Australia. The Supplier irrevocably and unconditionally submits to the sole and exclusive jurisdiction of the courts of New South Wales, Australia and the courts entitled to hear appeals from those courts.

Executed as an agreement:

Executed for and on behalf of The Crown in right of the State of New South Wales acting through the Department of Education, ABN 40 300 173 822 by its authorised representative, but not so as to incur personal liability, in the presence of:



Digitally signed by Kathleen Shaw
Date: 2023.06.29 13:58:49 +1000

Signature of witness

Kathleen Shaw

Name of witness in full

Date 29 June 2023

Executed for and on behalf of ServiceNow Australia Pty Ltd, ABN 88 149 683 312 by its authorised representative, but not so as to incur personal liability, in the presence of:



Signature of witness

June 29, 2023 | 08:48:16 SGT

Name of witness in full

Date June 29, 2023 | 08:48:16 SGT



Signature of authorised representative

Ruth Owen

Name of authorised representative in full



Signature of authorised representative

Katherine Janus

Name of authorised representative in full

Schedule 1 - Definitions and interpretation

1.1 Definitions

In this Agreement, unless the contrary intention appears:

Aboriginal Participation Plan means the plan of that name developed pursuant to the Aboriginal Procurement Policy and attached to, or referenced in, the Order Form.

Aboriginal Procurement Policy means the New South Wales Government's Aboriginal Procurement Policy published at <https://buy.nsw.gov.au/policy-library/policies/aboriginal-procurement-policy> (or such other link as notified by the Customer).

Acceptance in respect of a Deliverable, means the issuing by the Customer of an Acceptance Certificate for that Deliverable. **Accept** and **Accepted** have a corresponding meaning.

Acceptance Certificate means an acceptance notice or certificate issued by the Customer pursuant to clause 14.3 to confirm that a Deliverable meets the Acceptance Criteria.

Acceptance Criteria in respect of a Deliverable, means the compliance of that Deliverable with any criteria set out in the Order Form and such other requirements as the Customer reasonably considers necessary to determine whether that Deliverable complies with the applicable Specifications and the other requirements set out in this Agreement.

Acceptance Tests or **Testing** in respect of a Deliverable, means acceptance tests carried out in accordance with clause 14 to verify whether the Acceptance Criteria in respect of that Deliverable has been met, including any such tests specified in the Order Documents.

Accessibility Standard has the meaning given to that term in clause 6.3(a)(i).

Additional Conditions means any terms or conditions that vary or are additional to the terms and conditions set out in the Core Terms or Module Terms and which are stated or referenced in Items 11 or 66 of the Order Form.

Additional Order means an Additional Order for Services and/or Deliverables that is placed in accordance with clause 3.3.

Adjustment Notice has the meaning given to that term in clause 24.3(d).

Agreement means this agreement and includes any schedule and attachment to this agreement.

Ancillary Software means software licensed by the Supplier to Customer that is deployed on machines operated by or for Customer to facilitate operation of the Cloud Services or interoperation of the Cloud Services with other software, hardware, or services. Ancillary Software may include code that is licensed under third-party license agreements, including open source made available or provided with the Ancillary Software.

Audit has the meaning given to that term in clause 21.3.

Authorisations means any consent, registration, filing, agreement, notarisation, certificate, licence, approval, permit, authority or exemption from, by or with a Government Agency.

Authority includes any Government Agency, governmental or semi-governmental or local government authority, administrative, regulatory or judicial body or tribunal, department, commission, public authority, agency, Minister, statutory corporation or instrumentality.

Benchmarking Activities has the meaning given to that term in clause 24.2(b).

Benchmarking Notice has the meaning given to that term in clause 24.2(b).

Benchmarking Report has the meaning given to that term in clause 24.3(a).

Best Industry Practice means a standard of service or deliverable, in terms of quality, productivity, performance, cost and timeliness of delivery, that, when considered collectively, is equal to or better than the commonly accepted best practice being provided at the relevant time by a supplier of like or similar services, deliverables and activities to the Supplier's Activities throughout the world.

Business Contingency Plan has the meaning given to that term in clause 25.2(a).

Business Day means a day other than a Saturday, Sunday or gazetted public holiday in New South Wales, Australia.

Business Hours means the hours between 9:00am and 5:00pm on any Business Day.

Change Control Procedure means the procedure to be followed with respect to Change Requests as specified in clause 10.

Change in Control means, in respect of an entity, the occurrence of any circumstances or events following which the entity, who was not so controlled before, is controlled by another person, alone or together with any Related Body Corporate, and:

- (a) includes, in respect of the entity, a change of a direct holding of at least fifteen percent of the voting shares in that entity or a holding company of that entity; however
- (b) excludes an internal solvent corporate reorganisation occurring exclusively within the group of companies comprised of the Supplier and its Related Bodies Corporate.

Change Request has the meaning given to that term in clause 10.1(a).

Change Request Form means a document in substantially the same form as that in Schedule 5 or such other form approved by the Customer.

Claim means any allegation, cause of action, liability, claim, proceeding, suit or demand of any nature, whatsoever arising, and whether present or future, fixed or unascertained, actual or contingent and whether at Law, under statute or otherwise.

Commencement Date means the date specified as such in the Order Form.

Confidential Information means information that:

- (a) is by its nature confidential;
- (b) is communicated by the discloser of the information (**Discloser**) to the recipient of the information (**Recipient**) as confidential;
- (c) the Recipient knows or ought to know is confidential; or
- (d) relates to or comprises the:
 - (i) financial, corporate or commercial information of any party;
 - (ii) affairs of a third party; or
 - (iii) strategies, practices or procedures of the State of New South Wales or any information in the Supplier's possession relating to a Government Agency,

but excludes information:

- (e) in the public domain, unless it came into the public domain due to a breach of confidentiality;
- (f) independently developed by the Recipient; or
- (g) in the possession of the Recipient without breach of confidentiality by the Recipient or other person.

Conflict of Interest means the Supplier or its Personnel:

- (a) engaging in any activity;
- (b) obtaining any interest, whether pecuniary or non-pecuniary; or
- (c) being involved in any actual or threatened litigation or investigation,

whether proven or alleged, which is likely to, has the potential to, or could be perceived to, present a conflict of interest in the Supplier or its Personnel performing its obligations under this Agreement.

Contract Authority means the entity named as such in the Order Form and who has entered into a MICTA.

Core Terms means clauses 1 to 39 of this Agreement.

Corporations Act means the *Corporations Act 2001 (Cth)*.

Correctly Rendered Invoice means an Invoice which:

- (a) specifies an amount that is due for payment and correctly calculated in accordance with this Agreement;
- (b) is itemised and identifies the GST exclusive amount, the GST component and the GST inclusive amount (as applicable) and enables the Customer to ascertain what the Invoice covers and the amount payable;
- (c) includes (where available) the relevant purchase order number notified by the Customer to the Supplier and this Agreement reference number;
- (d) where relating to an amount that is payable subject to Acceptance, is accompanied by documentary evidence that signifies that Acceptance (where appropriate) has occurred in accordance with this Agreement;
- (e) is in the right form (which may be an electronic or digital form where agreed to by the Customer); and
- (f) complies with clauses 24.4(a) to 24.4(b) and satisfies any additional criteria relating to Invoices specified in the Order Form.

Critical CSI means any:

- (a) CSI that is critical to the Supplier's ability to carry out the Supplier's Activities and without which the Supplier would be materially restricted in its ability to carry out the Supplier's Activities in accordance with the requirements of this Agreement; or
- (b) any CSI specified as "Critical CSI" in the Order Form.

Crown means the Crown in right of the State of New South Wales.

Customer means the entity named as such in Item 1 of the Order Form.

Customer Data means all data (including metadata) and information relating to the Customer or any Government Agency and the operations, facilities, customers, clients, personnel, assets and programs of the Customer and any Government Agency, including Personal Information, in whatever form that information may exist and whether created, captured, collected, entered into, stored in, generated by, controlled, managed, retrieved, transferred, transmitted, printed, processed or produced as part of carrying out the Supplier's Activities, but excluding any Performance Data.

Customer Environment means the combination of hardware, software, systems and network infrastructure and services used by the Customer from time to time, including those specified in the Order Documents.

Customer Support Addendum has the meaning given to that term in Item 11 of the Order Form.

Customer's Representative means the person nominated in Item 2 of the Order Form or as advised in writing by the Customer to the Supplier from time to time, to act on behalf of the Customer in connection with this Agreement.

Customer Supplied Items or **CSI** means the Materials, equipment, resources or items specified in the Order Form to be provided by the Customer to the Supplier.

Customer Technology means the following, where originally authored, invented, or otherwise created by or for the Customer (but not by or for the Supplier) for use with the Services:

- (a) software, methodologies, templates, business processes, documentation; or
- (b) other material,

excluding the Services, any software licensed by the Supplier to the Customer, documentation relating to the Services, 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, the Supplier and any updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related documentation.

Customer User(s) means any Personnel of the Customer or any other person that the Customer authorises to use the Deliverables or Services.

Data Location Conditions means:

- (c) compliance with the Information Security Requirements;
- (d) ensuring that Customer Data and Personal Information is at all times handled and processed in accordance with all applicable Laws, including the Privacy Laws and the *State Records Act 1998* (NSW) (to the extent applicable);
- (e) not transferring any Customer Data and Personal Information to a jurisdiction that is the subject of any sanction, embargo, export control or similar Laws;
- (f) ensuring that Customer Data and Personal Information is at all times protected in accordance with the terms of this Agreement including clauses 19, 20 and 21; and
- (g) compliance with any other requirements or conditions with respect to the location of Customer Data and Personal Information as specified in Item 39 of the Order Form or in the Module Terms.

Data Processing Addendum has the meaning given to that term in Item 11 of the Order Form.

Data Security Addendum has the meaning given to that term in Item 11 of the Order Form.

Date for Delivery means the date(s) (including any Key Milestones) by which the Supplier must provide the relevant Deliverables and/or Services to the Customer or complete the relevant Supplier's Activities, as stated in the Order Documents and as may be adjusted under this Agreement.

Deed of Confidentiality and Privacy has the meaning given to that term in clause 11.4(a).

Default Amount means the amount determined as such according to clause 34.5(b).

Defect means a fault, error, failure, degradation, deficiency or malfunction that causes the relevant Deliverable or Service to not meet the Specifications and the other requirements of this Agreement or any other aspect of a Deliverable or Service that is not in accordance with the requirements of this Agreement.

Deliverable means all things or items (including Documents) to be supplied by the Supplier under this Agreement as set out in the Order Documents.

Denial of Service (DoS) Attack means an attack that shuts down or substantially degrades the Deliverables and/or Services, resulting in the Deliverables and/or Services (or any functionality forming part of the Deliverables and/or Services) being unable to be used by the Customer or Customer Users in the manner intended to be used under this Agreement, including as to any Service Levels or key performance indicators.

Disaster means any disaster, accident, emergency, degradation, damage, interruption or other event which impacts on the continuity of the Supplier's Activities (including any Force Majeure Event impacting the Supplier).

Dispute Notice has the meaning given to that term in clause 35.1(b).

Document has the meaning given to that term in clause 8.1(a).

Document Deliverable means any Deliverable which is, or is required to be, in the form of a Document.

Eligible Customer means any Government Agency or Eligible Non-Government Body.

Eligible Non-Government Body includes the following public bodies that are not Government Agencies (as identified under clause 6 of the *Public Works and Procurement Regulation 2019* (NSW)):

- (a) a private hospital;
- (b) a local council or other local authority;
- (c) a charity or other community non-profit organisation;
- (d) a private school or a college;
- (e) a university;
- (f) a public authority of the Commonwealth or any other State or Territory;
- (g) a public authority of any other jurisdiction (but only if it carries on activities in the State of New South Wales); or

- (h) any contractor to a public authority (but only in respect of things done as such a contractor).

Escrow Materials means the software code and programming Materials specified in Item 38 of the Order Form or otherwise specified as constituting "Escrow Materials" in Schedule 7.

Existing Materials means any Materials in which Intellectual Property Rights subsist (which, in the case of the Supplier, are incorporated into a Deliverable or Service or to which the Customer otherwise requires a licence in order to enjoy the benefit of this Agreement or any obligations performed for the Customer under it):

- (a) belonging to a party that are pre-existing as at the Commencement Date; or
- (b) that are brought into existence, by or on behalf of a party, other than in connection with the performance of that party's obligations under this Agreement,

and includes any enhancements, modifications and developments to such Materials, to the extent not comprising New Materials.

Financial Security has the meaning given to that term in clause 28.2(a).

Force Majeure Event means any of the following events or circumstances to the extent not within the reasonable control of the party affected by it (**Affected Party**):

- (a) acts of God, including storms, cyclones, landslides, epidemics, earthquakes, floods, and other natural disasters;
- (b) strikes, stoppages, labour restraints and other industrial disturbances, except for those only affecting the Personnel of the Affected Party;
- (c) acts of the public enemy, including wars, blockades and insurrections; and
- (d) riots, malicious damage, sabotage, civil disturbance and acts of terrorism,

the incidence of which is not (or would not be reasonably expected to be) generally known to the Affected Party as at the Commencement Date and which the Affected Party is not reasonably able to prevent or overcome, or the effects of which the Affected Party is not reasonably able to predict and take measures to avoid, by the exercise of reasonable diligence and prudence.

GIPA Act means the *Government Information (Public Access) Act 2009* (NSW).

Governance Framework has the meaning given to that term in clause 4.3(a).

Government Agency means any of the following:

- (a) a government sector agency (within the meaning of the *Government Sector Employment Act 2013* (NSW));
- (b) a New South Wales Government agency;
- (c) any other public authority that is constituted by or under an Act or that exercises public functions for or on behalf of the State of New South Wales (other than a State owned corporation); or
- (d) any State owned corporation prescribed by regulations under the *Public Works and Procurement Act 1912* (NSW).

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Heightened Cap has the meaning given to that term in item 53 of the Order Form.

ICT means information and communication technologies.

ICT Purchasing Framework means the suite of New South Wales Government template documents which sets out standard terms and conditions to be used by Eligible Customers for the procurement of ICT related goods and services.

Indemnified Entities means the Customer, Customer Users, the State of New South Wales, the Customer's Personnel and, in relation to a Government Agency, the relevant head of the Government Agency and its responsible Minister.

Information Security Requirements has the meaning given to that term in clause 19.2(a).

Inherent Risks means the level of risks that exists in an organisation prior to the adoption or implementation of internal security controls or measures designed to avoid or mitigate them.

Initial Term means the period specified as such in the Order Form.

Insolvency Event means the occurrence of any one or more of the following events in relation to any person:

- (a) an application is made to a court for an order, or an order is made, that it be wound up, declared bankrupt or that a provisional liquidator or receiver, or receiver and manager, be appointed;
- (b) a liquidator or provisional liquidator is appointed;
- (c) an administrator is appointed to it under sections 436A, 436B or 436C of the Corporations Act;
- (d) a Controller (as defined in section 9 of the Corporations Act) is appointed to it or any of its assets;
- (e) a receiver is appointed to it or any of its assets;
- (f) it enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors, in each case other than to carry out a reconstruction or amalgamation while solvent;
- (g) it proposes a winding-up, dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (h) it is insolvent as disclosed in its accounts or otherwise, states that it is insolvent, is presumed to be insolvent under Law (including under sections 459C(2) or 585 of the Corporations Act) or otherwise is, or states that it is, unable to pay all its debts as and when they become due and payable;
- (i) it is taken to have failed to comply with a statutory demand as a result of section 459F(1) of the Corporations Act;
- (j) a notice is issued under sections 601AA or 601AB of the Corporations Act;
- (k) a writ of execution is levied against it or a material part of its property;
- (l) it ceases to carry on business or threatens to do so; or
- (m) anything occurs under the Law of any jurisdiction which has a substantially similar effect to any of the events set out in the above clauses of this definition.

Intellectual Property Rights means all intellectual property rights, including:

- (a) copyright, patent, design, semi-conductor or circuit layout rights, registered design, trade marks or trade names and other protected rights, or related rights, existing worldwide; and
- (b) any licence, consent, application or right to use or grant the use of, or apply for the registration of, any of the rights referred to in paragraph (a),

but does not include the right to keep Confidential Information confidential, Moral Rights, business names, company names or domain names.

Invoice means a tax invoice issued under the GST Law.

IPR Claim has the meaning given to that term in clause 34.1(b).

Item means an item in Parts A to E of the Order Form.

Key Milestone means a Date for Delivery of a Deliverable, or for the completion of a particular Service or other Supplier's Activity, that is specified as such in the Payment Particulars or Order Documents, as may be adjusted under this Agreement.

Laws means any legally binding law, legislation, statute, act, regulation, subordinate legislation, rule, by-law, order, proclamation, decree, ordinance, directive or code which is enacted, issued or promulgated from time to time in any relevant jurisdiction (including the Commonwealth or any State or Territory government) and any applicable common law and rule or principle of equity.

Licensed Software means the software set out in the Order Documents that the Supplier is to provide to the Customer, or provide the Customer access to (as applicable) under this Agreement and includes any Updates or New Releases of that software that may be provided to the Customer from time to time in accordance with this Agreement.

Limitation Amount has the meaning given to that term in clause 34.5.

Liquidated Damages means any damages specified as such in an Order Form which, where applicable, will be applied in accordance with clause 16.

Loss means any loss, damage, liability, cost (including all legal and other professional costs on a full indemnity basis), charge, expense, Claim, outgoing, fine or payment of any nature or kind.

Material Defect means any Defect which represents a material departure from the Specifications or other requirements of this Agreement in respect of that Deliverable or prevents the proper operation of the Deliverable.

Materials means all property, materials, documents, information and items in whatever form, and includes equipment, hardware, computer software (including development tools and object libraries), concepts, approaches, tools, methodologies, processes, know-how, data, Documentation, manuals and anything else which is the subject matter of Intellectual Property Rights.

MICTA means (if any) the master ICT agreement between the Contract Authority and the Supplier under which there is a standing offer to provide particular ICT-related goods, services and/or other activities (including the Deliverables and Services) to Eligible Customers.

Modern Slavery has the same meaning as in the Modern Slavery Laws and includes slavery, servitude, forced labour, human trafficking, debt bondage, organ trafficking, forced marriage and the exploitation of children.

Modern Slavery Laws means the *Modern Slavery Act 2018* (Cth) and any other applicable legislation addressing similar subject matter.

Modern Slavery Statement means a modern slavery statement as required or volunteered under the Modern Slavery Laws.

Module means the applicable Module(s) which apply to the specific Services and/or Deliverables as identified in the Order Form.

Module Terms means the terms and conditions in respect of the applicable Module(s) as set out in the Module(s).

Moral Rights means a person's moral rights as defined in the *Copyright Act 1968* (Cth) and any other similar rights existing under any other laws.

New Materials means Materials in which Intellectual Property Rights subsist that are created or which arise in the course of performing this Agreement, excluding Customer Data.

New Releases means software (including the latest current version) which has been produced primarily to extend, alter or improve the Licensed Software by providing additional functionality or performance enhancement (whether or not Defects in that Licensed Software are also corrected) while still retaining the original designation of the Licensed Software. A New Release does not include any software that is generally licensed by the Supplier to its customers as a different product.

Nominated Personnel means the key Personnel of the Supplier who are required to undertake the provision of the Supplier's Activities or part of the work constituting the Supplier's Activities, as stated in Item 18 of the Order Form or otherwise agreed by the Customer in writing.

Notice has the meaning given to that term in clause 39.12.

Open Source Software means software available under a licence which:

- (a) meets the criteria of the Open Source Definition published by the Open Source Initiative at <http://www.opensource.org>, and includes the forms of creative commons licences published as the Creative Commons Legal Code for Australia at <http://www.creativecommons.org>; or
- (b) contains any term or condition which mandates the re-licensing or redistribution to the public (whether free of charge or for a fee) of any software code, in any circumstance.

Order means an order for the Services and/or Deliverables and other Supplier's Activities as set out in an Order Form, and includes an Additional Order.

Order Documents means:

- (a) the Order Form;
- (b) the Payment Schedule;
- (c) all applicable Plans; and
- (d) the relevant Module Terms identified as applicable in Item 13 of the Order Form.

Order Form means:

- (a) the document set out at Schedule 2;

- (b) any Additional Order;
- (c) any Statement of Work or Supplier's Documents incorporated within or attached to an Order Form in accordance with this Agreement; and
- (d) any schedules, annexures or attachments expressly incorporated into any of the above documents.

Other Changes means any actual or proposed change in the Supplier's circumstances, operations or supply chains (including a change to the Supplier's Personnel) that could reasonably be considered to:

- (a) create a security risk for the Customer or the State of New South Wales; or
- (b) adversely affect the:
 - (i) Supplier's ability to fulfil its obligations under this Agreement; or
 - (ii) reputation of the Customer or the State of New South Wales.

Other Supplier means any supplier, contractor, consultant or other person engaged to provide services or deliverables to the Customer, other than the Supplier or its subcontractors and suppliers.

Payment Particulars means the pricing and payment regime for the completion of the Supplier's Activities as set out in the Payment Schedule, the Statement of Work or in Item 43 of the Order Form.

Payment Schedule means the schedule of Prices and payment regime specified in Schedule 4.

Performance Data means automatically generated metadata, not including any Personal Information or Confidential Information of the Customer or a Government Agency that:

- (a) is incidentally generated by a computer system in the course of its normal operation;
- (b) relates to the performance or operation of that computer system; and
- (c) arises in the course of the performance of the Supplier's Activities.

Performance Guarantee has the meaning given to that term in clause 28.1.

Personal Information means:

- (a) information or an opinion about an identified individual (that is, a natural person) or an individual who is reasonably identifiable whether the information or opinion is:
 - (i) true or not; and
 - (ii) recorded in a material form or not; and
- (b) information defined as such under applicable Privacy Laws.

Personnel means a party's employees, officers, agents and subcontractors and:

- (a) in the case of the Supplier, includes any persons carrying out the Supplier's Activities on the Supplier's behalf; and

- (b) in the case of the Customer, includes any Customer Users permitted or enabled by the Customer to use the Deliverables and Services, but excludes the Supplier and its Personnel.

Plans means any:

- (a) Project Plan;
- (b) Business Contingency Plan;
- (c) Test Plan;
- (d) Transition-In Plan and Transition-Out Plan; and
- (e) any additional plans specified in Item 27 of the Order Form or required to be complied with under this Agreement.

Policies, Codes and Standards means:

- (a) all applicable SME Policies and associated requirements;
- (b) the other policies, codes, standards and guidelines and associated requirements specified in this Agreement, including within the Order Form; and

any Policy Changes with which the Supplier agrees to comply with under clause 29.1(b).

Policy Change has the meaning given to that term in clause 29.1(b).

Price means the total amount payable by the Customer for the Deliverables and/or Services and the carrying out of the other Supplier's Activities under this Agreement as stated in the Payment Particulars, as may be adjusted under this Agreement.

Privacy Laws means:

- (a) the *Privacy Act 1988* (Cth);
- (b) the *Privacy and Personal Information Protection Act 1998* (NSW);
- (c) the *Health Records and Information Privacy Act 2002* (NSW);
- (d) any legislation (to the extent that such legislation applies to the Customer or the Supplier or any other recipient of Personal Information) from time to time in force in:
 - (i) any Australian jurisdiction (which includes the Commonwealth of Australia and any State or Territory of Australia); and
 - (ii) any other jurisdiction (to the extent that the Customer or any Personal Information or the Supplier is subject to the laws of that jurisdiction),affecting privacy or Personal Information, provided that the Supplier ensures that it complies at all times with the Privacy Laws applicable in New South Wales; and
- (e) any ancillary rules, guidelines, orders, directions, directives, codes of conduct or other instruments made or issued under any of the legislation referred to in paragraphs (a), (b), (c) and (d), as amended from time to time.

Professional Standards Legislation means the *Professional Standards Act 1994* (NSW) or other equivalent Laws providing for the statutory limitation of liability of certain suppliers.

Project Plan has the meaning given to that term in clause 6.5(a).

Related Body Corporate has the meaning given to that term in the Corporations Act.

Renewal Period means the renewal period specified in Item 9 of the Order Form.

Schedule means a Schedule to this Agreement. Those Schedules that are applicable to an Order will be identified in Item 13.

Security Incident means in relation to this Agreement:

- (a) any unauthorised (whether under this Agreement or otherwise) or unlawful use of, loss of, access to, alteration of, or disclosure of Customer Data or Personal Information within the Supplier's or its Personnel's possession or control (including any data and information stored on the Supplier's equipment or in the facilities used by the Supplier to carry out the Supplier's Activities, or any unauthorised or unlawful access to such equipment or facilities);
- (b) any notifiable data breach under the Privacy Laws;
- (c) any Denial of Service Attack;
- (d) the occurrence of circumstances indicating it is reasonably likely that any of the circumstances under paragraphs (a) to (c) have occurred;
- (e) any similar events relating to Customer Data or Personal Information which trigger, or are likely to trigger, contractual reporting obligations or legal reporting obligations to an Authority or which would require a response or action under this Agreement, at Law or under any of the Policies, Codes and Standards; or
- (f) any alleged or suspected occurrence of any of the above events or circumstances.

Security Program has the meaning given to that term in clause 21.2(a).

ServiceNow Documents has the meaning given to that term in Item 11 of the Order Form.

ServiceNow Order Form has the meaning given to that term in Item 11 of the Order Form.

Service Levels means any minimum performance levels, key performance indicators and other service standards with respect to the Supplier's Activities to be achieved by the Supplier as specified, included or incorporated by reference (in accordance with this Agreement) in the Order Documents.

Services means:

- (a) the services that the Supplier is required to perform or provide under this Agreement as described in the Order Documents; and
- (b) any related or ancillary services which are required or reasonably incidental for the proper performance of the services, functions, processes and responsibilities referred to in paragraph (a).

Site has the meaning given to that term in clause 6.7(a).

SME Policies means:

- (a) the New South Wales Government's Small and Medium Enterprises and Regional Procurement Policy, published at <https://buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy> (or such other link as notified by the Customer);

- (b) the ICT/Digital Sovereign Procurement Commitments, published at <https://buy.nsw.gov.au/resources/ictdigital-sovereign-procurement-commitments> (or such other link as notified by the Customer);
- (c) the Small Business Shorter Payment Terms Policy, published at <https://buy.nsw.gov.au/policy-library/policies/small-business-shorter-payment-terms-policy> (or such other link as notified by the Customer); and
- (d) such other SME policies specified in the NSW Procurement Policy Framework, published at <https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework> (or such other link as notified by the Customer).

Specifications in respect of a Deliverable or Service, means the technical or descriptive specifications of the functional, operational, performance or other characteristics relating to that Deliverable or Service as detailed or referred to in the Order Documents or as otherwise agreed by the parties in writing.

Stage means one or more stages or phases of the project as specified in the Order Documents.

Standard Cap has the meaning given to that term in item 53 of the Order Form.

Statement of Work means a statement of work incorporated within or attached to an Order Form, an illustrative form of which is set out in Schedule 3.

Step-In Right has the meaning given to that term in clause 26.

Step-Out Notice has the meaning given to that term in clause 26.2(a).

Supplier means the entity named as such in Item 4 of the Order Form.

Supplier's Activities means all things or tasks which the Supplier is, or may be, required to do to comply with its obligations under this Agreement and includes the supply of the Deliverables and Services and, where applicable, the carrying out of any Transition-In Services and Transition-Out Services.

Supplier's Documents means any product specifications, service-specific detail or other terms and conditions of the Supplier which comply with clause 1.5 and which the parties have expressly agreed to incorporate into this Agreement, as set out in Annexure A to the Order Form.

Supplier's Representative means the Supplier's employee nominated in Item 5 of the Order Form or as advised in writing by the Supplier from time to time to act on its behalf in connection with this Agreement.

Support Portal has the meaning given to that term in Item 75 of the Order Form.

Tax means any sales tax, value added tax, duty, withholding tax, levy, impost or other charge or duty levied by any government in Australia or elsewhere, which arises out of or in connection with the Supplier's performance of its obligations under this Agreement, but excludes GST.

Term means the Initial Term of this Agreement and any Renewal Period, unless this Agreement is terminated earlier, in which case the Term ends on the date of termination of this Agreement.

Test Plan means the Plan with respect to the conduct of tests pursuant to clause 14, and which is referenced in or annexed to the Statement of Work or other Order Documents or agreed between the parties in writing.

Transition-In Plan means a transition-in Plan prepared by the Supplier and approved by the Customer in accordance with clause 7.

Transition-In Services means the transition-in Services specified in the Order Documents or in any Transition-In Plan that is approved by the Customer in accordance with clause 7.2.

Transition-Out Period means the period specified in the Order Documents or, if no period is specified in the Order Documents, the period commencing on the expiry or termination of this Agreement and continuing for six months.

Transition-Out Plan means a transition-out Plan prepared by the Supplier and approved by the Customer in accordance with clause 31.2.

Transition-Out Services means any transition-out or disengagement Services provided by the Supplier pursuant to clause 31, including under any Transition-Out Plan.

Updates means software which has been produced primarily to overcome Defects in, or to improve the operation of, the relevant part of the Licensed Software without significantly altering the Specifications whether or not that Licensed Software has also been extended, altered or improved by providing additional functionality or performance enhancement.

User Documentation means any documentation (such as user manuals, operating manuals, technical manuals, published specifications, security configurations or other documentation) that:

- (a) is specified in the Order Documents; or
- (b) is reasonably required in order for the Customer or Customer Users to use, maintain, secure, operate or otherwise obtain the benefit of any Deliverable or Service.

Virus means a computer program, code, device, product or component that is designed to threaten the security or integrity of the Customer's operations or the Deliverables and/or Services, prevent, inhibit or impair the performance of the Customer's operations or the Deliverables and/or Services or pose a threat or hazard to the security or integrity of the Customer's operations, but does not include any code, mechanism or device that is included in software by the Supplier for the purpose of managing the licensed use of software.

Warranty Period means the period specified in Item 36 of the Order Form, or where no warranty period is specified:

- (a) 90 days from Acceptance of the relevant Deliverable or Service; or
- (b) if a Deliverable or Service is not subject to Acceptance, 30 days from the provision of the Deliverable or Service to the Customer in accordance with this Agreement.

WHS Legislation means legislation relating to health and safety, including the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2017* (NSW).

Wilful Misconduct means an act or omission of a party, deliberately performed or engaged in, which the relevant party knew (or ought to have known or predicted on due and reasonable consideration), would have a reasonable possibility of damaging, having a materially adverse effect on, or prejudicing, the other party.

1.2 Interpretation

In this Agreement, the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) an obligation or liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally;
- (d) words that are gender neutral or gender specific include each gender;
- (e) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (f) the words "such as", "including", "particularly" and similar expressions are not used as, nor are intended to be interpreted as, words of limitation;
- (g) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to the relevant part of this Agreement in which that reference is located;
 - (vi) a reference to a statute or other Law is a reference to that statute or other Law as amended, consolidated or replaced;
 - (vii) a monetary amount is to Australian dollars or such other currency specified in the Order Documents; and
 - (viii) time is to Australian Eastern Standard Time;
- (h) a reference to any Authority, institute, association or body is:
 - (i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and
 - (ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or object as that Authority, institute, association or body; and
- (i) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of any part of this Agreement.

1.3 Discretion

- (a) Subject to any express provision in this Agreement to the contrary:
 - (i) a provision of this Agreement which says that the Customer or the Customer's Representative "may" do or not do something is not to be construed as imposing an obligation on the Customer or the Customer's Representative to do or not do that thing; and
 - (ii) there will be no procedural or substantive limitation upon the manner in which the Customer or the Customer's Representative may exercise any discretion, power or entitlement conferred by this Agreement.
- (b) Without limiting clause 1.3(a) of this Schedule, neither the Customer nor the Customer's Representative will be under any obligation to exercise any such discretion, power or entitlement for the benefit of the Supplier or as required by any other legal doctrine which in any way limits the express words used in the provisions of this Agreement conferring the discretion, power or entitlement.

Schedule 2 - Order Form

PART A: ICTA

Clause references below are references to clauses in this Agreement.

No	Item	Ref	Description or selection
KEY DETAILS			
1.	Customer	Generally Schedule 1	The Crown in right of the State of New South Wales acting through the Department of Education ABN 40 300 173 822
2.	Customer's Representative	Generally Schedule 1	Name: Amrutha Murthy Role: Executive Director, Service Experience
3.	MICTA	1.4 Generally Schedule 1	Is this Agreement entered into pursuant to a MICTA? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No.
4.	Supplier	Generally Schedule 1	ServiceNow Australia Pty Ltd ABN 88 149 683 312
5.	Supplier's Representative	Generally Schedule 1	Name: Tom Colless Role: Client Director, NSW State Government Australia
6.	Notices for the Customer	39.12(b)	Customer's address: 105 Phillip Street Parramatta NSW 2150 Australia Customer's email: sx.correspondence@det.nsw.edu.au
	Notices for the Supplier	39.12(b)	Supplier's address: ServiceNow Australia Pty Ltd Level 48, 680 George Street Sydney NSW 2000 Australia Supplier's email: legalnotices@servicenow.com
TERM			
7.	Commencement Date	5.1 Schedule 1	30 June 2023.

No	Item	Ref	Description or selection
8.	Initial Term	5.1 Schedule 1	The Initial Term is three (3) years for Services ordered under the Cloud Module.
9.	Renewal Period	5.2 Schedule 1	Renewal Period is [REDACTED]. There may only be [REDACTED] renewal.
	Notice period for renewals	5.2	Default applies.
ORDERING AND PURCHASING			
10.	Additional Orders	3.3 Schedule 1	The Customer is permitted to place Additional Orders in accordance with clause 3.3.
11.	Additional Conditions	3.5 Schedule 1	<p>(a) The parties acknowledge and agree that the terms contained in the following documents are incorporated into and form part of the Agreement as Additional Conditions:</p> <ul style="list-style-type: none"> • ServiceNow Order Form or Use Authorisation Form as set out in Attachment 1 to Annexure B to this Order Form (ServiceNow Order Form); • Data Processing Addendum as set out in Attachment 2 to Annexure B to this Order Form (Data Processing Addendum); • Data Security Addendum as set out in Attachment 3 to Annexure B to this Order Form (Data Security Addendum); and • Customer Support Addendum as set out in Attachment 4 to Annexure B to this Order Form (Customer Support Addendum), <p>(the ServiceNow Documents). [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]</p> <p>(b) Definitions in the ServiceNow Documents have the same meaning as provided in this Agreement unless the context otherwise requires or as otherwise defined in paragraph (c) below.</p> <p>(c) The ServiceNow Documents are amended by replacing:</p>

No	Item	Ref	Description or selection
			<ul style="list-style-type: none">• any reference to “ServiceNow” with a reference to “the Supplier”;• any reference to “Subscription Service” with a reference to “Cloud Service”;• any reference to “Subscription Term” with a reference to “Term”;• any reference to the “Customer Contract”, “Subscription Service Agreement”, “Ordering Agreement” or any other contract or agreement governing the relationship between the parties, with a reference to this “Agreement”;• any reference to “Order Form” with “ServiceNow Order Form”; and• any reference to “Product Documentation” with “User Documentation”. <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>(e) No terms or documents incorporated by reference to a hyperlink in the ServiceNow Documents, where such terms or documents are varied during the Term, will provide for additional rights or obligations under the Agreement on either party contrary to the Core Terms (as amended by the Order Form).</p> <p>(f) For the purposes of section 2.1 of the Data Security Addendum, the parties acknowledge and agree that, at a minimum, ServiceNow shall maintain a globally applicable ISO/IEC 27001 certification (or equivalent certification), incorporating ISO/IEC 27017, ISO/IEC 27018, and ISO/IEC 27701 (or equivalent).</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>(h) Notwithstanding anything in the Data Processing Addendum, the Supplier must comply with the Privacy</p>

No	Item	Ref	Description or selection
			<p>Laws at all times in the performance of this Agreement, including provision of the Services.</p> <p>(i) The parties also acknowledge and agree that:</p> <p style="padding-left: 40px;">(A) the Supplier employs more than 10 persons; and</p> <p style="padding-left: 40px;">(B) section 9(1) of the <i>Defamation Act 2005</i> (NSW) provides that a corporation which employs more than 10 persons has no cause of action for defamation in relation to the publication of defamatory matter about the corporation.</p> <p>(j) The parties acknowledge that it is possible that State records may be transferred to the Supplier under this Agreement. The Customer acknowledges and agrees that insofar as State records may be included within Customer Data, the Supplier may be unaware of such inclusion and such State records will be treated in accordance with the requirements of this Agreement applicable to Customer Data generally. To the extent State records are included in the Customer Data, the Customer provides its consent to transfer, store and access such State records in the same manner as provided for in the Core Terms (as amended by the Order Form) and in respect of Customer Data.</p>
12.	Reseller arrangements	3.6	Not applicable.
13.	Schedules	Generally Schedule 1	<input checked="" type="checkbox"/> Schedule 1 - Definitions and interpretation <input checked="" type="checkbox"/> Schedule 2 - Order Form <input type="checkbox"/> Schedule 3 - Statement of Work Template (Note: If a Statement of Work is used, this should be included at Annexure B to Schedule 2 (Order Form). The template in Schedule 3 can be used for this purpose). <input type="checkbox"/> Schedule 4 - Payment Schedule <input checked="" type="checkbox"/> Schedule 5 - Change Request Form (Note: The Change Request Form should be included for all Orders. However, note that, if approved by the Customer, an alternate form to the default provisions in Schedule 5 may be used). <input type="checkbox"/> Schedule 6 - Deed of Confidentiality and Privacy <input type="checkbox"/> Schedule 7 - Escrow Deed <input type="checkbox"/> Schedule 8 - Performance Guarantee <input type="checkbox"/> Schedule 9 - Financial Security
	Modules	1.2(c)	<input checked="" type="checkbox"/> Cloud Module

No	Item	Ref	Description or selection
			<input type="checkbox"/> Services Module <input type="checkbox"/> Software Module (Non-Cloud) <input type="checkbox"/> Hardware and Other ICT Deliverables Module
SUPPLIER'S ACTIVITIES			
14.	Scope	Generally	The "Subscription Products" set out in the ServiceNow Order Form.
15.	Requirements - Accessibility requirements	6.3(b)(ii)	Not applicable.
	Requirements - Work health and safety	12.4(f)	Not applicable.
16.	Site attendance	6.7 Schedule 1	Will the Supplier be required to attend the Site to carry out any aspect of the Supplier's Activities (including the supply of any Deliverables)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Site location		Not applicable.
	Physical delivery		Not applicable.
	Requirements for attendance at the Site		Not applicable.
17.	Policies, Codes and Standards	12.2 Schedule 1	As set out in clause 12.2.
	SME Policies	12.2 Schedule 1	Not applicable.
	Aboriginal Procurement Policy: Aboriginal participation	N/A	Not applicable.
18.	Nominated Personnel	11.1 Schedule 1	The following are Nominated Personnel for the purposes of this Agreement:
			Senior Advisory Solution Consultant

No	Item	Ref	Description or selection
			<p>Name: Jonathan Jones Number: 0407 805 807 Email address: Jonathan.jones@servicenow.com</p> <hr/> <p>ServiceNow Client Account Director Name: Tom Colless Number: +61403298021 Email address: tom.colless@servicenow.com</p>
19.	Deed of Confidentiality and Privacy	11.4(a) Schedule 1	Not applicable.
20.	Permitted subcontractors	██████████	<p>The Customer acknowledges that the Supplier is part of a global group of companies and that in the usual operation of its business, off-shore internal resources may be utilised in the delivery of certain Services in accordance with this Agreement.</p> <p>The Customer acknowledges and agrees that as at the Commencement Date, the Internal Subcontractors are the following Supplier's Related Bodies Corporate:</p> <div data-bbox="858 1137 1513 2060" style="background-color: black; height: 412px; width: 100%;"></div>

No	Item	Ref	Description or selection

No	Item	Ref	Description or selection
			<div data-bbox="869 264 1476 801" style="background-color: black; width: 100%; height: 100%;"></div> <p data-bbox="858 853 1492 1064">During the Term, the above list of Internal Subcontractors may change, provided that such Related Bodies Corporate are not incorporated or domiciled in any country that is subject to an embargo or sanctions by Australia. Upon written request, the Supplier shall provide a list of the Internal Subcontractors.</p> <p data-bbox="858 1099 1437 1220">For the purposes of clause 11.5, the Customer provides its approval for the subcontracting of the performance of Services only to the Internal Subcontractors:</p> <p data-bbox="858 1256 1492 1413">Subject to clause 11.5, the Supplier may subcontract its obligations under this Agreement to subcontractors other than the listed Internal Subcontractors only if the subcontractor is pre-approved by the Customer in writing.</p>
21.	Subcontractor deed	11.5(j)	<p data-bbox="858 1429 1485 1518">Not applicable in relation to Internal Subcontractors and/or any Subcontractors specified in Item 20 of this Order Form.</p> <p data-bbox="858 1541 1476 1720">For clarity, with the exception of the Internal Subcontractors, the Supplier must arrange for its subcontractors to enter into a subcontractor deed on terms consistent with, and no less onerous than, the parts of this Agreement applicable to the subcontractor's activities.</p>
	Additional subcontractor procurement policy requirements	11.5(k)	Not applicable.
22.	Background checks	11.6(b)	Not applicable.
	Timeframes and time for background checks		Not applicable.

No	Item	Ref	Description or selection
PERFORMANCE AND DELIVERY			
23.	Timeframes and requirements for performance	6.1	As set out in the ServiceNow Order Form.
	Specifications	6.1 Schedule 1	For the production instances of the Cloud Services during the Term, the "Product Overview" as set out in Attachment 5 to Annexure B to this Order Form.
24.	Service Levels	15.2 Schedule 1	Service Levels are as set out in the Customer Support Addendum. Clause 15.2(b) will not apply.
25.	Performance reports	15.4(a)	Without limiting the Supplier's obligations under the Agreement (as amended in accordance with this Order Form), the Customer will have access via the Support Portal to the following information: <ul style="list-style-type: none"> • performance and availability of the Cloud Services; • the Supplier's performance against the Service Levels; • schedule of planned Changes (in accordance with the section 3.2.6 of the Data Security Addendum), including patching, releases, updates and upgrades; and • subscription / license consumption report.
	Additional performance reporting requirements	15.4(b)	Not applicable.
	Performance reviews	15.5(a)	Not applicable.
26.	Meetings	15.6(a)	The parties shall meet on a six-monthly basis to discuss strategic and operational requirements and issues or as reasonably requested and agreed.
27.	Project Plans	6.5(b)	Not applicable.
	Other Plans	Schedule 1	Not applicable.


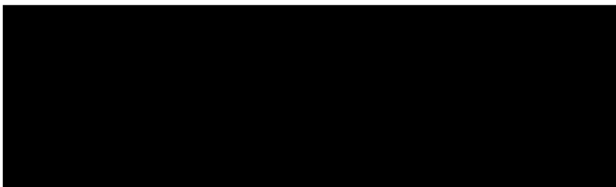
No	Item	Ref	Description or selection
28.	Stages	6.6(a) Schedule 1	Not applicable.
	Project methodology	6.6(e)	Not applicable.
	Costs of removing any Stage(s)	6.6(d)	Not applicable.
29.	Liquidated Damages	16(a) 16(b) Schedule 1	Not applicable.
30.	Governance Framework	4.3	Not applicable.
31.	Customer Supplied Items	6.2 Schedule 1	Not applicable.
	Date for provision of CSI		Not applicable.
	CSI requirements		Not applicable.
	Supplier's costs for CSI and time for payment		Not applicable.
32.	Transition-In Plan	7.2 Schedule 1	Not applicable.
	Transition-In Services	7.3 Schedule 1	Not applicable.
33.	Transition-Out Services	31.1 Schedule 1	Not applicable.
	Transition-Out Plan	31.2 Schedule 1	Not applicable.

No	Item	Ref	Description or selection
	Transition-Out Period	31.3 Schedule 1	Not applicable.
34.	User Documentation	8.4(a)	The User Documentation can be accessed at https://docs.servicenow.com . For the purpose of clause 8.4 of this Agreement, User Documentation will be deemed to have been “supplied” to the Customer when it is made electronically accessible to the Customer.
	Format for the User Documentation	8.4(c)	Not applicable.
35.	Acceptance Testing	14 Schedule 1	Not applicable.
		14.1	Not applicable.
		14.2 Schedule 1	Not applicable.
36.	Warranty Period	9 Schedule 1	30 days from the provision of a Deliverable.
INTELLECTUAL PROPERTY			
37.	Ownership of Existing Materials	17.1	Default applies.
	Licence to use Existing Materials	17.2 17.5	Subject to clause 17.11, in relation to any Existing Materials other than Cloud Services, the Supplier grants to the Customer a non-exclusive, royalty-free, non-transferable, non-sublicensable worldwide license to use the Intellectual Property Rights in the Existing Materials for the Customer’s internal purposes, solely in connection with the: (i) Customer performing its obligations and exercising its rights under this Agreement; and (ii) full use of any Services and/or Deliverables in which Existing Material is incorporated, including installing and operating the Deliverables. The term of the licence granted in relation to Existing Material shall be the Term.
	Ownership of New Materials	17.3	Default applies.


No	Item	Ref	Description or selection
	Licence to use New Materials	17.4 17.5	<p>Subject to clause 17.11, the Supplier grants to the Customer an irrevocable, non-exclusive, worldwide, non-sublicensable, non-transferable, royalty-free licence to use the Intellectual Property Rights in such New Materials for the Customer's internal purposes solely in connection with the:</p> <p>(i) Customer performing its obligations and exercising its rights under this Agreement; and</p> <p>(ii) full use of any Services and/or Deliverables in which New Material is incorporated, including installing and operating the Deliverables.</p> <p>The licence granted in clause 17.4(a) does not include the right and licence to exploit and commercialise the Intellectual Property Rights in New Materials.</p> <p>The term of the licence granted in relation to New Material shall be the Term.</p>
	Third party Intellectual Property Rights	17.7	<p>Subject to clause 17.11, the Supplier grants Customer a limited, personal, worldwide, non-sublicensable, non-transferable, non-exclusive, royalty-free license during the relevant Term for the Cloud Services to install and execute Ancillary Software on Customer's machines, solely to facilitate Customer's authorised access to and use of the Cloud Services.</p> <p>Unless otherwise agreed by the parties, no other rights are granted by the Supplier to the Customer in relation to third party Intellectual Property Rights.</p> <p>For clarity, nothing in this Item 37 affects clauses 17.7(b) and 17.7(c), and clauses 17.7(b) and 17.7(c) continue to apply.</p>
38.	Escrow	18	Not applicable.
	Escrow Materials	18 Schedule 1	Not applicable.
DATA AND SECURITY			
39.	Location of Personal Information	20.1(a)(iv) Schedule 1	<p>Unless otherwise approved by the Customer in writing, and subject to this Item 39, the Supplier is not permitted to transfer or access Personal Information outside of Australia.</p> <p>Personal Information may be transferred to the Supplier in relation to the operation of this Agreement. The Customer acknowledges and agrees that insofar as Personal Information may be included within Customer Data, the Supplier may be unaware of such inclusion and such Personal Information will be</p>

No	Item	Ref	Description or selection
			<p>treated in accordance with the requirements of this Agreement applicable to Customer Data generally.</p> <p>The Customer provides its consent:</p> <p>(i) to the extent Personal Information is included in the Customer Data, to:</p> <p>(a) the transfer and storage of such Personal Information to other locations outside New South Wales but which are within Australia; and</p> <p>(b) the Supplier and/or its Related Bodies Corporate being granted with access to such Personal Information from locations which may be outside Australia, provided such locations are not in a country that is subject to an embargo or sanctions by Australia,</p> <p>where required for the purpose of providing support or otherwise facilitating the fulfilment of its obligations under this Agreement; and</p> <p>(ii) except in respect of any Customer Data, to the extent Personal Information is included in information provided by the Customer to the Supplier solely in respect of the administration and provision of the Services and the general operation of this Agreement, to the transfer of such Personal Information and/or access to such Personal Information from such locations as are customarily used by the Supplier and its Related Bodies Corporate for the purpose of its standard business operations which may include locations outside Australia subject to such locations not being in a country that is subject to an embargo or sanctions by Australia.</p>
	Data Location Conditions	20.1(a)(iv) Schedule 1	<p>Customer Data may be transferred to the Supplier under this Agreement. The Customer provides its consent:</p> <p>(i) to the transfer and storage of Customer Data to other locations outside New South Wales but which are within Australia; and</p> <p>(ii) to the Supplier and/or its Related Bodies Corporate being granted with access to such Customer Data from locations which may be outside Australia, provided such locations are not in a country that is subject to an embargo or sanctions by Australia,</p> <p>where required for the purpose of providing support or otherwise facilitating the fulfilment of its obligations under this Agreement.</p>

No	Item	Ref	Description or selection
40.	Security obligations, standards and Information Security Requirements	19.2 21.2	The Supplier and the Customer will comply with the terms set out in the Data Security Addendum (including as amended by the Additional Conditions set out in Item 11).
	Security certifications	21.2(e)	The Supplier must comply with its obligations set out in the Data Security Addendum in relation to security certifications and requirements relating to the updating of such security certifications.
	Security audits	21.3 Schedule 1	Not applicable.
41.	Backup of Customer Data	19.4	<ul style="list-style-type: none"> • Backups are performed by an automated process using the SnowMirror backup system. • Full backups of all application data are performed on a weekly basis. These backups are retained in both the active and passive datacentres for a minimum of 14 days. • Differential backups are generated daily, and retained in both active and passive datacentres for a minimum of 7 days. • All backup failures are addressed, tracked and resolved.
	Retention of Customer Data	19.7	Not applicable.
42.	Security Incident	22.1(a) Schedule 1	Within 72 hours from the date on which the Supplier determines there has been a Security Incident.

No	Item	Ref	Description or selection
FEES AND PAYMENT			
43.	Payment Particulars	24.1(a)	<ul style="list-style-type: none"> The Supplier must invoice the Customer in accordance with the "Invoice Schedule" set out in the ServiceNow Order Form. Total fees specified in an invoice (including applicable GST) are due and payable within 30 days from the invoice date. Applicable GST is to be added to all invoices payable by the Customer under this Agreement. Pricing is exclusive of GST. Fees are as set out in the ServiceNow Order Form.
	Price model (exception)	24.1(b)	For Cloud Services, the price per unit is fixed during the Initial Term as set out in the ServiceNow Order Form for the units, products and duration in the ServiceNow Order Form at the unit prices listed in the ServiceNow Order Form against each product.
44.	Benchmarking	24.2	Not applicable.
45.	Invoicing timeframes	24.4(a)	<p>For Cloud Services ordered under the Cloud Module, Cloud Services fees are invoiced on the Commencement Date and annually in advance thereafter.</p> <p>For Training Services ordered under Cloud Module, the Supplier will invoice the Customer at the same time as fees for Cloud Services ordered under the Cloud Module.</p>
46.	Payment requirements and invoicing	24.5(a)	Not applicable.
	Time for payment	24.5(a) Schedule 1	Not applicable.
	Purchase order number and Agreement reference number for Correctly Rendered Invoices	Generally	
	Supplier's nominated bank account	24.5(a)(i)	Account Name: ServiceNow Australia Pty Ltd 

No	Item	Ref	Description or selection
RISK ALLOCATION AND MANAGEMENT			
47.	Business Contingency Plan	25.2(a)	Not applicable.
48.	Step-In Rights	26	Not applicable.
49.	Insurance	27(a)	<p>The Supplier must hold and maintain the following types of insurance for the Term (unless otherwise stated below) and in the amounts specified below:</p> <div data-bbox="890 645 1501 1865" style="background-color: black; width: 100%; height: 545px; margin: 10px 0;"></div> <p>For the purpose of this Item 49, a “claim” means a written demand for money or a civil proceeding that is commenced by service of a complaint or similar pleading.</p>

No	Item	Ref	Description or selection
	Cyber security and other insurances	27(a) 27(b)	For the purposes of clauses 27(a) and 27(b) of the Agreement, the Supplier must hold and maintain combined technology errors' & omissions policy as set out above.
50.	Performance Guarantee	28.1	Not applicable.
51.	Financial Security	28.2	Not applicable.
52.	Termination for convenience	N/A	Not applicable.
53.	Limitation Amount	34.5(b)	The Limitation Amount comprises the following: 
	Alternate approach to uncapped liability	34.5(c)	Default applies.
	Non-excluded Losses	34.6(b)(ii)	Default applies.
54.	Alternative dispute resolution	35	Clause 35.3 (Alternative Dispute Resolution) shall not apply. If the dispute remains unresolved 20 Business Days after the date of the Dispute Notice (or such longer period as may be agreed by the parties in writing), then, unless the parties agree otherwise, either party may commence any other form of dispute resolution, including court proceedings, to determine the dispute.

No	Item	Ref	Description or selection
55.	Prolonged Force Majeure Event	36.4	Default applies.

PART B: Cloud Module

Item 13 above specifies that the Cloud Module applies.

Clause references below are references to clauses in the Cloud Module.

No	Item	Mod ref	Description or selection
SCOPE			
56.	Cloud Services	1.1	The “Subscription Products” set out in the ServiceNow Order Form.
57.	Services Period	1.3	The applicable “Term” for each of the Cloud Services as set out in the ServiceNow Order Form.
58.	Unilateral Variation	1.4	The Supplier shall not be required to provide notice of a Unilateral Variation in accordance with clause 1.4(b) unless the Unilateral Variation would have a material impact on the Customer’s use of the Cloud Services.
	Form of, and medium for, notice of a Unilateral Variation	1.4(c)	Where notice is required under clause 1.4(b), email shall be sufficient. For clarity, whilst notice is not required for immaterial Unilateral Variations, clause 1.4(a) (including paragraphs (i) – (iii)) apply.
59.	Dates for Delivery	2.1(a)	The “Term Start Dates” for each subscription product as set out in the ServiceNow Order Form.
	Third Party Components	2.1(a)(iii) Annexure A	Not applicable.
	Date for provision of access codes	2.1(b)	Not applicable.
60.	Scope of licence	2.2(b)	Notwithstanding clause 2.2(b), the number and type of Permitted Users (as set out in Item 63 of this Order Form) may access and use the Cloud Services during the relevant Term for the Cloud Services for the Customer’s internal purposes in accordance with the User Documentation. This User Documentation includes solely technical program or interface documentation, user manuals, operating instructions, and release notes.
61.	Permitted Purpose	2.2(b)(v) Annexure A	As set out in Item 60 of this Order Form.
LICENSING MODEL AND TERMS			
62.	Licensing model	2.3(a)	User Licensing Model.

No	Item	Mod ref	Description or selection
	Licensing terms	2.3(b) 2.3(c)	There is a cap on the number of Permitted Users. The number of Permitted Users is limited to the number set out in Item 63 of this Order Form.
63.	Permitted Users	2.3(b) Annexure A	As set out in the ServiceNow Order Form, including each "User Type" and "Units" of such users as set out in the ServiceNow Order Form.
64.	Data backups by the Customer	2.5(a)	Clause 2.5(a) does not apply. The Customer is not required to take or maintain any backups of the data that is loaded into the Cloud Services.
	Data backups by the Supplier	2.5(b)	The Supplier has a responsibility to perform backups as set out in Item 41 of this Order Form.
65.	Records of usage and audits	2.6	<p>Except in respect of the Customer Data and unless otherwise agreed in writing by the parties, the Supplier may remotely review the scope of Customer's use of the Cloud Services, and on the Supplier's written request, the Customer will provide reasonable assistance to verify the Customer's compliance with the Agreement with respect to access to and use of the Cloud Services.</p> <p>If the Supplier determines that Customer has exceeded its permitted access and use rights to the Cloud Services, the Supplier will notify Customer and Customer will, within 30 days, either:</p> <ul style="list-style-type: none"> (1) disable any unpermitted use; or (2) purchase additional subscriptions commensurate with Customer's actual use.
66.	Additional Conditions - Cloud Services terms	2.7	Additional Conditions as stated or referenced in Item 11 also apply in relation to the Cloud Module.
67.	Restrictions	3(a)	<p>The Customer will not itself, and will not allow others, other than in accordance with this Agreement, to:</p> <ul style="list-style-type: none"> (1) use the Cloud Services in excess of contractual use limits (including as stated in Item 63 of this Order Form), 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 the Cloud Services available for access by third-parties;

No	Item	Mod ref	Description or selection
			<p>(3) access the Cloud Services for purposes of developing or operating products or services for third-parties in direct competition with the Cloud Services;</p> <p>(4) copy, create derivative works based on, or otherwise modify the Cloud Services, except as may be otherwise expressly stated in this Agreement;</p> <p>(5) use the Cloud Services in violation of Laws (including those applicable to collection and processing of Customer Data through the Cloud Services);</p> <p>(6) use the Cloud Services to reproduce, distribute, display, transmit, or use material protected by copyright or other Intellectual Property Rights (including the rights of publicity) without first obtaining the owner's permission;</p> <p>(7) use the Cloud Services 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</p> <p>(8) access or disable any Supplier or third-party data, software, or network (other than Customer's instance of the Cloud Services).</p> <p>The Customer will use reasonable endeavours to notify the Supplier at legalnotices@servicenow.com 30 days before it engages in any of the foregoing that it believes it may be entitled to and provide reasonably requested information to allow the Supplier to assess the Customer's claim. Subject to clause 17 of the Core Terms and clause 1.4(a) of the Cloud Module Terms, the Supplier may, in its discretion, provide alternatives that reduce adverse impacts on the Supplier's Intellectual Property Rights or other rights.</p>
68.	Primary and Secondary Data Centres	4.3(a) 4.4(a)	The primary data and secondary data centres will be located in Australia.
69.	Remote access to Customer Data	4.3(b)	As set out in Item 39 of this Order Form.
70.	Notice of change to location of data centres	4.4(a)	10 Business Days prior to the change occurring, unless the location of data centres remains in Australia, in which case no notification will be required to be given by the Supplier to the Customer.
71.	Excluded locations	4.4(b)	Any location outside Australia.
72.	Media decommissioning	4.5(a)(ii)	Default applies.

No	Item	Mod ref	Description or selection
SUPPORT AND TRAINING SERVICES			
73.	Support Services	5.1 5.3	Notwithstanding any other clause of this Agreement, Support Services are described and shall be provided in accordance with the Customer Support Addendum.
74.	Support Period	5.2 Annexure A	The relevant Term for Cloud Services.
75.	Help desk	5.4	<p>Customer support is available by accessing and logging into the self-service support portal available at https://support.servicenow.com/now (Support Portal).</p> <p>The Customer will receive from the Supplier communications via email, phone, or through the Support Portal regarding the Cloud Services and acknowledges that access to the Support Portal may require multi-factor authentication by the Customer.</p> <p>The Customer will appoint a reasonable number of contacts to engage Customer support for questions and technical issues and the Customer must maintain current contact information for the following authorized contacts in the Support Portal who have been trained to administer the Cloud Services:</p> <ul style="list-style-type: none"> • Primary Business Contact; • Secondary Business Contact; • Technical Contact; • Support Contact; • Primary Customer Administrator; and • Security Contact.
76.	Training Services	6.1	<p>The Training Services are as set forth in the ServiceNow Order Form, including as specified in the “Education, Services and Knowledge” section.</p> <p>The Training Services commence on a date as agreed between the Customer and the Supplier. The Training Services will end on a date as agreed between the Customer and the Supplier. The parties agree that the Training Services will be consumed within 12 months of the Commencement Date.</p> <p>The location of Training Services, course content and other items will be agreed between the Customer and the Supplier prior to the commencement of the Training Services.</p> <p>The training Plan referred to in clause 6.1(b)(ii) is not required unless otherwise agreed between the parties.</p>

No	Item	Mod ref	Description or selection
77.	Training Reports	6.2	The Supplier is not required to provide Training Reports.
GENERAL			
78.	Additional/ancillary Deliverables and Services	7.1	Not applicable.
79.	Records	8	Default applies.
80.	Operating procedures	9(a)(iv)	As set out in the User Documentation.

PART C: Services Module

Not applicable.

PART D: Software Module (Non-Cloud)

Not applicable.

PART E: Hardware and Other ICT Deliverables Module

Not applicable.

Annexure A to Order Form – Supplier's Documents

Not used.

Annexure B to Order Form – Additional Conditions – ServiceNow Documents

Attachment 1

Order Form



ServiceNow Australia Pty Ltd
Level 48, 680 George Street
Sydney NSW 2000
ABN: 88 149 683 312

Order Number

Pricing Expiration: 29 Jun 2023

SNC Account Exec	Tom Colless
Phone	
E-mail	tom.colless@servicenow.com

Customer Invoice Address

Customer Ship To Address

Company Name	DEPARTMENT OF EDUCATION	Company Name	DEPARTMENT OF EDUCATION
Address	Gpo Box 4037	Address	105 Phillip St
Suite		Suite	Parramatta
City	Sydney	City	Sydney
State/Province	NSW - New South Wales	State/Province	NSW - New South Wales
Zip/Postal Code	2001	Zip/Postal Code	2150
Country	Australia	Country	Australia
AP Contact Name	EDConnect Accounts Payable	Business Contact	Amrutha Murthy
Title		Title	Executive Director, Service Exerience
Phone	+61 02 9941-5387	Phone	+61459875055
E-mail	edconnect.ap@det.nsw.edu.au	E-mail	amrutha.murthy@det.nsw.edu.au
Account #	ACCT0010739	VAT/ABN/Other #	40 300 173 822

Reference Contract #(s)		PO #	
		Payment Terms	Net due in 30 days
Currency	AUD		

Product Code	Subscription Product Name	Type	Units	Term (mos)	Term Start Date	Term End Date	Net Price (Monthly)	Net Price (Annual)	Net Price (Total)
PROD17145	ServiceNow® Customer Service Management Professional With App Engine 100	Fulfiller User	1	12				0	\$ 2,221,279.20
PROD16250	ServiceNow® Global Business Services Foundation	Unrestricted User	1	12					\$ 2,203,200.00
PROD16250	ServiceNow® Global Business Services Foundation	Unrestricted User	1	12					\$ 2,570,400.00
PROD16250	ServiceNow® Global Business Services Foundation	Unrestricted User	1	12					\$ 2,937,600.00
PROD15369	ServiceNow® Field Service Management Professional With App Engine 100	Fulfiller User	1	12					\$ 1,593,000.00
PROD16953	ServiceNow® Strategic Portfolio Management Professional	SPM User	1	12					\$ 198,720.00
PROD14995	ServiceNow® ITOM Operator Professional	Subscription Unit	1	12					\$ 2,552,472.72
PROD17802	ServiceNow® Supplier Lifecycle Management	Fulfiller User	1	12					\$ 171,000.00
PROD00069	ServiceNow® Additional Non-Production Instance	Australian Data Center	1	12					\$ 124,200.00
PROD18249	ServiceNow® Automation Engine Enterprise	Unattended Robot	1	12					\$ 378,000.00
PROD15338	ServiceNow® AI Search Starter	Documents	1	12					\$ 0.00
PROD12492	ServiceNow® Agile Team	Module	1	12					\$ 0.00
PROD18383	ServiceNow® Document Intelligence Starter - 5K Document Intelligence	Page	1	12					\$ 0.00

Product Code	Subscription Product Name	Type	Units	Term (mos)	Term Start Date	Term End Date	Net Price (Monthly)	Net Price (Annual)	Net Price (Total)
Pages									
PROD18537	ServiceNow® ServiceNow Vault	Application	█	█	█	█	█	█	\$ 548,962.92
PROD18537	ServiceNow® ServiceNow Vault	Application	█	█	█	█	█	█	\$ 593,026.92
PROD18537	ServiceNow® ServiceNow Vault	Application	█	█	█	█	█	█	\$ 637,090.92
PROD16290	ServiceNow® Impact Advanced	Success	█	█	█	█	█	█	\$ 774,758.04
PROD16290	ServiceNow® Impact Advanced	Success	█	█	█	█	█	█	\$ 836,447.64
PROD16290	ServiceNow® Impact Advanced	Success	█	█	█	█	█	█	\$ 898,137.24

Subscription Product SubTotal █ \$ 19,238,295.60

Education, Knowledge and Professional Services Subtotal \$ 0.00

Estimated Grand Total \$ 19,238,295.60

Invoice Schedule	Invoice Date	Amount	Grand Total
█	█	█	█
█	█	█	█
█	█	█	█

\$ 19,238,295.60 \$ 19,238,295.60

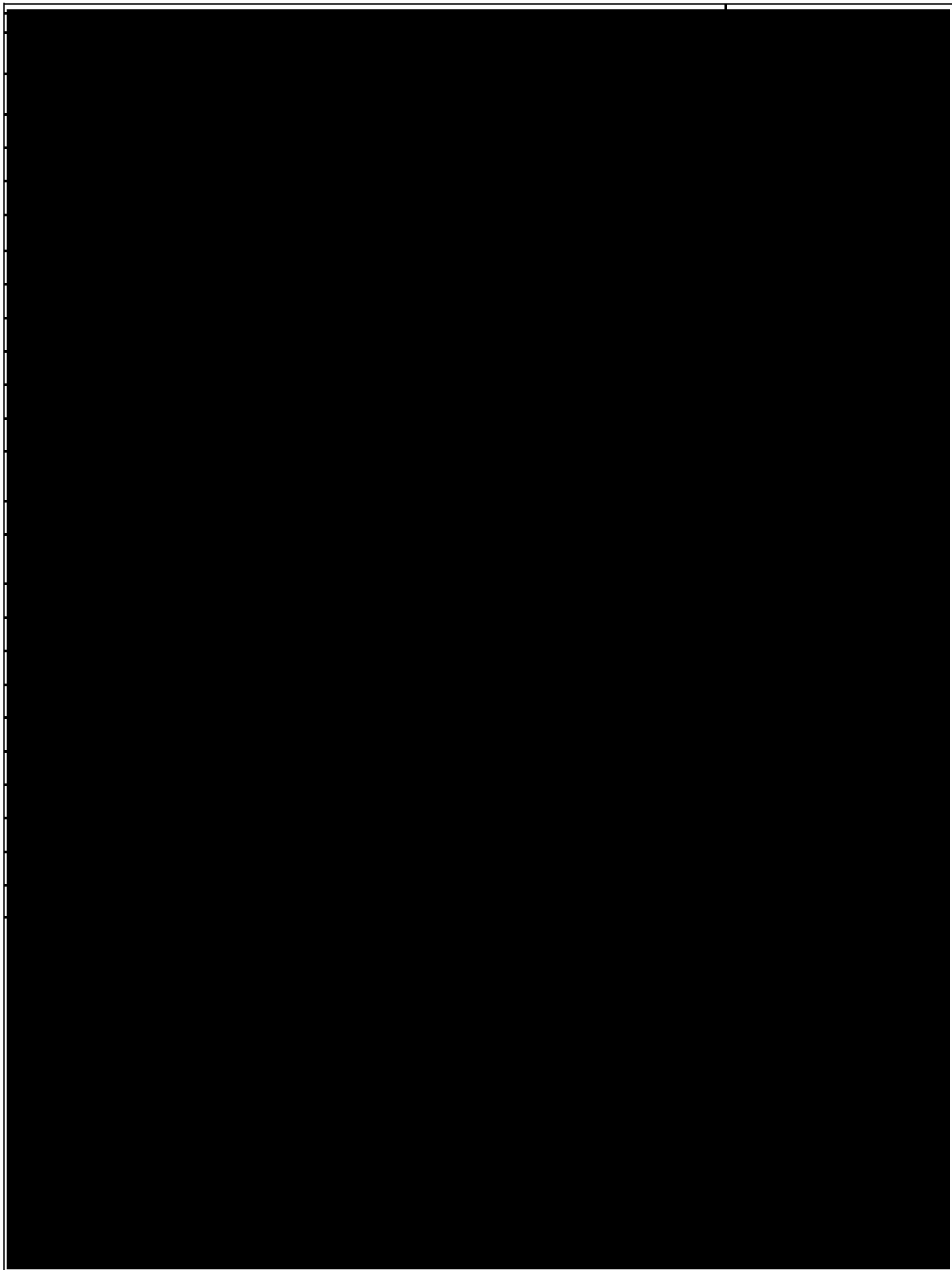
Hosting Details	
ServiceNow # of Instances:	1 Production 4TB Storage Limit, 4 Non Production 4TB Storage Limit
Instance Names:	█
Customer ServiceNow Admin:	Sharad Kumar
Email:	sharad.kumar@det.nsw.edu.au
Data Center Region:	Australia

Terms and Conditions

Customer's terms for the purchase of the services set forth herein are governed by this Order Form, the Customer Contract and schedules incorporated therein.

Notes

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USER TYPE DEFINITIONS

A "User" means any employee or contractor of Customer or Customer Affiliate that is assigned a unique username and password and has a user profile in the Subscription Service designated as "active". Only Users may be given access to the Subscription Service by Customer. A use right may not be shared or transferred. Customer shall not use the subscription service in a manner that circumvents usage restrictions.

For applications for which Customer has purchased "Unrestricted Users", Customer may use the number of purchased Unrestricted Users indicated on the Order Form. Unrestricted Users may perform any or all functions for all User Types below.

For applications for which Customer has purchased "Fulfiller Users", Customer may use the number of purchased Fulfiller Users indicated on the Order Form. A Fulfiller User is any User other than an Approver User or Requester User. Without limitation, a Fulfiller User is any User that performs any function other than an Approver User function or Requester User function, including those set forth in the table below for a Fulfiller User.

"Process User" has the same use rights as "Fulfiller User."

For applications for which Customer has purchased "Approver Users", Customer may use the number of purchased Approver Users indicated on the Order Form. An Approver User is any User performing any of the functions set forth in the table below for an Approver User. An Approver User may only perform the functions set forth in the table below for an Approver User.

For applications for which Customer has purchased "Requester Users", Customer may use the number of purchased Requester Users indicated on the Order Form. A Requester User is any User performing any of the functions set forth in the table below for a Requester User. A Requester User may only perform the functions set forth in the table below for a Requester User.

"End User" has the same use rights as "Requester User."

FUNCTION / USE RIGHTS AUTHORIZED	USER TYPES		
	REQUESTER	APPROVER	FULLFILLER
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
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
Participate in a Watch List	included	included	included
View a report published to them	included	included	included
Approve requests by email that are routed to user	-	included	included
Approve requests routed to user via system	-	included	included
Create any record	-	-	included
Delete any record	-	-	included
Modify any record	-	-	included
Drill through any report	-	-	included
Create any report	-	-	included
Delete any report	-	-	included
Modify any report	-	-	included
Perform development activities	-	-	included (see below)
Perform administrative activities	-	-	included

CUSTOM TABLE CREATION AND INSTALLATION

The creation or installation of Custom Tables in a production instance requires either the purchase of the Now Platform App Engine product or an express Custom Table entitlement that is granted with the purchase of another product. A "Custom Table" is any non-ServiceNow provided table created or installed by or on behalf of Customer on the ServiceNow Platform and used for any purpose, including the creation of a custom application, unless such table is specifically exempt. A list of exempt ServiceNow provided tables

and Custom Table use rights are as set forth in the Custom Table Guide on <https://www.servicenow.com/upgrade-schedules.html> and ARE EXPRESSLY DEEMED INCORPORATED HEREIN BY THIS REFERENCE. Customer may request printed copies of the documents incorporated herein by reference by emailing us at legal.request@servicenow.com.

SUBSCRIPTION PRODUCTS	
Subscription Product Code/Name	Included ServiceNow Applications and Use Rights
<p>PROD17145 ServiceNow® Customer Service Management Professional With App Engine 100</p>	<p>Included Applications: Customer Service Management; Communities; Engagement Messenger; Continual Improvement Management; DevOps Config; Proactive Customer Service Operations; Incident Management; Problem Management; Change Management; Release Management; Asset Management; Request Management; Cost Management; Walk-Up Experience; Outsourced Customer Service; Digital Portfolio Management; Vendor Manager Workspace; DevOps Change Velocity; App Engine Studio; Mobile Publishing; Universal Request Pro; Predictive Intelligence; Virtual Agent; and Performance Analytics</p> <p>App Engine 100: Customer is granted the right to create or install up to 100 Custom Tables and to grant each Fulfiller User, External User and Requester User the right to access those Custom Tables and perform the actions granted to that User Type.</p> <p>Usage is limited by the number of purchased Fulfiller Users. Requester Users and External Users are not included in the Fulfiller User count and are not subject to Customer Service Management Professional Subscription Product fees.</p> <p>Notwithstanding the definition of User above, an External User is defined as Customer's external contacts, including, but not limited to Customer's accounts, consumers, households, partners or other contacts. External User may create, view, modify, or approve requests of their own or related accounts via the customer portal, approve requests for new contact creation; and manage users or assets of their own or related accounts.</p> <p>Each Fulfiller User purchased includes 2,000 Customer Portal Visits per month (unused Portal Visits expire monthly). Additional Customer Portal Visits may be purchased in increments of 1,000. A Visit is a period of activity on the Customer Portal, including a Community visit. A new Visit is generated if an anonymous, unauthenticated, or External Requester User accesses, logs out, times out, or a Visit lasts beyond midnight in the Data Center Region indicated above.</p> <p>Virtual Agent includes 1000 Virtual Agent Conversation Transactions per Fulfiller User per month (unused Virtual Agent Conversation Transactions expire monthly). A Virtual Agent Conversation Transaction is defined as any structured conversation between a chatbot and user on a pre-built or custom topic. Additional monthly Virtual Agent Transactions require the purchase of Virtual Agent Transaction Pack(s).</p> <p>Performance Analytics, Virtual Agent, Predictive Intelligence, and Universal Request Pro use rights apply only to Customer Service Management Professional Applications and App Engine 100 Custom Tables.</p> <p>Protocols and spokes that are available in the Subscription Product are set forth in the then-current applicable Product Documentation. Use of protocols and spokes may consume Integration Hub transactions that may require purchase of Integration Hub or Automation Engine subscription at an additional fee. Customer may use the spoke(s) included in Subscription Product for use cases even beyond the Subscription Product. Integration Hub Transactions are not included in the Subscription Product.</p> <p>The following Application(s) became available in the family release indicated: Quebec - Engagement Messenger San Diego - Digital Portfolio Management and DevOps Change Velocity (Formerly:DevOps and DevOps Insights) Tokyo - DevOps Config</p>
<p>PROD16250 ServiceNow® Global Business Services Foundation</p>	<p>Included Application: Case and Knowledge Management; Legal Request Management; Workplace Case Management; Procurement Case Management; Employee Service Center; Mobile Publishing; Universal Request Pro; Predictive Intelligence; Virtual Agent; and Performance Analytics</p> <p>Usage of Global Business Services Foundation is limited to the number of Unrestricted Users. An Unrestricted User is every User that is assigned a unique username and has a user profile in the Subscription Service designated as "active". All Users are entitled to access the Employee Service Center.</p> <p>Virtual Agent, Universal Request Pro, Predictive Intelligence, and Performance Analytics use rights apply only to GBS Foundation Applications and App Engine Starter 25 Custom Tables.</p> <p>App Engine Starter 25: Customer is granted the right to create or install up to 25 Custom Tables and to grant each Unrestricted User the right to access those Custom Tables. Entitlement to Global Business Services Foundation – Unrestricted User is for the Subscription Term only and may not be extended or renewed.</p> <p>The following Application(s) became available in the family release indicated:</p>

	Quebec: Procurement Case Management
<p>PROD15369 ServiceNow® Field Service Management Professional With App Engine 100</p>	<p>Included Applications: Field Service Management (FSM); Field Service Management Basic; Cost Management for FSM; Planned Maintenance for FSM; Asset Management for FSM; Continual Improvement; Contractor Management; Mobile Publishing; Universal Request Pro; Advanced Dispatching; Planned Work Management; App Engine Studio; Predictive Intelligence; Virtual Agent and Performance Analytics</p> <p>App Engine 100: Customer is granted the right to create or install up to 100 Custom Tables and to grant each Fulfiller User the right to access those Custom Tables and perform the actions granted to that User Type as defined in the User Type Definition.</p> <p>Usage is limited by the number of purchased Fulfiller Users. Requester Users are not included in the Fulfiller User count and are not subject to Field Service Management Professional Subscription Product fees.</p> <p>Notwithstanding the above, External Users subscribed to a Customer Service Management product may create and view FSM work orders and appointments of their own or related accounts.</p> <p>Virtual Agent includes 1000 Virtual Agent Conversation Transactions per Fulfiller User per month (unused Virtual Agent Conversation Transactions expire monthly). A Virtual Agent Conversation Transaction is defined as any structured conversation between a chatbot and user on a pre-built or custom topic. Additional monthly Virtual Agent Transactions require the purchase of Virtual Agent Transaction Pack(s).</p> <p>Performance Analytics, Virtual Agent and Predictive Intelligence use rights apply only to Field Service Management Professional Applications and App Engine 100 Custom Tables.</p> <p>Protocols and spokes that are available in the Subscription Product are set forth in the then-current applicable Product Documentation. Use of protocols and spokes may consume Integration Hub transactions that may require purchase of Integration Hub or Automation Engine subscription at an additional fee. Customer may use the spoke(s) included in Subscription Product for use cases even beyond the Subscription Product. Integration Hub Transactions are not included in the Subscription Product.</p> <p>The following application(s) became available according to the release indicated below. Paris – Contractor Management Tokyo - Advanced Dispatching; Planned Work Management</p>
<p>PROD16953 ServiceNow® Strategic Portfolio Management Professional</p>	<p>Included Applications: Project Portfolio Management; Demand Management; Agile Development; Digital Portfolio Management; Scaled Agile Framework; Test Management; Release Management; Resource Management; Financial Planning; Investment Funding; Innovation Management; Portfolio Planning; Strategic Planning; Predictive Intelligence; Virtual Agent; and Performance Analytics</p> <p>Usage of Strategic Portfolio Management (SPM) Professional is limited to the number of SPM Users. An SPM User is defined as any User with the right to access one or more of the SPM Applications above and may perform any or all functions within the SPM Applications.</p> <p>Alignment Planner Workspace: Customer is granted the right to build and maintain roadmaps of projects, demands, SAFe epics, SAFe features, scrum epics and programs.</p> <p>Virtual Agent includes 1000 Virtual Agent Conversation Transactions per SPM User per month (unused Virtual Agent Conversation Transactions expire monthly). A Virtual Agent Conversation Transaction is defined as any structured conversation between a chatbot and user on a pre-built or custom topic.</p> <p>Additional monthly Virtual Agent Transactions require the purchase of Virtual Agent Transaction Pack(s).</p> <p>Performance Analytics, Virtual Agent, and Predictive Intelligence: Use rights apply only to SPM Professional Applications and included App Engine Starter 5 Custom Tables.</p> <p>App Engine Starter 5: Customer is granted the right to create or install up to 5 Custom Tables and to grant each SPM User the right to access those Custom Tables.</p> <p>"Protocols and spokes that are available in the Subscription Product are set forth in the then-current applicable Product Documentation. Use of protocols and spokes may consume Integration Hub transactions that may require purchase of Integration Hub or Automation Engine subscription at an additional fee. Customer may use the spoke(s) included in Subscription Product for use cases even beyond the Subscription Product. Integration Hub Transactions are not included in the Subscription Product."</p>
<p>PROD14995 ServiceNow® ITOM Operator Professional</p>	<p>Included Applications: ITOM Visibility; ITOM Health; Performance Analytics; and Predictive Intelligence</p>

	<p>Includes entitlement for up to the number of Subscription Units purchased.</p> <p>A Subscription Unit is a unit of measure applied to Managed IT Resources using Defined Ratios. A list of Managed IT Resources, Defined Ratios for a Subscription Unit, and included Protocols and Spokes are set forth in the IT Operations Management (ITOM) - ServiceNow Subscription Unit Overview on www.servicenow.com/upgrade-schedules.html and ARE EXPRESSLY DEEMED INCORPORATED HEREIN BY THIS REFERENCE. Customer may request printed copies of the documents incorporated herein by reference by emailing us at legal.request@servicenow.com.</p> <p>Protocols and Spokes require IntegrationHub Transactions which are not included in the ITOM Operator Professional Subscription Product.</p> <p>MetricBase: ITOM Health includes entitlement for 200 MetricBase Series per each Configuration Item (CI) in the Customer's instance (1:200). A CI is any component tracked within a Customer's ServiceNow CMDB.</p> <p>A MetricBase series is a set of data points for a metric indexed in a time order and stored for a defined retention policy.</p> <p>MetricBase Series may be used within the ITOM Health Applications only. Additional MetricBase series require the purchase of a separate MetricBase package.</p> <p>Performance Analytics and Predictive Intelligence use rights apply only to ITOM Operator Professional Applications and App Engine Starter 5 Custom Tables.</p> <p>Bundled Custom Tables: Customer is granted the right to create or install up to 5 Custom Tables and to grant each User the right to access those Custom Tables as an Unrestricted User. An Unrestricted User is every User that is assigned a unique username and has a user profile in the Subscription Service designated as "active".</p> <p>Protocols and Spokes that are available in the Subscription Product are set forth in the then-current applicable Product Documentation. Use of Protocols and Spokes may require purchase of Integration Hub Transactions at an additional fee.</p>
<p>PROD17802 ServiceNow® Supplier Lifecycle Management</p>	<p>Included Applications: Supplier Lifecycle Management; Supplier Collaboration Portal; Performance Analytics; Virtual Agent</p> <p>Usage is limited by the number of purchased Fulfiller Users. Fulfiller User is any User that may perform a function beyond that entitled to an External User. External Users are not included in the Fulfiller User count and are not subject to Supplier Lifecycle Management Subscription Product fees.</p> <p>External User is defined as Customer's external contacts, including, but not limited to Customer's accounts, consumers, households, partners, or other contacts. External User may create, view, modify, or approve requests of their own or related accounts via the supplier portal, approve requests for new contact creation; and manage users or assets of their own or related accounts.</p> <p>Customer is wholly responsible for External Users' compliance with the terms of the Agreement and this ordering document, and all acts and omissions of such External Users.</p> <p>Virtual Agent; and Performance Analytics: Use rights apply only to Supplier Lifecycle Management Applications and included App Engine Starter Custom Tables.</p> <p>App Engine Starter 10: Customer is granted the right to create or install up to 10 Custom Tables and to grant each Fulfiller User and External User the right to access those Custom Tables and perform the actions granted to that User Type.</p> <p>"Protocols and spokes that are available in the Subscription Product are set forth in the then-current applicable Product Documentation. Use of protocols and spokes may consume Integration Hub transactions that may require purchase of Integration Hub or Automation Engine subscription at an additional fee. Customer may use the spoke(s) included in Subscription Product for use cases even beyond the Subscription Product. Integration Hub Transactions are not included in the Subscription Product."</p>
<p>PROD00069 ServiceNow® Additional Non-Production Instance</p>	<p>Additional non-production 4TB storage limit instance in ServiceNow's data center.</p>
<p>PROD18249 ServiceNow® Automation Engine Enterprise</p>	<p>Included Application(s): RPA Hub; Automation Center; Integration Hub Enterprise; Document Intelligence; Orchestration Core (Activity Designer; Activity Packs; Password Reset; and Client Software Distribution Application); entitlement for 15 Unattended Robots; entitlement for 45 Attended Robots; entitlement for 100,000 Document Intelligence Pages (unused Pages expire annually without credit or refund); and entitlement for up to 6,000,000 Integration Hub Transactions annually (unused Transactions expire annually without credit or refund).</p> <p>Automation Engine Enterprise includes Protocols and Spokes as set forth in the Integration Hub Overview on www.servicenow.com/upgrade-schedules.html and IS EXPRESSLY</p>

	<p>DEEMED INCORPORATED HEREIN BY THIS REFERENCE. Customer may request printed copies of the documents incorporated herein by reference by emailing us at legal.request@servicenow.com.</p> <p>An Unattended Robot is defined as a form of business process automation that allows the execution of workflows without human supervision through the development and management capabilities offered by Automation Engine. Unattended Robot entitlements are consumed when a robot of type "Unattended" is assigned to a Virtual Machine in the RPA Hub Application.</p> <p>An Attended Robot is defined as a form of business process automation that allows the execution of workflows as a direct result of a human action and under human supervision. Attended Robot entitlements are consumed when a robot of type "Attended" is assigned to a user in the RPA Hub application.</p> <p>Additional Attended Robots and Unattended Robots require the purchase of a separate Attended Robot bundle and/or Unattended Robot bundle.</p> <p>A Page is defined as a section of a document that ends with a page break. Documents with more than one Page are counted as multiple Pages, rounded to the next integer.</p> <p>Additional annual Pages require the purchase of a separate Document Intelligence Page bundle.</p> <p>Customer acknowledges that, to the extent it activates and uses Document Intelligence, Customer Data will be transferred outside of Customer's ServiceNow instance to a centralized ServiceNow environment, provided that such centralized ServiceNow environment shall be hosted in the same ServiceNow data center region as Customer's originating ServiceNow instance. Customer further acknowledges that the relevant terms set forth in the Agreement pertaining to ServiceNow's security and data protection program shall apply, except for those generally relating to certifications, attestations, or audits, and penetration testing. Any Customer Data transferred to such centralized ServiceNow environment will be deleted in accordance with ServiceNow's internal policies and procedures.</p> <p>An Integration Hub Transaction is defined as any outbound call originating from Integration Hub, FlowDesigner, Remote Tables and/or Orchestration. This includes any operation, action, orchestration from Integration Hub, Remote Tables or Orchestration resulting in an outbound call.</p> <p>Additional annual Transactions require the purchase of a separate Integration Hub package.</p>
<p>PROD15338 ServiceNow® AI Search Starter</p>	<p>AI Search Starter includes entitlement of up to a total cumulative count of 500,000 indexed External Documents ("Total Limit"). Unused indexed External Documents expire at the Subscription Term End Date without credit or refund. If Customer exceeds their Total Limit, additional indexed External Documents can be procured for an additional fee.</p> <p>An External Document is a referenced object from an external source identified by a unique Document ID.</p>
<p>PROD12492 ServiceNow® Agile Team</p>	<p>Included Applications: Agile Development and Test Management</p> <p>All Users may use the above applications.</p>
<p>PROD18383 ServiceNow® Document Intelligence Starter - 5K Document Intelligence Pages</p>	<p>Included Application(s): Document Intelligence</p> <p>Document Intelligence Starter - 5K Document Intelligence Pages includes entitlement for up to 5,000 Document Intelligence Pages annually (unused Pages expire annually without credit or refund).</p> <p>A Document Intelligence Page is defined as a section of a document that ends with a page break. Documents with more than one page are counted as multiple pages, rounded to the next integer.</p> <p>Additional annual Pages require the purchase of a separate Document Intelligence Page bundle.</p> <p>Customer acknowledges that, to the extent it activates and uses Document Intelligence, Customer Data will be transferred outside of Customer's ServiceNow instance to a centralized ServiceNow environment, provided that such centralized ServiceNow environment shall be hosted in the same ServiceNow data center region as Customer's originating ServiceNow instance. Customer further acknowledges that the relevant terms set forth in the Agreement pertaining to ServiceNow's security and data protection program shall apply, except for those generally relating to certifications, attestations, or audits, and penetration testing. Any Customer Data transferred to such centralized ServiceNow environment will be deleted in accordance with ServiceNow's internal policies and procedures.</p>

<p>PROD18537 ServiceNow® ServiceNow Vault</p>	<p>Included Application(s): Platform Encryption (which includes Column Level Encryption Enterprise and Cloud Encryption); Secrets Management Enterprise; Code Signing; Data Privacy Anonymization; and Log Export Service</p> <p>The annual subscription fee for ServiceNow Vault (“ServiceNow Vault Fee”) is based on the total of the annual subscription fees of all products subscribed by Customer. As Customer exceeds entitled capacity of Subscription Products, or if Customer procures additional Subscriptions, additional ServiceNow Vault Fees may apply.</p> <p>Platform Encryption includes encryption for all of Customer’s production and non-production ServiceNow instances. Platform Encryption functionality is dependent on Customer’s correct configuration as specified in the Product Documentation.</p> <p>Column Level Encryption Enterprise provides application-level and database-level data-at-rest encryption to eligible ServiceNow fields, and decrypts Customer Data in those fields for eligible users and scripts as directed by Customer.</p> <p>ServiceNow Cloud Encryption is block encryption of the full database host with industry standard key lifecycle management. ServiceNow Cloud Encryption allows Customer the option to use a ServiceNow generated key, or a key created and supplied by Customer.</p> <p>Database Encryption provides software-based encryption of data-at-rest of all Customer Data stored in production and non-production instances. Additional GB/month require the purchase of a separate Log Export Service Additional GB package.</p> <p>Customer acknowledges that, to the extent it activates and uses Log Export Service, Customer Data will be processed outside of Customer’s ServiceNow instance to a centralized ServiceNow environment, provided that such centralized ServiceNow environment shall be hosted in the same ServiceNow data center region as Customer’s originating ServiceNow instance. Customer further acknowledges that the relevant terms set forth in the Agreement pertaining to ServiceNow’s security and data protection program shall apply, except for those generally relating to certifications, attestations, or audits, and penetration testing. Any Customer Data transferred to such centralized ServiceNow environment will be deleted in accordance with ServiceNow’s internal policies and procedures.</p> <p>As of the ordering document effective date, Log Export Service is available only in the data center regions specified in the applicable Documentation.</p>
<p>PROD16290 ServiceNow® Impact Advanced</p>	<p>The Impact Advanced Package is subject to the Impact Advanced Package Description. If not attached to this Order Form, the Package Description is set forth on https://www.servicenow.com/upgrade-schedules.html and is INCORPORATED HEREIN BY THIS REFERENCE.</p>

DATA PROCESSING ADDENDUM

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

DEFINITIONS

“**Data Controller**” means the natural or legal person, public authority, agency, or other body which, alone or jointly with others, determines the purposes and means of Processing of Personal Data.

“**Data Processor**” means the natural or legal person, public authority, agency, or other body which Processes Personal Data on behalf of the Data Controller.

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

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

“**Personal Data**” means any information relating to an identified or identifiable natural person (Data Subject) uploaded by or for Customer or Customer’s agents, employees, or contractors to the Subscription Service as Customer Data.

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

“**Sub-Processor**” means any legal person or entity engaged in the Processing of Personal Data by Data Processor.

1. SCOPE OF THE PROCESSING

1.1 COMMISSIONED PROCESSOR. ServiceNow will act as Data Processor to Customer. Customer will act as Data Controller (unless Customer is a Data Processor, in which case ServiceNow will act as a sub-processor to Customer). Each party will comply with Data Protection Laws in the performance of this DPA.

1.2 INSTRUCTIONS. The Agreement constitutes Customer’s initial written instructions to ServiceNow for Processing of Personal Data. Customer may issue additional or alternate instructions provided that such instructions are agreed in writing between Customer and ServiceNow.

1.3 NATURE, SCOPE AND PURPOSE OF THE PROCESSING. ServiceNow will only Process Personal Data in accordance with Customer’s instructions and to the extent necessary for providing the Subscription Service and the Professional Services. Customer acknowledges all Personal Data it instructs ServiceNow to Process for the purpose of providing the Professional Services must be limited to the Customer Data Processed within the Subscription Service. Details of the Processing of Customer Data conducted under this DPA are set forth in Appendix 1.

2. DATA PROCESSOR

2.1 DATA CONTROLLER’S INSTRUCTIONS. Where ServiceNow believes compliance with Customer’s instructions would result in a violation of Data Protection Laws or is not in the ordinary course of ServiceNow’s obligations in operating the Subscription Service or delivering Professional Services, ServiceNow will promptly notify Customer thereof.

2.2 DATA PROCESSOR PERSONNEL. Persons authorized by ServiceNow to Process Personal Data will be bound by appropriate confidentiality obligations.

2.3 DATA SECURITY MEASURES. ServiceNow will maintain appropriate technical and organizational safeguards to protect the security, confidentiality, and integrity of Customer Data, including any Personal Data

contained therein, as set forth in the Data Security Addendum. ServiceNow makes available many security features and controls that Customer can elect to use. Customer is responsible for implementing any optional technical and organizational measures to protect Customer Data, as described in the Data Security Addendum.

2.4 DATA PROCESSOR ASSISTANCE. ServiceNow will assist Customer as reasonably requested by Customer to facilitate Customer's compliance with obligations under Data Protection Laws in connection with ServiceNow's Processing of Personal Data, taking into account the nature of Processing and information available to ServiceNow.

3. REQUESTS MADE FROM DATA SUBJECTS AND AUTHORITIES

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

3.2 RESPONSES. Customer will be solely responsible for responding to Data Subjects in respect of any Data Subject Requests, provided that ServiceNow will reasonably cooperate with Customer in relation to Data Subject Requests to the extent Customer is unable to fulfill such Data Subject Requests using the functionality in the Subscription Service. ServiceNow will instruct the Data Subject to contact the Customer in the event it receives a Data Subject Request directly.

3.3 REQUESTS FROM AUTHORITIES. In the case of a notice, audit, inquiry, or investigation by a government body, data protection authority, or law enforcement agency regarding the Processing of Personal Data, ServiceNow will promptly notify Customer unless prohibited by applicable law. Each party will cooperate with the other party by providing all reasonable information requested in the event the other party is required to produce such information to a data protection authority.

4. BREACH NOTIFICATION

4.1 NOTIFICATION. Service now will provide breach notifications as provided in Section 5.2.1 of the Data Security Addendum, which is incorporated by reference in this DPA.

4.2 REPORT. Service now will provide reports as provided in Section 5.2.2 of the Data Security Addendum, which is incorporated by reference in this DPA.

4.3 DATA CONTROLLER OBLIGATIONS. Customer will cooperate with ServiceNow to resolve any security incident as provided in Section 5.2.3 of the Data Security Addendum, which is incorporated by reference in this DPA.

5. CUSTOMER MONITORING RIGHTS.

5.1 CERTIFICATIONS AND ATTESTATIONS. ServiceNow will maintain the certifications and attestations specified in Section 2.1 of the Data Security Addendum, which is incorporated by reference in this DPA.

5.2 AUDIT. ServiceNow will allow for and contribute to audits as specified in Section 2.2 of the Data Security Addendum, which is incorporated by reference in this DPA.

5.3 OUTPUT. ServiceNow will discuss the output of the Audit as specified in Section 2.3 of the Data Security Addendum, which is incorporated by reference in this DPA.

6. SUB-PROCESSORS

6.1 USE OF SUB-PROCESSORS. Customer authorizes ServiceNow to engage Sub-Processors appointed in accordance with this Clause 6. ServiceNow engages, as applicable, the Sub-Processors listed in <https://www.servicenow.com/content/dam/servicenow-assets/public/en-us/doc-type/legal/servicenow-sub-processors.pdf> in respect of the Subscription Services.

6.2 NEW SUB-PROCESSORS. Prior to ServiceNow engaging a new Sub-Processor for the Subscription Service, ServiceNow will: (a) notify Customer by email to Customer's designated contact in the ServiceNow Support Portal, or by notification within the ServiceNow Support Portal (or other mechanism used to notify its customer base); and (b) have such Sub-Processor enter into a written agreement with ServiceNow (or the relevant ServiceNow Affiliate) requiring the Sub-Processor to abide by terms no less protective than those provided in this DPA. With respect to providing the notice described in the preceding sentence, ServiceNow will provide at least 30 days' prior written notice before engaging a Sub-Processor with respect to existing Subscription Services which Customer has purchased. If a new Sub-Processor is engaged to support a new Subscription Service or a new feature of an existing Subscription Service, then the notice described in this Clause will be provided at or before the time such feature or Subscription Service is made generally available. Upon written request by Customer, ServiceNow will make a summary of the data processing terms with the Sub-Processor available to Customer. Customer may request in writing reasonable additional information with respect to Sub-Processor's ability to perform the relevant Processing activities in accordance with this DPA.

6.3 RIGHT TO OBJECT. Customer may object to ServiceNow's proposed use of a new Sub-Processor by notifying ServiceNow if Customer reasonably determines such Sub-Processor is unable to Process Personal Data in accordance with the terms of this DPA. In the event Customer objects, ServiceNow will reasonably consider such objection and will notify Customer if it intends to use the Sub-Processor at issue ("**Processor Notice**"). If such Sub-Processor is going to be used, Customer may terminate the applicable Order Form(s) or Use Authorization(s) with respect to the Subscription Service requiring use of the Sub-Processor at issue upon written notice to ServiceNow within 30 days of the date of Processor Notice. ServiceNow will, as Customer's sole and exclusive remedy, refund to Customer any unused prepaid fees following the effective date of termination for the terminated services.

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

7. INTERNATIONAL DATA TRANSFERS

7.1 TRANSFER MECHANISM. The transfer of Personal Data from the European Economic Area ("**EEA**"), the United Kingdom or Switzerland to a country located outside of the EEA which is not subject to an adequacy decision (a "**Data Transfer**") will be subject to the standard contractual clauses for the transfer of Personal Data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, as annexed to Commission Implementing Decision 2021/914 ("**SCCs**"), which are incorporated into this DPA by this reference.

7.2 APPLICATION OF SCCs.

7.2.1 **Modules**. Module Two (Data Controller to Data Processor) will apply to a Data Transfer when Customer is a Data Controller. Module Three (Data Processor to Data Processor) will apply to a Data Transfer when Customer is a Data Processor.

7.2.2 **Optional provisions**. Where the SCCs identify optional provisions:

- (a) in Clause 7 (Docking Clause) – the optional provision applies;
- (b) in Clause 9(a) (Use of sub-processors) – Option 2 applies (and the parties will follow the process and timings agreed in the DPA to appoint sub-processors);
- (c) in Clause 11(a) (Redress) – the optional provision does not apply;
- (d) in Clause 17 (Governing law) – option 1 applies, and where the Agreement is governed by the laws of an EU Member State, the laws of that EU Member State apply; otherwise, Irish law applies; and

(e) in Clause 18(b) (Choice of forum and jurisdiction) – where the Agreement is subject to the jurisdiction of the courts of an EU Member State, the courts of that EU Member State have jurisdiction; otherwise, the courts of Dublin, Ireland have jurisdiction.

7.2.3 Annexes of SCCs.

(a) In Annex 1A: the data exporter(s) is the Customer and its Affiliates making the Data Transfer (the "**Data Exporter**") and the data importers are ServiceNow entities receiving the Data Transfer (the "**Data Importer**"). The full name, address and contact details for the Data Exporter and the Data Importer are set out in the Agreement, or can be requested by either party.

(b) In Annex 1B: The: relevant details are those set out in the Agreement, including Appendix 1 "Details of Processing" of this DPA.

(c) In Annex 1C: The competent supervisory authority is the supervisory authority applicable to the Customer (or, where relevant, applicable to the Customer's representative).

(d) In Annex 2: the security provisions contained in the Data Security Addendum or other security related provisions in the Agreement apply.

7.3 INTERACTION WITH THE AGREEMENT. All notices, requests, monitoring/audit rights, conduct of claims, liability, and erasure or return of data relating to the SCCs will be provided/managed/interpreted, as applicable, in accordance with the relevant provisions in the Agreement, to the extent that such provisions do not conflict with the SCCs.

7.4 TRANSFERS SUBJECT TO SWISS DATA PROTECTION LAW. If there is a Data Transfer subject to Data Protection Laws of Switzerland, then the SCCs will apply with the following modifications: the competent supervisory authority in Annex 1.C under Clause 13 will be the Federal Data Protection and Information Commissioner; references to a "Member State" and "EU Member State" will not be read to prevent data subjects in Switzerland from the possibility of suing for their rights in their place of habitual residence (Switzerland); and references to "GDPR" in the SCCs will be understood as references to Data Protection Laws of Switzerland.

7.5 TRANSFERS SUBJECT TO UK DATA PROTECTION LAW. If there is a Data Transfer subject to Data Protection Laws of the United Kingdom, then the International Data Transfer Addendum to the SCCs ("**UK IDTA**"), as issued by the Information Commissioner in the United Kingdom will apply and is incorporated by reference into this DPA. The information needed to complete the Tables to the UK IDTA is set out in the Agreement, including Appendix 1 "Details of Processing" of this DPA.

7.6 EXECUTION. Notwithstanding the fact that the SCCs and/or UK IDTA are incorporated herein by reference without the signature pages of the SCCs actually being signed by the Data Exporter or Data Importer, the parties agree that its respective execution of the Agreement is deemed to constitute its execution of the SCCs and/or the UK IDTA on behalf of the Data Exporter/Data Importer (as applicable).

7.7 ALTERNATIVE MECHANISMS. If an alternative transfer mechanism, such as Binding Corporate Rules, is adopted by ServiceNow, or the Trans-Atlantic Data Privacy Framework (an "**Alternative Mechanism**") becomes available during the term of the Agreement, and ServiceNow notifies Customer that some or all Data Transfers can be conducted in compliance with Data Protection Laws pursuant to the Alternative Mechanism, the parties will rely on the Alternative Mechanism instead of the provisions above for the Data Transfers to which the Alternative Mechanism applies.

APPENDIX 1
DETAILS OF PROCESSING

1. **Subject matter.** The subject matter of the data processing under this DPA is the Personal Data included in Customer Data.
2. **Duration.** As between ServiceNow and Customer, the duration of the data processing under this DPA is the Subscription Term.
3. **Purpose and nature.** The purpose and nature of the data processing under this DPA is the provision of the Subscription Service.
4. **Type of Personal Data.** Personal Data included in Customer Data which is uploaded to the Subscription Service.
5. **Categories of data subjects.** The data subjects could include Customer's customers, employees, suppliers, agents, partners and/or end users.

DATA SECURITY ADDENDUM

1. SECURITY PROGRAM

While providing the Subscription Service, ServiceNow will ensure there is a written information security program of policies, procedures and controls aligned to the ISO27001 Series, or substantially equivalent standard, governing the processing, storage, transmission and security of Customer Data (the “**Security Program**”). The Security Program will include industry-standard practices designed to protect Customer Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access. ServiceNow updates the Security Program to address new and evolving security technologies, changes to industry standard practices, and changing security threats, provided that no such update will materially reduce the overall level of commitments or protections provided to Customer as described herein.

1.1 SECURITY ORGANIZATION. There will be a Chief Information Security Officer, or equivalent executive, that is designated as responsible for coordinating, managing, and monitoring the information security function, policies, and procedures.

1.2 POLICIES. The information security policies will be: (i) documented; (ii) reviewed and approved by management, including after material changes; and (iii) published, and communicated to personnel, and contractors, including appropriate ramifications for non-compliance.

1.3 RISK MANAGEMENT. There will be information security risk assessments performed as part of a risk governance program that is established with the objective to regularly test, assess and evaluate the effectiveness of the Security Program. Such assessments will be designed to recognize and assess the impact of risks and implement identified risk reduction or mitigation strategies to address new and evolving security technologies, changes to industry standard practices, and changing security threats.

2. CERTIFICATIONS AND AUDITS

2.1 CERTIFICATIONS AND ATTESTATIONS. ServiceNow will establish and maintain sufficient controls to meet certification and attestation for the objectives stated in ISO27001, ISO27018, SSAE 18 / SOC 1 and SOC 2 Type 2 (or equivalent standards) for the Security Program. At least once per calendar year, an assessment against such standards and audit methodologies by an independent third-party auditor will be obtained for environments where Customer Data is stored.

2.2 AUDIT. ServiceNow will allow for and contribute to audits that include inspections by granting Customer access to reasonable and industry recognized documentation evidencing the policies and procedures governing the security and privacy of Customer Data and the Security Program through a self-access documentation portal (“**ServiceNow CORE**”) and at no additional costs (“**Audit**”). The information available in ServiceNow CORE will include documentation evidencing the Security Program, inclusive of the privacy policies and procedures regarding Personal Data Processed, as well as copies of certifications and attestation reports (including audits) listed above. To the extent that Customer has not reasonably been able to satisfy its audit requirements by following the procedure outlined in this Clause, ServiceNow will provide Customer with such further assistance as may reasonably be required (in accordance with the assistance obligations described herein) to substantially satisfy such requirements.

2.3 OUTPUT. Upon Customer’s request, ServiceNow and Customer may schedule a mutually convenient time to discuss the Audit. In the event the Audit has any findings of material noncompliance with the Data Processing Addendum or this Data Security Addendum (“**DSA**”), then ServiceNow will promptly address such findings of noncompliance. ServiceNow may, in its sole discretion and consistent with industry and ServiceNow’s standards and practices, make commercially reasonable efforts to implement Customer’s suggested improvements noted in the Audit to improve ServiceNow’s Security Program. The Audit and the results derived therefrom are Confidential Information of ServiceNow.

3. PHYSICAL, TECHNICAL, AND ORGANIZATIONAL SECURITY MEASURES

3.1 PHYSICAL SECURITY MEASURES.

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

3.1.2. MEDIA. For deletion of data, an industry standard such as NIST 800-88 (or substantially equivalent) will be used for the deletion of sensitive materials, including Customer Data, before final disposition of such media.

3.2 TECHNICAL SECURITY MEASURES.

3.2.1. ACCESS ADMINISTRATION. Access by personnel to Customer Data will be conducted in a manner that: (i) is protected by authentication and authorization mechanisms; (ii) requires personnel to be assigned a unique user account; (iii) restricts the sharing of individual user accounts; (iv) requires strong authentication with complex passwords; (v) ensures accounts are lock-out enabled; (vi) requires access over a VPN; (vii) requires access privileges be based on job requirements limited to that necessary for the applicable personnel to undertake their duties; (viii) ensures access is revoked upon termination of employment or consulting relationships; and (ix) requires access entitlements be reviewed by management quarterly.

3.2.2. LOGGING AND MONITORING. The production infrastructure log activities will be centrally collected, secured in an effort to prevent tampering, and monitored for anomalies by a trained security team.

3.2.3. FIREWALL SYSTEM. Firewall technology will be installed and managed to protect systems and inspect ingress connections. Managed firewall rules will be reviewed in accordance with then-current operating procedures, which will be reviewed no less frequently than quarterly.

3.2.4. VULNERABILITY MANAGEMENT. Vulnerability scans will be performed within the environment to determine potential vulnerabilities in accordance with then-current security operating procedures, which will be at least quarterly. When software vulnerabilities are revealed and addressed by a vendor patch, the patch will be obtained from the applicable vendor and applied within an appropriate risk-based timeframe in accordance with the then-current vulnerability management and security patch management standard operating procedure and only after such patch is tested and determined to be safe for installation in production systems.

3.2.5. ANTIVIRUS. Antivirus, anti-malware, and anti-spyware software will be updated on regular intervals and centrally logged.

3.2.6. CHANGE CONTROL. Changes to the environment will be reviewed to minimize risk. Such changes will be implemented in accordance with then-current standard operating procedure.

3.2.7. CONFIGURATION MANAGEMENT. Standard hardened configurations for the system components within the environment will be maintained using industry standard hardening guides, such as guides from the Center for Internet Security.

3.2.8. DATA ENCRYPTION IN TRANSIT. Industry standard encryption will be used to encrypt Customer Data in transit over public networks.

3.2.9. DATA ENCRYPTION AT REST. The encryption of Customer Data at rest will be determined by Customer and, if encrypted, will be encrypted as determined by Customer according to the applicable offerings.

3.2.10. ILLICIT CODE AND SECURE SOFTWARE DEVELOPMENT. ServiceNow will follow the secure software development and code review practices described in this section to prevent harm from malware, such as from viruses, worms, date bombs, time bombs, or shut down devices. Software will be developed using secure application development policies and procedures aligned with industry standard practices such as the OWASP Top Ten (or a substantially equivalent standard). Personnel responsible for secure application design and development will receive appropriate training regarding secure application development practices.

3.2.11. SECURE CODE REVIEW. A combination of static and dynamic testing of code will be performed prior to the release of such code to Customers. Vulnerabilities will be addressed in accordance with the then-current software vulnerability management program. To address vulnerabilities where code has been made available to Customers, software patches will be regularly made available to Customers.

3.3 ORGANIZATIONAL SECURITY MEASURES.

3.3.1. PERSONNEL SECURITY. Background screening will be performed on all employees and all contractors who have access to Customer Data in accordance with applicable standard operating procedure and subject to applicable Law.

3.3.2. SECURITY AWARENESS AND TRAINING. Security and Privacy awareness training and education will be provided to employees and contractors who have access to Customer Data. Such training will be conducted at time of hire and at least annually throughout employment.

3.3.3. VENDOR RISK MANAGEMENT. Any vendor that accesses, stores, processes or transmits Customer Data will be assessed to ensure it has appropriate security and privacy controls.

3.3.4. SOFTWARE AND ASSET INVENTORY. An inventory of the software components (including, but not limited to, open-source software) used in the environment will be maintained.

3.3.5. WORKSTATION SECURITY. Security mechanisms on personnel workstations, including firewalls, anti-virus, and full disk encryption with a minimum of AES 128-bit encryption will be implemented and maintained. Personnel will be restricted from disabling security mechanisms.

4. SERVICE CONTINUITY

4.1 DATA LOCATION. ServiceNow will host the purchased instances in data centers located in the geographic region specified on the Order Form which have attained SSAE 18 Type 2 attestations or have ISO 27001 certifications (or equivalent or successor attestations or certifications).

4.2 DATA BACKUP. Back-ups will be performed of all Customer Data in accordance with the then-current operating procedure available in the CORE Portal.

4.3 DISASTER RECOVERY. An Information Security Contingency Plan (**ISCP**) to address disaster recovery will be maintained that is consistent with industry standards for the environment and will: (i) test the ISCP at least once every year; (ii) make available summary test results that will include the actual recovery point and recovery times; and (iii) document any action plans within the summary test results to promptly address and resolve any deficiencies, concerns, or issues that prevented or may prevent the environment from being recovered in accordance with the ISCP.

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

5. MONITORING AND INCIDENT MANAGEMENT

5.1 INCIDENT MONITORING AND MANAGEMENT. System events are monitored and analyzed in a timely manner in accordance with ServiceNow's current standard operating procedures. Response teams will be escalated to and engaged as necessary to address a security incident.

5.2 BREACH NOTIFICATION.

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

5.2.2. REPORT. The initial report will be made to Customer's security or privacy contact(s) designated in ServiceNow's customer support portal (or if no such contact(s) are designated, to the primary technical contact designated by Customer). As relevant information in relation to the Breach is collected or otherwise becomes available to ServiceNow, it will provide such information without undue delay to Customer, to assist Customer to comply with its notification obligations under Data Protection Laws. In particular, to the extent reasonably possible and applicable, ServiceNow will provide Customer with the information described in Article 33 of GDPR.

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

6. PENETRATION TESTS

6.1 BY A THIRD-PARTY. For each family release, skilled third-party vendors will perform penetration testing on the applications on the ServiceNow platform to identify vulnerabilities. Executive reports from the penetration testing are made available to Customer in ServiceNow CORE.

6.2 BY CUSTOMER. Customer may request to perform, at its own expense, an application penetration test for applications in which Customer Data is stored; provided that Customer will: (i) notify ServiceNow and submit a request to schedule such a test using the Support Portal per ServiceNow's then-current penetration testing policy, and (ii) agree to ServiceNow's penetration test agreement prior to conducting such test. In the event Customer's authorized penetration testing identifies vulnerabilities that ServiceNow is able to reproduce, ServiceNow will, consistent with industry-standard practices, use commercially reasonable efforts to promptly make any necessary changes to improve the security of the Subscription Service.

7. SHARED SECURITY RESPONSIBILITY

7.1 PRODUCT CAPABILITIES. ServiceNow provides a variety of security settings that allow Customer to configure security of the Subscription Services for their own use such as, but not limited to: (i) authenticate users before accessing the Customer's instance; (ii) encrypt passwords; (iii) allow users to manage passwords; and (iv) access instance application logs. Customer will manage each user's access to and use of the Subscription Services by assigning to each user a credential and user type that controls the level of access to the applicable Subscription Services. Customer bears sole responsibility for reviewing the Security Program and making an independent determination as to whether it meets Customer's requirements, taking into account the type and sensitivity of Customer Data that Customer provides to ServiceNow. Customer bears sole responsibility for implementing encryption and access control functionalities within the instance to protect Customer Data and assumes all liability for damages directly resulting from any decision not to encrypt Customer Data. Customer bears sole responsibility for protecting the confidentiality of each user's login and password and managing each user's access to the Subscription Services. Customer will be solely responsible for implementing the documented best practices and hardening guidelines for securing its ServiceNow instances.

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

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



CUSTOMER SUPPORT ADDENDUM

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

1. CUSTOMER SUPPORT

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

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

1.1 ADDITIONAL SUPPORT SERVICES. ServiceNow may, in its sole discretion, offer supplemental Customer Support service options for an additional fee. If Customer chooses to purchase such supplemental services, the applicable additional terms and conditions will be reflected in the applicable package description referenced in Customer’s associated ordering document.

1.2 CUSTOMER SUPPORT ACCESS. Customer Support is available Monday through Friday, excluding local holidays, 7:00AM to 7:00PM Local Time via the support portal <https://support.servicenow.com/now> (“Support Portal”). Local Time for access to Customer Support means the designated Customer Support window when ServiceNow technical Support personnel will be addressing Customer’s cases for the purposes of the Target Level of Effort. ServiceNow will provide visibility to Customer to Local Time within the Support Portal.

1.3 CASE PRIORITY; TARGET RESPONSE TIME; TARGET LEVEL OF EFFORT

Priority	Definition	Target Response Times	Target Level of Effort
P1	Any defect that causes an instance not to be accessible by authorized users.	60 minutes	Continuously, 24 hours per day, 7 days per week
P2	Any defect that causes a critical function to fail.	4 hours	As appropriate, Monday through Friday, 7AM to 7PM Local Time
P3	Any defect that significantly impedes work or progress.	3 business days	As appropriate, Monday through Friday, 7AM to 7PM Local Time
P4	Any defect that does not significantly impede work or progress.	4 business days	As appropriate, Monday through Friday, 7AM to 7PM Local Time

1.4 CUSTOMER RESPONSIBILITIES

1.4.1. Customer will receive from ServiceNow communications via email, phone, or through the Support Portal regarding the Subscription Service and acknowledges that access to the Support Portal may require multi-factor authentication by Customer.

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

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

1.5 EXCLUSIONS

1.5.0. Notwithstanding anything herein, the Target Response Times and Priority levels set forth above shall not modify security or privacy breach notification as set forth in the data security, data privacy and processing, or other applicable terms in Customer’s underlying Agreement.

1.5.1. Customer shall be responsible for making appropriate personnel, including Customer’s Security Contact, available continuously as needed in the event of a breach as set forth in the data security, data privacy and processing, or other applicable terms in Customer’s underlying Agreement.

2. **AVAILABILITY SLA**

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

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

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

“**Infrastructure Modification**” means repairs, maintenance, improvements, or changes to the cloud infrastructure used by ServiceNow to operate and deliver the Subscription Service. ServiceNow will give Customer 10 days’ prior notice of an Infrastructure Modification if ServiceNow, in its reasonable judgment, believes that the Infrastructure Modification will impact Customer’s use of its production instances of the Subscription Service, unless, in the reasonable judgment of ServiceNow, the Infrastructure Modification is necessary to: **(a)** maintain the availability, security, or performance of the Subscription Service; **(b)** comply with Law; or **(c)** avoid infringement or misappropriation of third-party IPR.

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

3. **UPGRADES AND UPDATES**

“**Upgrades**” are new Release Families applied by ServiceNow to Customer’s instances of the Subscription Service at no additional fee during the Subscription Term. A “**Release Family**” is a complete solution with new features or enhancements to the Subscription Service, including previously released Updates, if applicable. “**Updates**” are ServiceNow’s releases (including patches and hotfixes) of the Subscription Service applied by ServiceNow to Customer’s instances of the Subscription Service at no additional fee during the Subscription Term that provide problem fixes or other changes, but do not generally include new functionality. ServiceNow may provide new functionality either: **(a)** as an Upgrade, or **(b)** as different software

or service for a separate fee. ServiceNow determines whether and when to develop, release, and apply any Upgrade or Update to Customer's instances of the Subscription Service, pursuant to ServiceNow's current Upgrade Policy, which can be found at (www.servicenow.com/upgrade-schedules.html) (or such successor site).

ServiceNow shall use reasonable efforts to give Customer 30 days' prior notice of any Upgrade to the Subscription Service. ServiceNow shall use reasonable efforts to give Customer 10 days' prior notice of any Update. Notwithstanding the foregoing, ServiceNow may provide Customer with a shorter or no notice period of an Upgrade or Update if, in the reasonable judgment of ServiceNow it is necessary to: **(i)** maintain the availability, security, or performance of the Subscription Service; **(ii)** comply with Law; or **(iii)** avoid infringement or misappropriation of any third-party IPR. ServiceNow is not responsible for defects on any instance of the Subscription Service not in conformance with this Section 3.

4. INSURANCE COVERAGE

4.1 Workers' Compensation Insurance, in accordance with applicable statutory, federal, and other legal requirements;

4.2 Employers' Liability Insurance covering ServiceNow's employees in an amount of not less than \$1,000,000 for bodily injury by accident and \$1,000,000 per employee for bodily injury by disease;

4.3 Commercial General Liability Insurance written on an occurrence form and including coverage for bodily injury, property damage, products and completed operations, personal injury, and advertising injury arising out of the products or services provided by ServiceNow under this Agreement, with minimum limits of \$1,000,000 per occurrence/\$2,000,000 aggregate;

4.4 Commercial Automobile Liability Insurance providing coverage for hired and non-owned automobiles used in connection with this Agreement in an amount not less than \$1,000,000 per accident, combined single limit for bodily injury and property damage;

4.5 Combined Technology Errors' & Omissions Policy with a \$5,000,000 per claim limit, including: **(a)** Professional Liability Insurance providing coverage for the services and software in this Agreement (which coverage will be maintained for at least two years after termination of this Agreement); and **(b)** Privacy, Security, and Media Liability Insurance providing liability coverage for unauthorized access or disclosure, security breaches, and system attacks, as well as infringements of copyright and trademark that might result from this Agreement; and

4.6 Excess Liability over Employers' Liability, Commercial General Liability, and Commercial Automobile Liability, with a \$5,000,000 aggregate limit.

For the purpose of this Section 4, a "claim" means a written demand for money or a civil proceeding that is commenced by service of a complaint or similar pleading.

PRODUCT OVERVIEW

ServiceNow Applications	
Activity Designer	Provides capabilities to construct reusable Workflow activities based on an organization's business needs.
Activity Packs	A collection of related orchestration activities in a scoped application that allow Orchestration Core to connect to, and automate work with, external systems from Workflow. Customers have the ability to create their own Activity Packs with the Activity Designer.
Advanced Audit Management	Provides the capability to automate the complete audit lifecycle, including risk-based scoping using auditable units, resource and cost planning, milestone tracking, observation creation, identification of reportable issues, and a detailed evidence collection workflow.
Advanced Dispatching	Provides the capability to manage complex scheduling and dispatch processes.
Advanced Risk Management	Provides capabilities to manage, mitigate and report on operational risk. Provides a centralized process for risk managers to assess, roll-up, and report on risks at various levels of their organization and receive and process risk events that may impact an organization's risk posture.
Agile Development	Provides capabilities to manage the software development process including story definition, backlog management, sprint planning, test planning, enhancement requests, defect prioritization and definition of release content.
App Engine (Formerly: Now Platform App Engine; App Engine; NowPlatform – Custom Applications; Platform Runtime; CreateNow)	Provides the capability to create custom tables or develop new applications utilizing the Now Platform contextual development environment, platform features and shared system data.

App Engine Management Center	Provides capabilities for centralized administration and governance over the application development lifecycle, including management of: application development processes such as application intake, developer collaboration, application deployment and pipeline monitoring; application developers such as provisioning, development activities and skillset tracking; and custom applications such as deployment status, usage, and template governance.
App Engine Studio	Provides a guided, low-code tool for developing applications to store information and automate business processes. Provides an environment for app creation using app templates for pre-built or custom solutions.
Application Portfolio Management	Provides capabilities for organizations to inventory and manage application portfolios in a single central location, capturing relevant information such as costs, risk, projects, lifecycle dates, ownership, and health assessments. This inventory facilitates the identification of business benefits of each application and helps organizations make informed decisions on reducing costs, improving agility, and facilitating business alignment with the IT application portfolio.
Application Vulnerability Response	Provides the capability to prioritize and respond to application vulnerabilities resulting from security testing of applications in Customer's environment.
Asset Management	Provides capabilities to track and manage the physical, contractual, and financial aspects of assets.
ATF Test Generator and Cloud Runner	Provides the capabilities to generate regression tests for a specific non-production instance. The ATF Test Generator integrates with ServiceNow's Automated Test Framework (ATF). Customer may alternatively execute regression tests utilizing ServiceNow's Cloud Runner which runs ATF tests on a headless browser hosted by ServiceNow. Customers cannot utilize in FedRAMP, NSC DOD IL5, or Australia IRAP-Protected data centers, to Self-Hosted customers, or in other restricted environments.
Audit Management	Provides a centralized process for internal audit teams to automate the complete audit lifecycle by providing the capability to plan, scope, and execute integrated, risk-based audit plans.

Automation Center	Provides a central repository on the ServiceNow Platform to manage automations, oversee performance and key performance indicators (KPIs) of existing automations and jobs across multiple vendors in one dashboard, and offers guidance on new automation candidates.
Basic Case Management	In support of HR Service Delivery, provides capability to log general inquiries between an employee and the HR service center.
Business Continuity Management	Provides the capabilities within Business Continuity Planning, Business Impact Analysis, and Crisis Management.
Business Continuity Planning	Provides the capability to use standardized templates and workflows to enable process, facility, and asset owners to develop continuity and recovery plans.
Business Impact Analysis	Provides the capability to analyze business processes and critical dependencies.
Case and Knowledge Management (Formerly: HR Service Management)	In support of HR Service Delivery, provides capabilities to document and manage interactions between employees and HR. Also allows for the fulfillment of advanced case requests across various HR centers of excellence, supported by an HR Knowledge Base.
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.
Client Software Distribution	Allows administrators to automate the distribution of software from the Service Catalog and manage software revocation. Integration with Microsoft System Center Configuration Manager (SCCM) is provided and the extension framework enables additional third- party integrations, providing a single pane of glass for software distribution and license revocations on Windows and Apple devices. Customer is required to separately purchase any third-party integrated services.

Cloud Asset Security Management	Provides capabilities to compare cloud resource configurations against compliance benchmarks to identify potential misconfigurations, automate remediation workflows, and generate reporting on configuration gaps and remediation trends.
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Cloud Insights	Provides the capabilities to track, analyze, and manage cloud cost.
Cloud Provisioning and Governance (Formerly: Cloud Management)	Provides the capability to automate the provisioning, lifecycle, and cost management of public and private cloud resources.
Cloud Security for Configuration Compliance	Provides the capability to integrate with Cloud Security Posture Management (CSPM) products to import configuration compliance violations for cloud resources, and allows security teams to automate remediation through assignment rules and group rules, prioritize configuration issues based on asset and service context, manage exceptions, create change requests, and get visibility into risk posture with reporting.
Cloud Security for Vulnerability Response	Provides the capability to integrate with Cloud Workload Protection Platforms (CWPP) to import vulnerability data for containers and cloud computer instances, and allows security teams to automate remediation through assignment rules and group rules, prioritize vulnerabilities based on asset and service context, manage exceptions, create change requests, and get visibility into risk posture with reporting.
Code Signing	Provides the capabilities to create digital data signatures. These signatures can be checked to confirm the authenticity and integrity of the data.

Column Level Encryption Enterprise (Formerly: Platform Encryption)	Provides the capability to encrypt eligible Customer Data at rest at the application level.
Configuration Compliance	Integrates with third-party Security Configuration Assessment (SCA) solutions to generate a set of test results for the Customer's environment. Allows Customer to create response tasks, change requests or problem tickets to address configuration issues, enabling security teams to perform further investigation or allowing IT to remediate.
Contact Tracing	Provides the capability to identify employees that may have been exposed to an individual with a confirmed infectious disease by correlating information from work shifts, workspace locations, badge scans and employee daily contact logs. Includes the capability to manage the response process tasks related to these events.
Continual Improvement	Provides capabilities to define improvement initiatives and measure success by creating phases and tasks to meet performance goals and track progress.
Contractor Management	Provides the capability to collaborate with third-party contractors on field service tasks through a contractor portal.
Cost Management	Provides capabilities to track one-time and recurring costs of configuration items used by IT, and to allocate those costs to business units using allocation rules.
Crisis Management	Provides the capability to use and test standardized workflows for responding to natural disasters and crisis scenarios that may disrupt business operations. Includes a table-top exercise framework to evaluate the completeness and accuracy of continuity and recovery plans.

Customer Service Management	Provides capabilities for omni-channel customer engagement across portal, chat, email, and phone (native telephony integration requires Notify); customer data model for accounts, partners, and contacts; case management with advanced skills-based routing, case assignment workbench; real-time service level agreement (SLA), service contracts and service entitlements; targeted communications; special handling notes; pre-packaged service analytics using both real-time data and snapshots for trend analysis (trend analytics requires Performance Analytics); and voice of customer feedback through online surveys and customer satisfaction reporting.
Data Loss Prevention Incident Response	Provides the capability to integrate with Data Loss Prevention (DLP) products to import incidents from multiple sources such as endpoint, network, email, and cloud to enable remediation workflow involving end users, managers, and DLP operations team with automated incident assignment and escalations. Also provides the capability to allow DLP admins to configure email templates for end user coaching and communication and provides reporting on incident trends.
Data Anonymization	Provides the capabilities for Customer to apply anonymization/de-identification functionality of deletion, or replacing with string, in Customer's sole discretion, to Customer Data that Customer has classified as Personally Identifiable Information (PII) associated with a user, or to de-identify it for test/dev/sharing environments. Notwithstanding the foregoing, Customer Data to which Data Anonymization is applied may remain in backup in its original form before Data Anonymization has been applied; while Data Anonymization is running, Customer may conduct certain functions to Customer Data in the form before Data Anonymization has been applied, as further described in the Documentation. Customer is solely responsible for configuring Data Anonymization and determining how to incorporate Data Anonymization in support of Customer's compliance efforts.
Demand Management	Provides capabilities to consolidate IT requests in a Service Catalog and route them through a Workflow to stakeholders who gather additional information to prioritize investment decisions.

<p>DevOps Change Velocity</p> <p>(Formerly: DevOps and DevOps Insights)</p>	<p>Provides capabilities to integrate with and collect data from development tools that is loaded into a unified DevOps data model. Includes dashboards with trending reports from the information collected by the ServiceNow DevOps Change Velocity application. Provides traceability between DevOps data model and change requests.</p>
<p>DevOps Config</p>	<p>Provides the capabilities for managing, validating, recording, and securing configuration data used in infrastructure as code deployments and cloud provisioning workflows.</p>

<p>Digital Portfolio Management</p>	<p>Provides the capability to view services, applications, and products through the full lifecycle of plan, build, run, and optimize. Provides the capability to view roadmap planning for portfolio of services and applications, the status of ongoing projects and releases and operational impacts, and identify opportunities to optimize services and applications in a consolidated view.</p>
<p>Discovery</p>	<p>Locates physical and virtual devices connected to an enterprise network. When Discovery locates a device, it explores its configuration, status, software, and relationships to other connected devices, and updates the CMDB.</p>
<p>Document Intelligence</p>	<p>Provides a document processing capability to efficiently extract information from documents.</p>
<p>Edge Encryption</p>	<p>Provides capabilities to encrypt eligible data in transit and at rest. Customer retains sole control and management of encryption keys.</p>
<p>Employee Center Pro</p>	<p>Provides the capability to access a unified portal for multi- department service delivery, enabling organizations to scale their service solutions across IT, HR, Workplace, Legal, and Procurement. Employee Center Pro expands the portal experience beyond service delivery with employee communication and engagement tools including content publishing and campaigns, content experiences, and employee communities.</p>

Employee Document Management	Provides electronic personnel file capabilities including configurable legal hold, purge process, data retention and security rule settings.
Employee Health Screening	Provides the capability to define and record the health criteria required of employees before entering the workplace and view data and trends on the health criteria and return of employees.
Employee Journey Management	Provides the capability to deliver personalized cross-departmental employee journeys with intelligent workflows including the capability to accelerate employee journeys with templates that allow managers to personalize employee transition plans, deliver tailored learning experiences, and create surveys to capture feedback and gain insights to improve the employee experience.

Employee Readiness Surveys	Provides the capability for Customer to define and measure preparedness of its workforce through surveys.
Employee Service Center (Formerly: Enterprise Service Portal – HR)	Provides capabilities to configure an employee portal interface to personalize employee experience. Includes targeted content delivery and automation guidance with predefined interaction interfaces and employee forums.
Employee Travel Safety	Provides capabilities to authorize business travel for employees based on the safety status of the destination.
Electronic Medical Records (EMR) Help	Provides the capability to open incidents using Incident Management from within the EMR system.
Enterprise Asset Management	Provides the capabilities to manage the lifecycle of asset operations and workflow processes for improved visibility and planning.
Enterprise Onboarding and Transitions	In support of HR Service Delivery, provides a mechanism for HR to configure complex employee processes that span departments, such as onboarding, offboarding, transfers, and other employee lifecycle events.
Engagement Messenger	Provides the capability to extend self-service experience to third-party portals.

Environmental, Social, and Governance Management	Provides the capabilities to collect, aggregate, calculate, organize, document, and create disclosures for Environmental, Social, and Governance (ESG) metrics, goals, and targets as part of corporate ESG management and reporting programs.
ERP Customization Mining	Provides the capability to help understand how customizations in Enterprise Resource Planning (ERP) systems can be improved through standardization by leveraging ServiceNow low-code/no-code applications, while making ERP data objects available for development in the Now Platform.
ESG Framework Content Accelerators	Provides the capabilities to facilitate reporting to Environmental, Social, and Governance (ESG) frameworks and ESG rating questionnaires by importing ESG citations and indicators comprising the frameworks and questionnaires, and by mapping metric definitions to those citations and indicators.
Event Management	Provides capabilities to aggregate events from monitoring tools used by Customer in its infrastructure, de-duplicates and correlates inputs from such events to CMDB and provides the ability to filter and prioritize events to create incidents for remediation.
Field Service Management	Provides the capability to schedule and assign work orders to technicians.
Field Service Management Basic	Provides capabilities to create work orders and tasks for the repair of service equipment; manage part requirements and inventory; and manage and complete work orders.
Finance Close Automation	Provides a centralized workspace for posting journal entries and capabilities to manage the finance close process by automating and managing timelines for close tasks and performing end-to-end procedures with built-in policy and compliance.
Financial Charging (Formerly: Financial Reporting)	Provides the capability to automate show-back and bill-back processes with Workflow and statement item types, helping to increase corporate financial visibility.

Financial Modeling (Formerly: Cost Transparency)	Provides the capability to perform modeling of financials for data contained within the ServiceNow Platform.
Financial Planning	Provides the capability to assist in the automation of budget and forecast planning of projects to increase efficiency and simplify the enterprise planning process.
Financial Services Applications (Formerly: Financial Services Applications and Data Model)	Provides the operational support for customers in the financial services industry.
Financial Services Operations Core (Formerly: Financial Services Data Model)	Provides financial services data model for Customers in the financial services industry.
Financial Services Integrations	Provides the capabilities to Flow Designer or Workflow to integrate and automate financial services-specific integration(s), as detailed in the applicable Documentation, with third-party systems outside of ServiceNow.
GRC: Metrics	Provides capabilities to collect, track, measure, and report on qualitative and quantitative data metrics.

Hardware Asset Management	Provides the capability to track and manage hardware assets, including normalization of hardware models, life cycle processes, and remediation actions.
Health and Safety Testing	Provides the capabilities to manage employee health testing requests to meet employer health and safety requirements.
Health and Safety Incident Management	Provides the capability to standardize the reporting and investigation process for workplace safety incidents, including the ability to apply corrective and preventative actions to mitigate the incident.
Health Log Analytics	Provides the capability to analyze early signals of potential outages in Customer's critical application services.

<p>Healthcare and Life Sciences Applications</p> <p>(Formerly: Vaccine Administration Management; Pre-Visit Management)</p>	<p>Provides the capability to manage healthcare and life science operational workflows and processes, including patient management and pre-visit activities.</p>
<p>Healthcare and Life Sciences Service Management Core</p>	<p>Provides the capabilities for Customer Service Management and Healthcare and Life sciences data model for Customers in the Healthcare and Life sciences industry.</p>
<p>Incident Management</p>	<p>Facilitates the process of restoring normal IT operations by providing capabilities to record, classify, distribute, and manage incidents through to resolution. Includes Performance Analytics limited to 15 key performance indicators (KPIs), one dashboard, and 90 days of data captured by Incident Management.</p>
<p>Innovation Management</p>	<p>Provides the capability to gather and evaluate ideas for implementation.</p>
<p>Integration Hub</p>	<p>Provides additional capabilities to allow Flow Designer or Workflow to integrate and automate systems outside of a Customer's instance.</p>
<p>Investment Funding</p>	<p>Provides the capability to plan investments and budgeting and view historical investment and budgeting data.</p>
<p>ITOM Governance</p>	<p>Provides capabilities to scan IT resources against various configurations and standards, identify policy violations, and remediate through workflows.</p>
<p>ITOM Health</p> <p>(Formerly: IT Operations Management Health; Event Management and Operational Intelligence)</p>	<p>Provides the capability to gain visibility and track the availability of Customer's critical application services.</p>

<p>ITOM Optimization</p> <p>(Formerly: IT Operations Management Optimization; Cloud Management)</p>	<p>Provides the capability to view and automate the provisioning, life cycle and cost management of IT resources supporting application services.</p>
<p>ITOM Visibility</p> <p>(Formerly: IT Operations Management Visibility; Discovery and ServiceMapping)</p>	<p>Provides visibility into IT resources, configuration characteristics, and their relationship to application services.</p>
<p>Legal Matter Management</p>	<p>Provides the capability to manage tasks and activities associated with legal matters in different practice areas.</p>
<p>Legal Practice Apps</p>	<p>Provides the capabilities to use pre-existing workflow logic with components of Legal Service Delivery, allowing users to request, approve, and manage legal tasks for pre-defined use cases.</p>
<p>Legal Request Management</p>	<p>Provides the capability to classify, prioritize, and provide initial intake response to legal requests in a centralized workspace.</p>
<p>Lifecycle Events</p>	<p>Provides the capability to configure a collection of pre-defined activities for personal and professional employee life cycle events within the HR product.</p>
<p>Log Export Service</p>	<p>Provides the capability to export system and application logs from the customer's instance to certain external log analytics tools, as specified in the Documentation.</p>
<p>Major Security Incident Management</p>	<p>Allows Customers to automate the creation of collaboration folders and chat communication channels, provides visual dashboards, captures incident activity streams, and visually organizes response tasks in order to improve the major security incident remediation workflow.</p>

Manufacturing Process Manager	Provides manufacturing customers a guided, low-code tool for developing applications specific to manufacturing processes based on ISA 95 model. It allows customers to store information and automate business processes. Provides an environment for app creation using app templated for pre- built or custom solutions.
MetricBase	Allows Customer to collect, analyze, and store a time series of data.
Metric Intelligence (Formerly: Operational Intelligence)	Provides the capability to aggregate raw data from disparate monitoring tools in Customer's infrastructure to proactively reduce service outages through machine learning and predictive analytics.
ML Normalization	Provides the capability to normalize software product attributes through the use of machine learning, which reconciles discovered software product attributes against a repository of normalized equivalents that may include publisher, product, and version.
Mobile Publishing	Provides the capabilities to deliver customer-branded versions of ServiceNow mobile applications and secure distribution of mobile applications through the utilization of security SDKs.
Network Inventory Advanced	Provides advanced capabilities for customers in the telecommunications industry to model and represent their physical and virtual networks and the services provisioned on such networks. It includes the ability to visualize network assets that are used to build and render the network, the ability to design and assign the network, and the APIs to exchange service and resource data.
Network Inventory Core	Provides core capabilities for customers in the telecommunications industry to model and represent their physical and virtual networks and the services provisioned on such networks. It includes the ability to manage network assets used to build and render the network.

Operational Technology Incident Management	Facilitates the process of restoring normal Operational Technology operations by providing capabilities to record, classify, distribute, and manage incidents through to resolution.
Operational Technology Manager	Provides the capability to locate physical and virtual devices connected to an Operational Technology network. When Discovery locates a device, it explores its configuration, status, software, and relationships to other connected devices, and updates the CMDB. Operational Technology Manager enables customers to use alternate sources of data to discover assets using Service Graph Connectors.

Operational Technology Vulnerability Response	Integrates with third-party solutions to generate a set of actionable reports of vulnerable Operational Technology assets in Customer's environment. Allows Customer to create response task, change request or problem tickets to address vulnerabilities, enabling security teams to perform further investigation or allowing Operational Technology teams to remediate.
Orchestration Core	Provides additional capabilities to allow Workflow to automate systems outside of a Customer's instance and create codeless, reusable actions.
Order Management	Provides the data model and capabilities for order execution processes.
Order Management for Telecommunications, Media & Technology (Formally: Order Management for Telecommunications and Media)	Provides the data model and capabilities for order execution processes in the Telecommunications industry.
Outsourced Customer Service	Provides the capability to manage outsourced customer service providers.
Password Reset	Provides the capability to reset user passwords that are stored and pre-authenticated in a supported credential store separate from Customer's instance of the subscription service, such as Microsoft Active Directory.

Patch Orchestration	Provides the capability to integrate with patch management tools to import the required patch details and deployment status of assets to provide visibility into the correlation of patches, deployment status, assets, and vulnerability information. Also provides the capability to allow the IT team to take remediation actions with appropriate prioritization of patch updates.
Performance Analytics	Provides advanced analytics and time series analysis for KPIs. Provides secure, simple access to Key Performance Indicators (KPIs) and metrics that companies can use to proactively optimize business services, improve processes and align with organizational goals.

Planned Maintenance	Provides the capability to automatically create work orders and work order tasks via schedules that are triggered based on meters, usage, and/or duration.
Planned Work Management	Provides the capability to streamline the administration of recurring work orders and associated tasks that are automatically created.
Policy and Compliance Management	Provides a centralized process for creating and managing policies, standards, and internal control procedures that are cross-mapped to external regulations and best practices. Additionally, provides structured Workflows for the identification, assessment, and continuous monitoring of control activities.
Portfolio Planning	Provides the capability to prioritize, build and maintain roadmaps for project and demands within organizational or portfolio plans.
Predictive Intelligence (Formerly: Agent Intelligence)	Provides the capability to use supervised machine learning to train solutions with Customer's historic ServiceNow data to predict an outcome, such as a field value in a record.

Privacy Management	Provides capabilities to manage enterprise-wide privacy programs by enabling Customers to conduct privacy impact assessments, which determine what controls can be applied and automatically monitored to assist Customers with verifying their compliance with various privacy regulations and policies applicable to the Customer, as determined by the Customer.
Proactive Customer Service Operations	Provides the capability to proactively trigger case workflows.
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.
Process Optimization	Provides the capability to create business process flow maps from audit trail data, view and assess inefficiencies within the process optimization workbench, and integrate with performance analytics and continual improvement management applications.

Procurement Case Management	Provides the capabilities to configure and manage service catalogs, workflows, and knowledge for procurement services.
Project Portfolio Management	Provides capabilities to plan, organize, and manage projects and project portfolios including associated tasks and resources.
Public Sector Digital Services Core	Provides the data model, and capabilities for Customer Service Management for Customers in the public sector industry.
Sourcing and Purchasing Automation (Formerly: Purchase and Receipt Automation)	Provides the capabilities to automate sourcing, requisition, and order workflows across work teams and third-party tools.
Release Management	Facilitates the planning, design, build, configuration, testing, and release of hardware and software into the IT infrastructure.

Regulatory Change Management	Provides the capabilities to integrate with regulatory intelligence providers, integrate with regulatory workflows to assess the applicability and impact of regulatory events, map the regulatory events with internal Government, Risk, and Compliance objects, and execute changes.
Request Management	Provides capabilities to approve and fulfill requests for goods and services defined and presented in the Service Catalog.
Resource Management	Provides a view of projects and the availability, allocation, and capacity of assigned resources.
Risk Management	Provides an executive view into risk to allow risk managers to quickly identify at-risk assets, perform assessments, and continuously monitor risk exposure.
RPA Hub	Provides the capability to integrate the ServiceNow Platform with applications that do not support APIs. RPA Hub enables deployment, management, and monitoring of attended and unattended automations. Allows developers to build and store automation packages, configure attended and unattended robots, manage queues, and monitor alerts.
Scaled Agile Framework (SAFe)	Provides the capability to plan development activities across teams and view the dependencies between them

Schedule Optimization	Provides the capability to automatically optimize work order schedules for a field service organization.
Secrets Management Enterprise	Provides the capabilities to securely store and control access to credentials.
Security Incident Response	Enables a security operations center, security incident response team, and IT to enact response plans to address security-related activities, events, or incidents. Facilitates response team collaboration, investigation of network and non-network related activities (e.g., intellectual property theft, criminal activities, etc.), including the capability for automated request assignment and remediation across security and IT teams.

Service Mapping	Discovers business services of the organization and builds a comprehensive map of all devices, applications, and configuration profiles used in these business services.
Service Management for Issue Resolution	Provides the capabilities within Incident Management, Problem Management, Change Management, Release Management, Request Management, Asset Management and Cost Management to support issue resolution within Customer Service Management.
ServiceNow Cloud Encryption	Offers encrypted storage for the database using block encryption, along with enhanced key management. ServiceNow Cloud Encryption allows the customer the option to use a ServiceNow generated key, or a key created and supplied by the Customer.
ShoppingHub	Provides the capabilities to manage a product catalog of third-party goods and services which can be requested by employees.
Software Asset Management	Provides the capability to track and manage software assets, including normalization of discovered software, reconciliation of discovered software against license entitlements, and remediation actions to stay compliant. Facilitates identification of unused software for reclamation and allows Customer to automate harvesting of those licenses.
Software Spend Detection	Provides the capability to identify and track software spend using financial transaction data.
Strategic Planning	Provides the capability to create goals, set targets, and align planning items which may include projects, demands, epics, or custom portfolio plans for prioritizing. Also provides the capability to build and maintain roadmaps within strategic, product, or custom portfolio plans.
Stream Connect for Apache Kafka	Provides the capability to integrate data from a Customer's external Apache Kafka environment with the Customer's ServiceNow environment.

Supplier Collaboration Portal	Provides the capability to configure a portal interface for Customer's supplier contacts to access self-service resources, which may include self-registration, knowledge articles, visibility into their own requests, supplier profile management, and service catalog.
Supplier Lifecycle Management	Provides capabilities to facilitate communication and collaboration between Customer and Customer's suppliers to assist in: data management, issue resolution, onboarding, and performance review.
Supply Chain Exception Management	Provides capabilities to facilitate communication and collaboration across supply chain stakeholders to assist in: identifying supply chain threats and root causes; and coordinating and remediating exceptions.
Table Builder for App Engine	Provides the capability for supporting custom table-centric development functions such as custom table management; form creation, design, and management; form logic creation, design, and management; and record-based flows creation, design, and management.
<p>Telecommunications, Media & Technology Applications and Data Model</p> <p>(Formerly: Telecommunications and Media Service Management Applications and Data Model; Telecommunications Service Management Applications and Data Model)</p>	Provides the capabilities for Customer Service Management and service assurance for Customers in the telecommunications industry.
<p>Telecommunications Service Operations Management Applications and Data Model</p> <p>(Formerly: Telecommunications Network Performance Management Applications and Data Model)</p>	Provides the capabilities for network service assurance for Customers in the telecommunications industry.

Test Management	Provides a user acceptance testing framework to help project teams and business users align on project deliverables and provides visibility into the status of the project testing when used in conjunction with Project Portfolio Management and Agile Development. Project Portfolio Management and Agile Development are separately authorized.
Threat Intelligence	Provides the capability to support multiple threat intelligence feeds to enhance the context of a security incident by enabling analysts to see potential threats and related systems in an integrated view. Allows Customer to add its own custom feeds and to place confidence scores or weightings on each feed to accelerate the identification of legitimate security issues.
Universal Request	Provides the capability to enable service requests across different group and task types.
Universal Request Pro	Provides capabilities for Universal Request to connect and expand functionality with Predictive Intelligence and Virtual Agent.
Universal Task	Provides a framework for agents to fulfill a service request by using a comprehensive set of predefined tasks.
Use Case Accelerators	Provides capabilities to configure pre-defined features such as policies, control objectives, scopes, indicators, risks, dashboards and reports.
Vaccination Status	Provides the capability to track the status of employee vaccinations.
Vendor Manager Workspace	Provides a centralized workspace to manage and monitor vendor health, performance data and related vendor information.
Vendor Risk Management	Provides automated assessment capabilities and remediation processes for managing vendor risk, including reporting of risk levels and issues. All vendor interaction and communication may be centralized via a vendor portal enabling Customer to manage vendor responses, provide assessment status, and track issues and tasks.

Virtual Agent	Provides capabilities for Users to interact with a chat agent (bot or human) through the ServiceNow Service Portal, mobile environments and various messaging services.
Vulnerability Response	Integrates with the National Vulnerability Database (NVD) and third-party solutions to generate a set of actionable reports of vulnerable assets in Customer's environment. Allows Customer to create response tasks, change requests or problem tickets to address vulnerabilities, enabling security teams to perform further investigation or allowing IT to remediate.
Vulnerability Solution Management	Provides the capability to correlate vulnerability scan findings with software updates, compensating controls, and other solutions to identify and prioritize remediation activities.
Walk-Up Experience	Provides the capability to create and manage a requester queue at an onsite walk-up venue where requests are resolved in person. Provides capabilities to create and manage a requester queue at an onsite IT walk-up venue where requests and issues are fulfilled and solved by IT technicians in real time and in person.
Workforce Optimization	Provides the capability to monitor work across multiple channels, schedule and change work shifts for teams and individuals, and manage time-off requests. Ability to view performance data, manage employee performance, assign training and manage skills across teams and individuals.
Workplace Indoor Mapping	Provides the capability to allow workplace team to leverage indoor mapping as part of ServiceNow Workplace Service Delivery. Employees can access mobile building-to-building wayfinding, create workplace reservations near colleagues, or raise service requests from an interactive floor map. Workplace admins can design, edit, and publish mapping changes in house to provide employees and visitors with modern digital mapping experiences.
Workplace Lease Administration	Provides the capability to track workplace lease contracts, as well as the assets, services, and locations within the contract record.

Workplace PPE Inventory Management	Provides the capability to manage the personal protective equipment inventory levels across Customer's locations and facilities.
Workplace Case Management	Provides capabilities to fulfill and route on workplace services request.
Workplace Reservation	Provides capabilities to manage reservations for rooms, desk, parking, and additional workplace services.
Workplace Safety Management	Provides the capability to reserve workspaces with configurable shifts for a managed return to work process including cleaning schedules and tasks to create an audit trail for employee return.
Workplace Space Management	Provides the capabilities to perform space planning and measure space utilization to optimize real estate usage.

Workplace Space Mapping	Provide the capability to import and view Mappedin floor plans.
Workplace Visitor Management	Provides capabilities to request services for internal and external visitors to a workplace location.
Workplace Central	Consolidate certain capabilities, as specified in the Documentation, within Workplace Service Delivery suite into one user interface.
Workspace Builder	Provides the capabilities to configure a custom workspace within App Engine Studio, and to manage access, lists, a singular dashboard, and configure pages.

ServiceNow Platform Capabilities	
AI Search	Provides the capabilities to extend and automate search functionality within Service Portal, Now Mobile, and Virtual Agent.
Assessments	Evaluates, scores, and ranks records from any table in the subscription service. Uses assessments to send custom questionnaires to selected users or writes scripts that query the database directly.
Automated Test Framework	Create and run automated tests during upgrades, application development, or instance configuration.
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 in a ServiceNow instance.
Coaching Loops	Provides the capability to monitor and provide feedback on a specific behavior of an individual or group.
Communities	Enables Customer's users to engage with peers to ask questions and provide answers on areas of their interest. Helps organizations to reduce support costs through crowd sourcing of knowledge and self-service enablement. Includes the following key features – forums and user management, personalized subscriptions, user community profile, and moderation.
Configuration Management Database (CMDB)	Provides capabilities to identify, record, audit, and report on IT configuration items and their relationships.
Connect	Provides the capability to connect people, processes, and information into a unique and centralized collaboration workspace to cut down on resolution times. Features include Chat, document delivery, active lists to see who is working, and the ability to interact directly from the activity stream.
Content Management System	Provides the capability to create custom interfaces.

Delegated Development	Enables instance administrator to deploy and manage developer resources per application, providing them the ability to provide non-administrator development rights and limit the access rights to specific resources used by an application.
Flow Designer	Provides capabilities within a design environment to automate approvals, tasks, notifications, and record operations without requiring code.

Form Designer	Allows creation of forms and tables with visual controls.
Google Maps mapping service	<p>ServiceNow may make Google Maps available for use with the subscription service. If Customer uses Google Maps, Customer agrees to the following terms and conditions:</p> <p>(a) If Customer’s usage exceeds either 60,000 map views on an annual basis or 1,000 geocoding requests on a daily basis, Customer shall purchase map views and geocoding requests from Google subject to Google’s terms and conditions, to which ServiceNow is not a party;</p> <p>(b) Customer agrees, and shall cause its end users to agree, to the following:</p> <ul style="list-style-type: none"> • Google’s Maps Terms (http://maps.google.com/help/terms_maps.html) or a successor URL as provided by Google. • Legal Notices (http://www.maps.google.com/help/legalnotices_maps.html) or a successor URL as provided by Google. • Acceptable Use Policy (https://enterprise.google.com/maps/terms/universal_aup.html) or a successor URL as provided by Google. <p>(c) Customer agrees that Google may use Customer Data in accordance with its privacy policy and that Google may provide its Maps services to Customer. Google Maps may not be available to Customer due to location availability and may not be available during Customer’s entire Subscription Term. ServiceNow support terms and warranties do not apply to Google Maps.</p>
Guided Setup	Provides the categories and associated tasks to configure any product or application that provides a Guided Setup module.

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.
Mobile App Builder (Formerly: Mobile Studio)	Provides the capability to configure a ServiceNow application or build a new mobile application.

Notify	Provides the capability to initiate notification from Customer's instance of the subscription service to a supported third-party platform for SMS, voice, and other communications protocols. Customer is required to separately purchase any third-party service required to work with Notify.
OpenFrame	An interface technology that enables real-time communication channels such as telephone systems to be integrated into the ServiceNow Platform. Consists of UI elements as well as a set of APIs that support exchange of events and data between ServiceNow and the communications system.
Reporting	Provides the capability to create and share reports and dashboards.
Script Debugger	Enables debugging of script on non-production instances of the subscription service.
Service Catalog	Displays a listing of the goods and services that a Customer provides within the enterprise to its employees and contractors.
Service Creator	Provides capabilities for building Service Catalog items without writing code.
Service Level Management	Establishes and monitors status of service contracts and SLAs between Customer and its customers or third-party service providers.
Service Portal Designer	Provides the capability to build portals with a consumer-like experience using both ServiceNow out-of-the-box widgets and templates as well as Customer's own widgets and styles, while leveraging only HTML and CSS.
Skills Management	Assigns configured competencies to groups or users.

Studio	Provides web-based Integrated Development Environment (IDE) for professional and low-code (i.e., IT administration) application developers.
Subscription Management	Enables Customers to view and allocate use rights in the subscription service across the enterprise.
Survey Management	Allows for polling and collection of data, including configuration for specific events and/or conditions.
Targeted Communications	Provides the capability to create and send articles and emails to a specified list of internal and external customers.

Time Cards	Records time worked on tasks either manually or automatically.
Visual Task Boards	Transforms the navigation of lists and forms into an interactive graphical experience including a Kanban-style workspace for either individual or team-based management of tasks.
Visualizations	Displays interactive 2-D and 3-D visual representations for any logical data relationships within an instance.
Web Services	HTTP-based web services allow Customer to interact with instances of the subscription service. Outbound (consumer) web services allow Customer to access remote endpoints and perform web service requests from instances of the subscription service. Web services include REST and SOAP APIs.
Workflow	<p>Provides a drag-and-drop interface for automating multi-step processes across the subscription service. Each Workflow consists of a sequence of activities such as generating records, notifying users of pending approvals, or running scripts, and the condition-based transitions between them.</p> <p>Customer is required to purchase Orchestration Core or Integration Hub to orchestrate activities using a Workflow that interacts outside of Customer's instance of the subscription service.</p>

ServiceNow Premium Platform Capabilities	
<p>ServiceNow Voice</p> <p>(Formerly: Cloud Call Center)</p>	<p>Provides the capability to integrate the ServiceNow Platform with a third-party cloud-based call center.</p> <p>Customer is required to separately purchase any third-party cloud-based call center services.</p> <p><i>Cloud Call Center requires the purchase of a Professional or Enterprise level ServiceNow Subscription product.</i></p>
<p>Dynamic Translation</p>	<p>Provides capabilities to enable the translation of text from one language to another.</p> <p><i>Dynamic Translation requires the purchase of a Professional or Enterprise level ServiceNow Subscription product.</i></p>

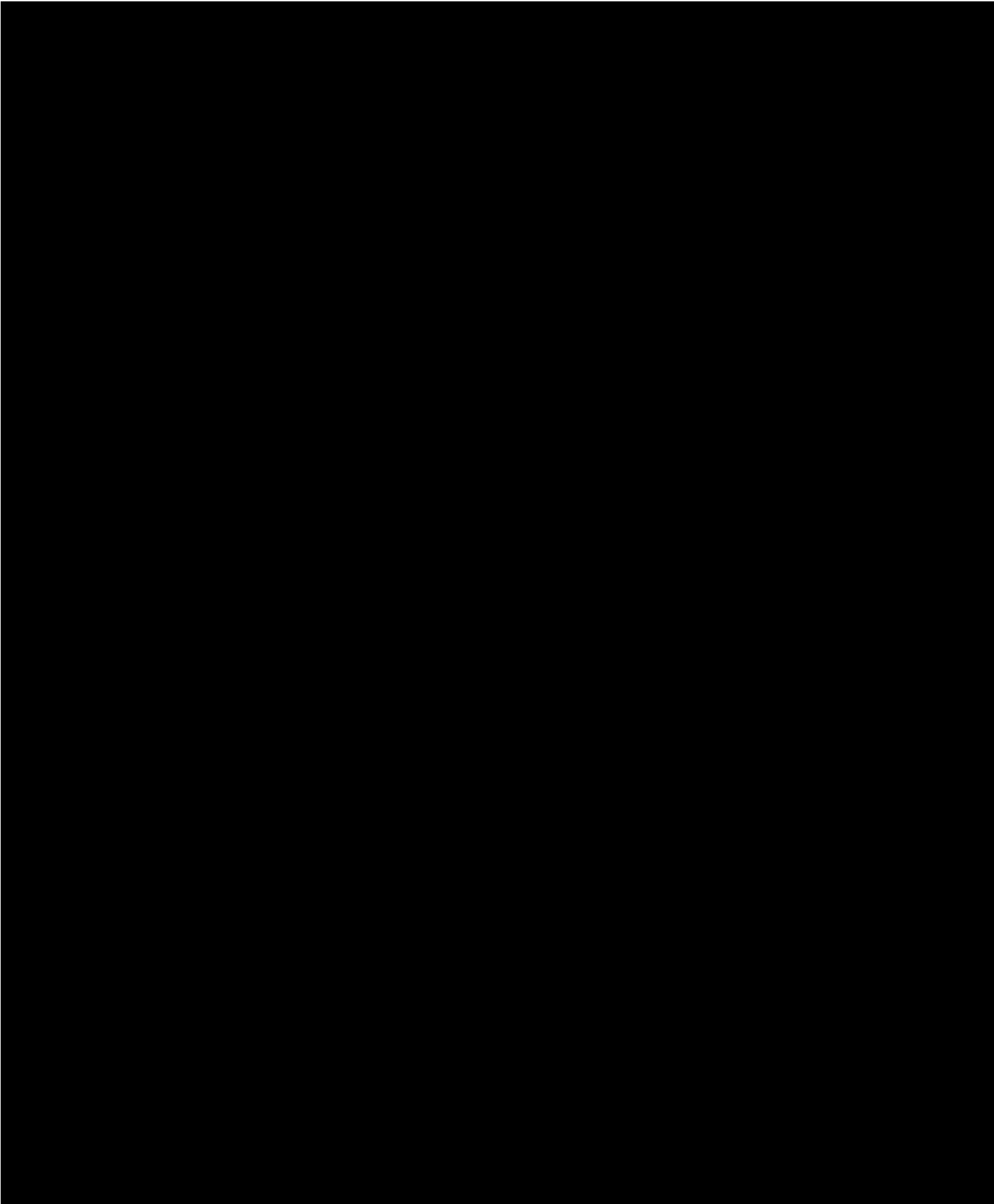
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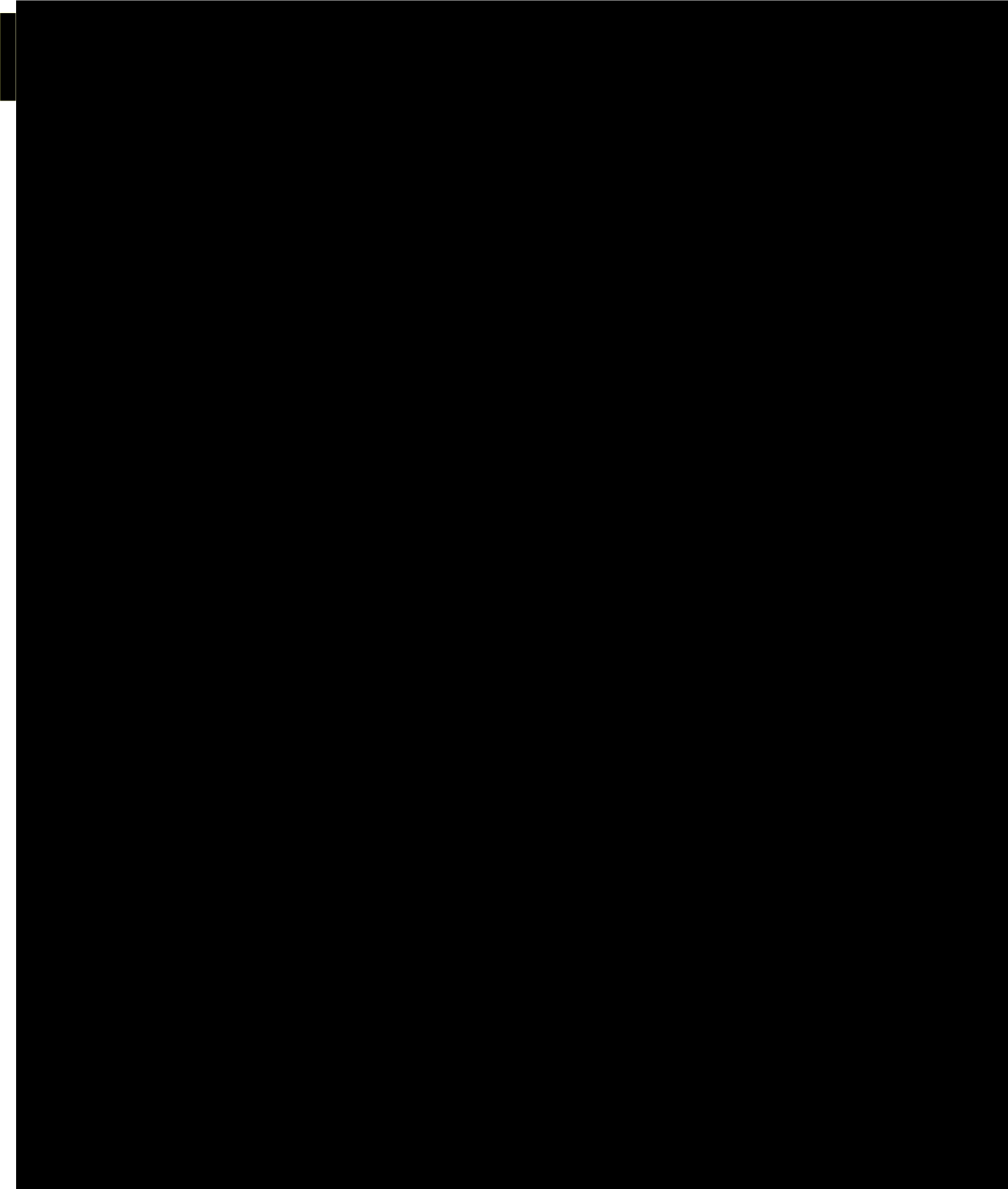
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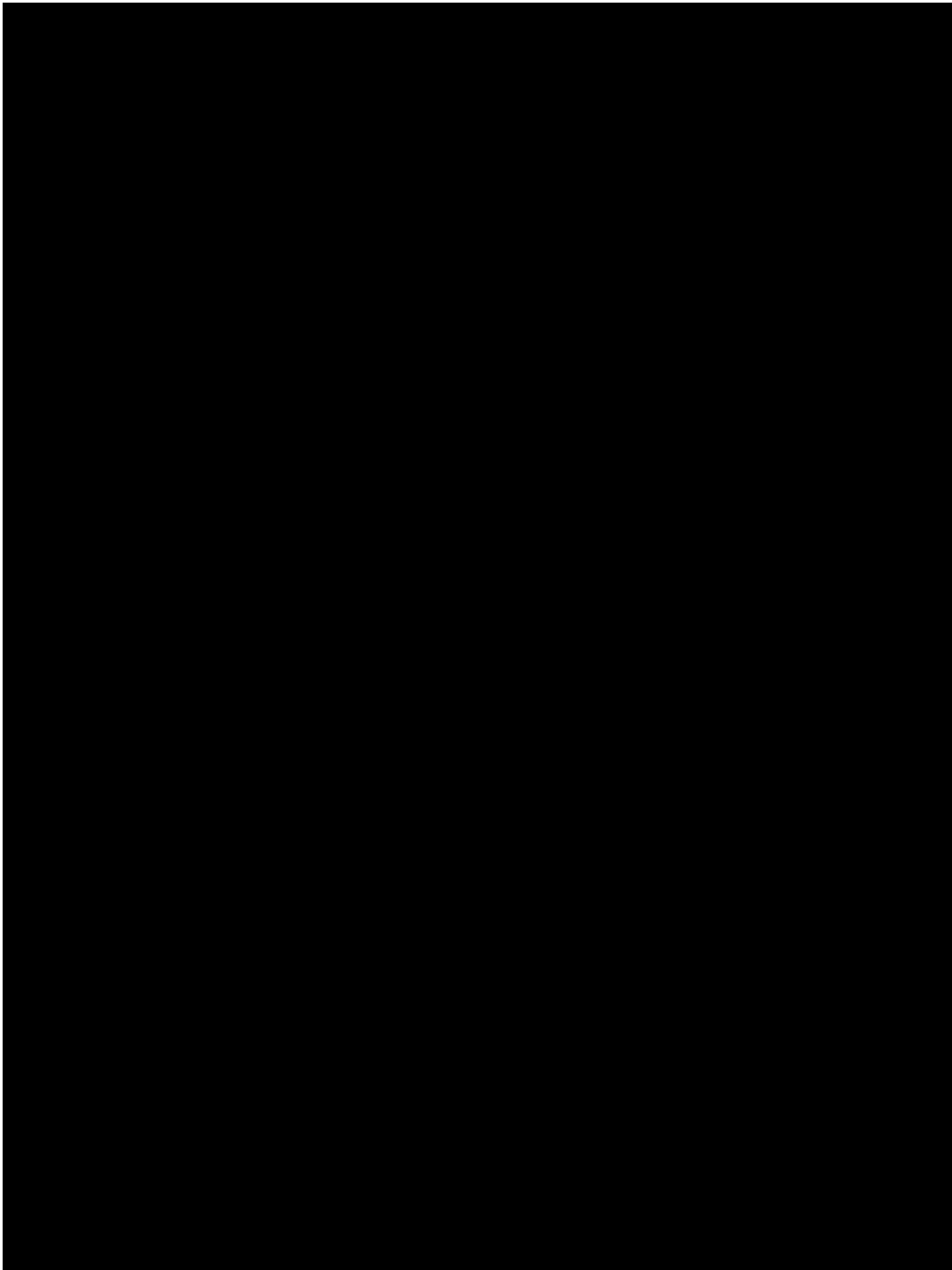
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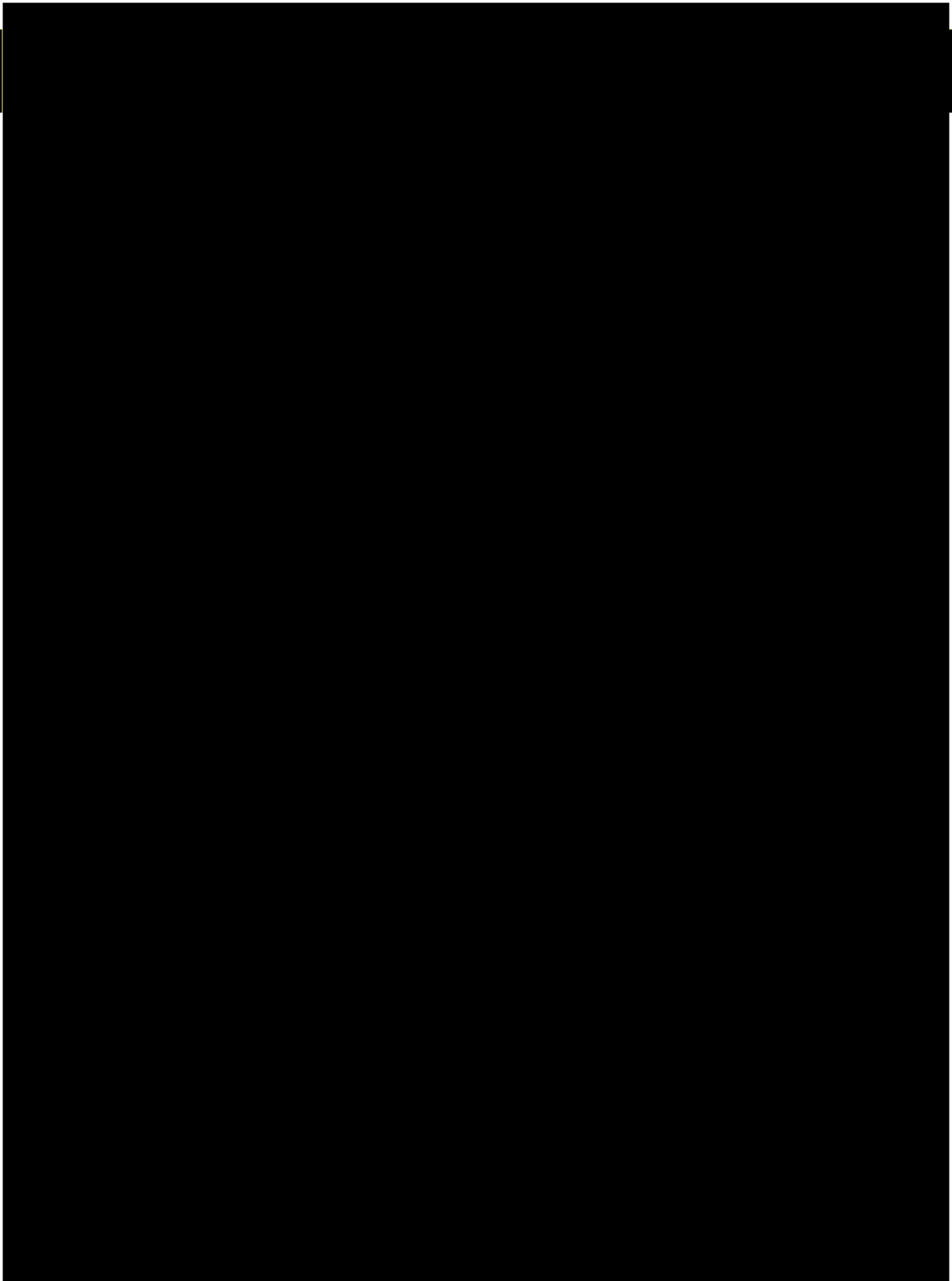
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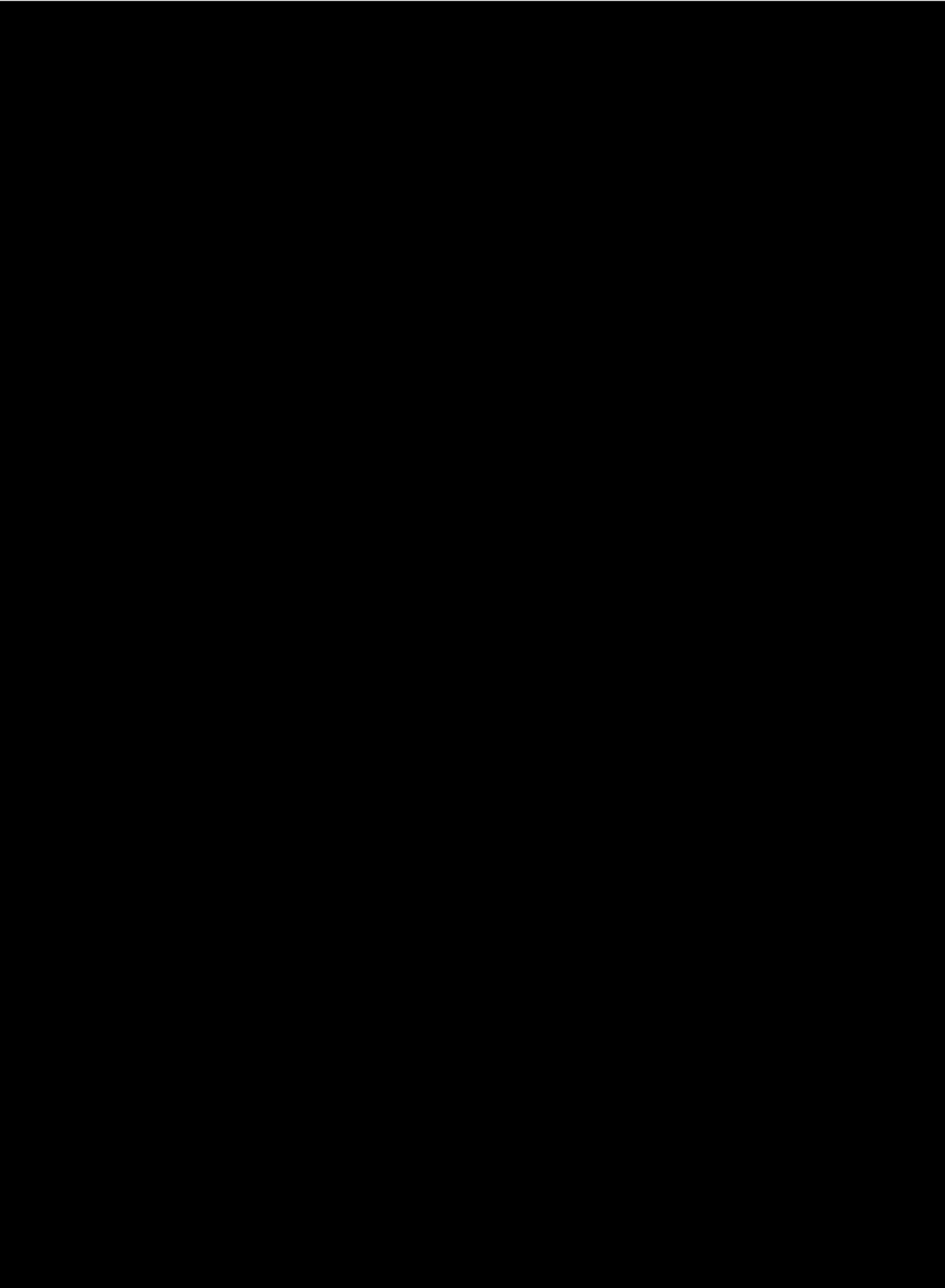
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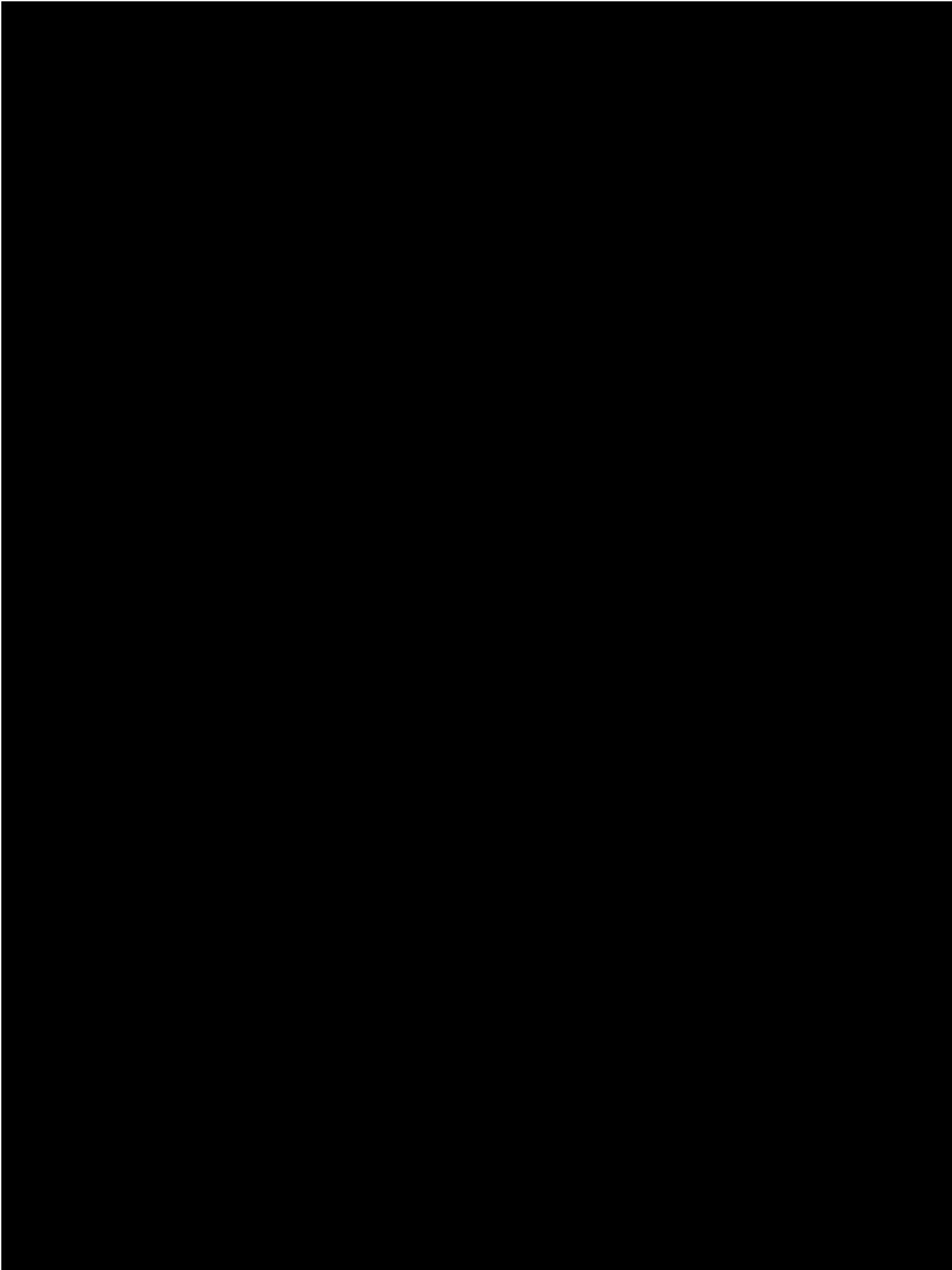


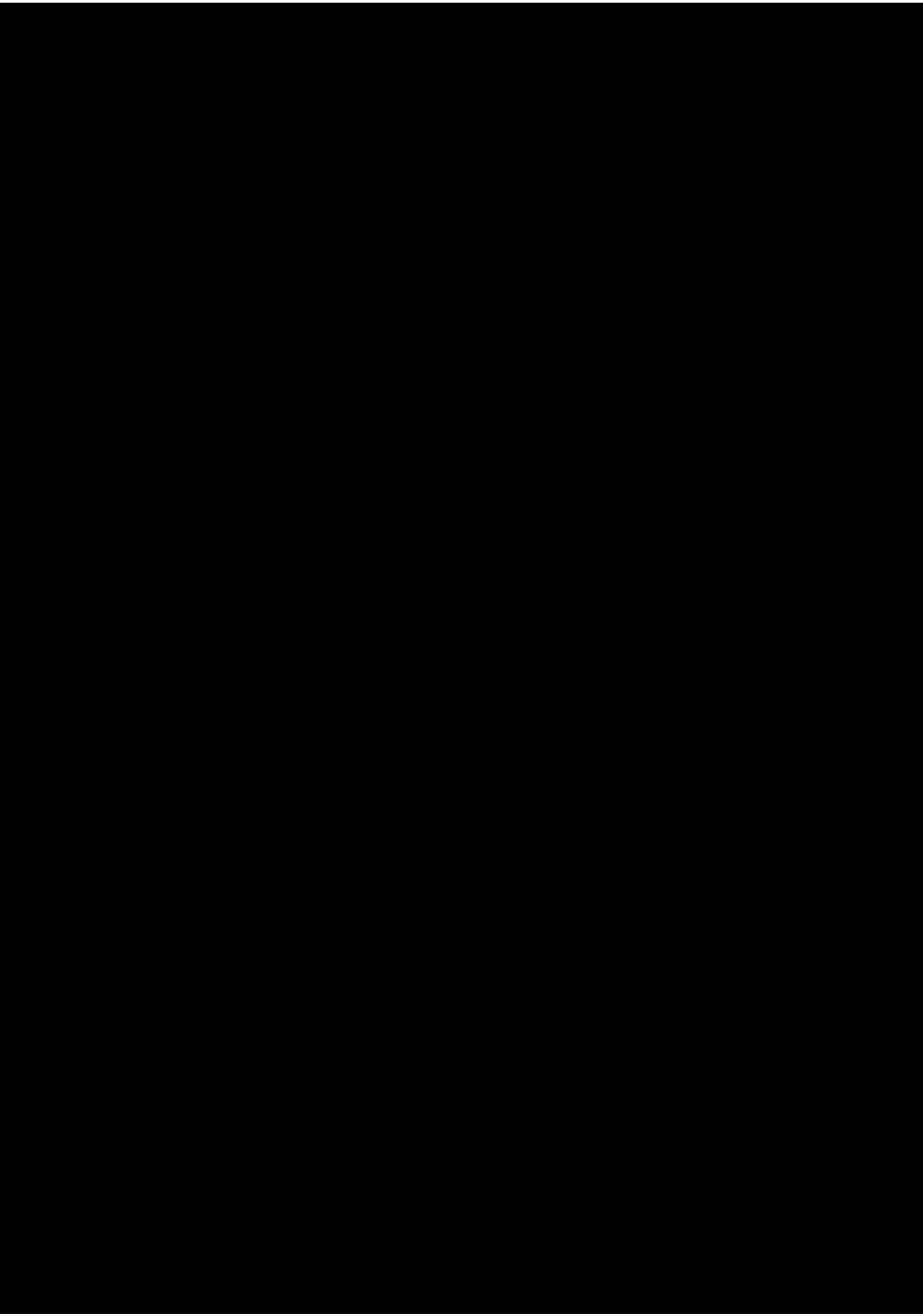












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Supplier Code of Conduct

The NSW Government strives to conduct sustainable and inclusive government procurement. Our suppliers are our partners in delivering the best social and commercial outcomes for the state of NSW and its citizens. This Supplier Code of Conduct (the 'Code') outlines the ethical standards and behaviours we expect from ourselves and our suppliers.

We are committed to the highest ethical standards

When conducting business with NSW Government you can expect that we will:

- comply with applicable laws, regulations, policies and procedures
- act with integrity and openness
- demonstrate fairness and transparency in our dealings with individuals and organisations
- disclose any perceived or real conflicts of interest
- encourage fair and open competition while seeking value for money and innovative solutions
- adopt procurement processes to make it easy to do business
- publish details of contracts awarded as required by legislation
- protect and prevent the release of commercial-in-confidence information
- not seek, or accept, any financial or non-financial benefits from potential, current or past suppliers
- respond to reasonable requests for advice and information, including tender debriefings
- investigate complaints.

We expect our suppliers and their supply chains to commit to the highest ethical standards

When conducting business with NSW Government we expect that you will:

- comply with applicable laws, regulations, policies, procedures and good business practices
- ensure third parties acting on your behalf comply with this Code
- act with integrity and openness
- conduct business in an ethical and safe manner
- disclose any perceived or real conflicts of interest
- not discuss or disclose dealings with NSW Government to the media without approval
- pay your suppliers / contractors on time
- protect and prevent the release of commercial-in-confidence information
- ensure the security and proper use of government information, assets and materials
- not offer NSW Government employees/contractors any financial or non-financial benefits
- respond to reasonable requests for advice and information
- report breaches of this Code to NSW Government.

Implications of non-compliance with this Code

Suppliers should be aware that non-compliance with this Code when doing business with the NSW Government, or demonstrated corrupt or unethical conduct, could lead to:

- termination of contracts
- loss of future work
- loss of reputation
- investigation for corruption
- matter referred for criminal investigation
- suspension or removal from prequalification schemes and panel arrangements

More information

Gifts, hospitality and other benefits

Suppliers must not at any time offer or provide any financial or non-financial benefits to NSW Government employees/contractors. NSW Government employees/contractors are not permitted to request financial or non-financial benefits and are expected to decline such offers.

Conflicts of interest

Conflicts of interest, whether real or perceived, must be immediately reported to the relevant NSW Government department or agency. A conflict of interests can arise when a person's business and private interests intersect. Private interests can include a person's own professional and financial interests, as well as past and present associations with other individuals, groups or family.

Confidentiality and intellectual property rights

Information provided by or collected from the NSW Government is provided on a confidential basis, unless otherwise explicitly indicated, or the information is already in the public domain. The NSW Government and our suppliers will respect and honour each other's confidentiality and intellectual property rights.

Environmental sustainability

We expect our suppliers to minimise the environmental impact of their operations and maintain environmentally responsible policies and practices.

Sponsorship

Any sponsorship arrangement must be open and transparent and should not create any perception that it will improperly influence the decision making of the NSW Government.

Labour and human rights

We expect our suppliers to provide a fair and ethical workplace free from workplace bullying, harassment, victimisation and abuse. Our suppliers are expected to make all reasonable efforts to ensure that businesses within their supply chain are not engaged in, or complicit with, human rights abuses, such as forced or child labour.

Workplace health and safety

We expect our suppliers to provide a safe work environment and integrate sound health and safety management practices into their business. Suppliers must comply with all applicable laws and regulations relating to workplace, health and safety.

How do I report wrongdoing?

If you are concerned about a possible breach of this Code, you should report this directly to the relevant NSW Government agency.

If you are concerned about any conduct that could involve fraud, corrupt conduct, maladministration, or serious and substantial waste of public funds, this can be reported via one of these external channels:

Corrupt conduct – [Independent Commission Against Corruption \(ICAC\)](#)

Maladministration – [NSW Ombudsman](#)

Serious and substantial waste – [NSW Audit Office](#)

Access to government information (GIPA) – [Information and Privacy Commission NSW](#)

Schedule 3 - Statement of Work Template

Not used.

Schedule 4 - Payment Schedule

Not used.

Schedule 5 - Change Request Form

Change Request number	<i>[Number the Change Request to assist with tracking Change Requests and administrating the Agreement.]</i>
Purchase Order Number and Agreement reference	<i>[Where available, insert a reference to the applicable Purchase Order number and the Agreement reference number to which the Change Request relates.]</i>
Effective date for Change Request	<i>[Insert the date on which the parties agree the Change Request will become effective.]</i>
Details of Change Request	<i>[Insert a sufficiently detailed description of the Change Request, including which sections of the Statement of Work will be changed by the Change Request. Please attach a more detailed scope document to this Change Request, if required.]</i>
Specifications	<i>[Insert any changes to the Specifications, including any additional Specifications.]</i>
Plans	<i>[If applicable, outline the effect the Change Request will have on any Plans, such as the Project Plan. To the extent that it is appropriate to replace any Plans with new Plans, please attach those to this Change Request.]</i>
Date for Delivery and Key Milestones	<i>[List any new or amended Dates for Delivery and identify whether any of these dates constitute Key Milestones.]</i>
Effect on Price	<i>[If applicable, specify how the Change Request will affect the Price.]</i>
Nominated Personnel	<i>[Specify any changes to the Nominated Personnel.]</i>
Implementation	<i>[Outline in sufficient detail how the Change Request will be implemented.]</i>
Effect on Customer Users	<i>[Outline the effect, if any, of the change to the Customer Users.]</i>
Other matters	<i>[List any other matters that are relevant to the Change Request or that the Customer has requested are covered by this Change Request.]</i>
List documents that form part of this Change Request	<i>[Insert list.]</i>

<p>Customer</p> <p>Name (Print):</p> <p>Signature:</p> <p>Date:</p>	<p>Supplier</p> <p>Name (Print):</p> <p>Signature:</p> <p>Date:</p>
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Schedule 6 – Deed of Confidentiality and Privacy

Not used.

Schedule 7 – Escrow Deed

Not used.

Schedule 8 – Performance Guarantee

Not used.

Schedule 9 – Financial Security

Not used.



Cloud Module

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Cloud Module

Background

- A. This Module forms part of the Digital.NSW ICT Purchasing Framework.
- B. The purpose of this Module is to set out the specific terms and conditions which apply to the provision of Cloud Services and related or ancillary goods and services.
- C. The specific Services and Deliverables that the Supplier will provide under the Agreement are described in the Order Form.

PART A: PRELIMINARIES

1. General

1.1 Scope

The Supplier must provide the Cloud Services and associated Deliverables described in the Order Form on the terms of this Module and the other terms of the Agreement.

1.2 Acknowledgements

The parties acknowledge and agree that the:

- (a) obligations in this Module supplement, and are in addition to, the parties' other rights and obligations under the Agreement. Except to the extent expressly provided in the Agreement, nothing in this Module is intended to limit or restrict any other provision under the Agreement; and
- (b) Customer is relying on the Supplier's expertise in providing the Cloud Services under this Module.

1.3 Services Period

The Cloud Services must be provided for the Term or for such other period specified in the Order Form (**Services Period**).

1.4 Variations to Cloud Services

- (a) Unless otherwise specified in the Order Form, the Supplier may, subject to this clause 1.4, unilaterally upgrade or vary the functions, features, performance and other characteristics of the Cloud Services (**Unilateral Variation**) at its sole cost, provided that the Unilateral Variation:
 - (i) does not reduce or diminish the security, functionality, performance or availability of the Cloud Services;
 - (ii) does not breach the service standards and any applicable Service Levels that apply under the Agreement; and
 - (iii) is consistent with the Supplier's obligations under the Core Terms, Module Terms and any Additional Conditions.
- (b) The Supplier must, to the extent reasonably practicable, provide the Customer with advance notice of each proposed Unilateral Variation. Where it is impracticable to

provide advance notice, the Supplier must provide the Customer with written notice of the Unilateral Variation within 24 hours of it coming into effect.

- (c) Notice under clause 1.4(b) must be provided in writing and, notwithstanding clause 39.13 (**Notices**) of the Agreement, may, if specified in the Order Form, be provided in the form and via the medium specified in the Order Form.
- (d) If requested by the Customer, the Supplier must promptly provide the Customer with all information that may be reasonably requested by the Customer to understand the purpose, scope and effect of the Unilateral Variation.
- (e) Where this clause 1.4 applies, the parties agree that it governs the process with respect to Unilateral Variations to the Cloud Services only. Where this clause does not apply, all variations to the Services must be made by following the Change Control Procedure, except to the extent otherwise expressly permitted under the Agreement (including clause 4.4 below).

PART B: PROVISION OF CLOUD SERVICES

2. Provision and use of Cloud Services

2.1 Customer use and access to the Cloud Services

- (a) By the Dates for Delivery (or as otherwise agreed between the parties in writing), the Supplier must provide the Customer with access to:
 - (i) the Cloud Services;
 - (ii) User Documentation that:
 - A. contains sufficient information to enable the Customer and Permitted Users to use the Cloud Services for the Permitted Purpose and in the manner contemplated under the Agreement; and
 - B. complies with clause 8.4 (User Documentation) of the Agreement; and
 - (iii) any Third Party Components or other Deliverables that are specified in the Order Form or are needed to utilise the Cloud Services in accordance with the Agreement.
- (b) Where access codes are required to access the Cloud Services or User Documentation, the Supplier must provide the Customer with the relevant access codes by the date specified in the Order Form, or where no date is specified, on the Commencement Date.

2.2 Scope of licence

- (a) Notwithstanding clauses 17.2, 17.4 and 17.5 of the Agreement, the parties agree that the licence rights with respect to the Licensed Software will be on the terms specified in this Module.
- (b) Unless otherwise specified in the Order Form, Permitted Users may access and use the Cloud Services for the Services Period and for any purpose in connection with:
 - (i) the Customer performing its obligations, and exercising its rights, under the Agreement;

- (ii) the full use of the Cloud Services and any associated applications as contemplated under the Agreement, including, where applicable, operating, supporting, enhancing, upgrading and maintaining the Cloud Services;
- (iii) the performance of tests and other quality assurance processes, including Acceptance Tests, in relation to the Cloud Services and associated Deliverables or systems that may integrate or interoperate with the Cloud Services;
- (iv) the carrying out, or exercise, of the functions or powers of the Customer, a NSW Government Agency or the Crown; or
- (v) such other Permitted Purpose specified in the Order Form.

2.3 Licensing model

- (a) The parties agree that the licensing model specified in the Order Form applies to the Cloud Services being provided under the Agreement.
- (b) Where the Cloud Services are licensed on a User Licensing Model, the following terms apply, unless expressly stated otherwise in the Order Form:
 - (i) there is no cap on the number of Permitted Users who may access and use the Cloud Services, except where clause 2.3(b)(ii) applies; and
 - (ii) where the Order Form specifies that there is a cap on the number of Permitted Users, the Customer:
 - A. must ensure that only the number of Permitted Users specified in the Order Form (or as otherwise agreed between the parties in writing) use the Cloud Services; and
 - B. may, at its sole discretion, increase the number of Permitted Users at any time during the Services Period, subject to paying the additional licence fees in accordance with the rates and charges specified in the Payment Particulars or as otherwise agreed between the parties in writing.
- (c) Where the Cloud Services are not licensed on a User Licensing Model, the Customer must ensure that it does not exceed any applicable consumption or other ceiling with respect to its use of the Cloud Services as specified in the Order Form (for example, storage cap). The Customer may, at its sole discretion, increase its consumption or ceiling at any time during the Services Period, subject to paying the additional licence fees in accordance with the rates and charges specified in the Payment Particulars or as otherwise agreed between the parties in writing.

2.4 Performance

The Cloud Services must be provided to meet or exceed any availability Service Levels and other Service Levels or, where none are specified, in a manner that ensures continuity of performance of the Cloud Services and minimises interruptions to the Customer's operations.

2.5 Backups

- (a) Unless otherwise specified in the Order Form:
 - (i) the Customer must take and maintain adequate backups of the data that is loaded into the Cloud Services; and

- (ii) the Supplier must reasonably assist the Customer in relation to any transfer or restoration of such data and in relation to any backups made by the Customer.
- (b) Where it is specified in the Order Form that it is the Supplier's responsibility to backup any data that is loaded into the Cloud Services, the Supplier must:
 - (i) perform an initial backup of such data;
 - (ii) take and maintain adequate and regular backups of such data; and
 - (iii) carry out any other Data Services relevant to data backup specified in the Order Documents.
- (c) A backup undertaken under clause 2.5(b) must be undertaken in a manner which enables the relevant data to be accurately and completely restored, in the event that any failure of the Cloud Services causes damage to, or loss of, that data.

2.6 Records of usage and audits

- (a) If specified in the Order Form, the Supplier:
 - (i) must supply the Customer with reporting and monitoring tools to assist the Customer to verify its compliance with the licensing terms under this Module; and
 - (ii) may, acting reasonably, undertake audits in accordance with this clause 2.6 to verify the Customer's compliance with the licensing terms under the Agreement. All audits under this clause will be conducted at the Supplier's sole cost.
- (b) All audits under this clause 2.6 must be conducted in accordance with the auditing timeframe and procedure specified in the Order Documents.
- (c) Upon completion of each audit, the Supplier must promptly provide the Customer's Representative with a copy of the audit report or findings.
- (d) The Supplier must not install any tools or applications within the Customer Environment or systems in order to conduct any audits without the Customer's prior written agreement.

2.7 Additional Cloud Services terms

The parties must comply with any Additional Conditions specific to certain types of Cloud Services where specified in the Order Form.

3. Restrictions

- (a) Except to the extent permitted by Law or by the Agreement, the Customer must not without the Supplier's written consent:
 - (i) remove or alter any copyright or other proprietary notices appearing in the Cloud Services;
 - (ii) reverse engineer, decompile, disassemble or otherwise attempt to discover the Cloud Services' source code other than in accordance with any applicable escrow agreement; or
 - (iii) do, or omit to do, any additional things specified in the Order Form.

- (b) Nothing in this clause 3 restricts the Customer from providing the Permitted Users with access to, and use of, the Cloud Services and any associated application(s) on the terms of this Module.

4. Data

4.1 Customer Data

If any Customer Data is created by the Supplier in the course of providing the Cloud Services under this Module, then all rights, title and interest in that Customer Data vest in the Customer on creation in accordance with the Agreement.

4.2 Supplier's security controls for viewing and accessing Customer Data

- (a) Where the Supplier, the Supplier's Personnel or any third party associated with the Supplier are able to view or access Customer Data in the course of providing the Cloud Services or any other Supplier's Activities, then the Supplier must ensure that:
- (i) such access is only in accordance with the Agreement;
 - (ii) such access is via a secure virtual private network;
 - (iii) only the Supplier's Personnel who have undergone security awareness training in accordance with clause 21.3(c) (Audits and compliance) of the Agreement are able to view or access Customer Data;
 - (iv) production infrastructure log activities are centrally collected, are secured in an effort to prevent tampering, and are monitored for anomalies by a trained security team. The Supplier will provide a logging capability in the platform that captures login and actions taken by Permitted Users in the Supplier application. The Customer has full access to application audit logs within its instance(s), including successful and failed access attempts to the Customer's instance(s). The Customer is responsible for exporting application audit logs to the Customer's syslog server through available built-in platform features;
 - (v) all access is monitored by the Supplier and under the Supplier's control and supervision at all times; and
 - (vi) except where expressly authorised by the Agreement or by the Customer in writing, persons are not able to download, extract, edit, store, copy (whether electronic or hardcopy), print or otherwise retain any Customer Data. For the purposes of this clause 4.2(a)(vi), the Customer expressly authorises the Supplier's Personnel to download, edit, store, copy (whether electronic or hardcopy), print or otherwise retain any Customer Data solely for the purposes of and to the extent necessary to fulfill its obligations under this Agreement.
- (b) If requested by the Customer, the Supplier must promptly:
- (i) notify the Customer in writing of how it will comply (or is complying) with its obligations under this clause 4.2; and

- (ii) respond to any security-related questions received from the Customer in relation to the Cloud Services and provide reasonable assistance (including related information and Materials) to the Customer in relation to the security of the Cloud Services, including any related information and Materials held by the Supplier's subcontractors, subject to any restrictions imposed by the Supplier's subcontractors or any obligations of confidentiality.

4.3 Storage and transfer of Customer Data

- (a) Unless otherwise agreed by the Customer in accordance with clause 4.4, the Supplier and its Personnel must ensure that it provides the Cloud Services from data centres in NSW or the primary data centre and any secondary data centre(s) as specified in the Order Form.
- (b) For the purposes of clause 19.3(b) (Location of Customer Data) of the Agreement, under this Module the Supplier may transfer, store, process, access, disclose or view Customer Data outside New South Wales, Australia:
 - (i) where necessary to comply with any applicable Law or a binding order of an Authority (such as a subpoena or court order) imposed on the Supplier, provided that the Supplier gives the Customer reasonable notice of any such legal requirement or order to enable the Customer to seek a protective order or other appropriate remedy;
 - (ii) via remote access for the sole purpose of accessing or viewing Customer Data to perform support and maintenance services, to the extent permitted in the Order Form; or
 - (iii) where otherwise permitted under clause 19.3 (Location of Customer Data) of the Agreement,

and, in any event, subject to, and in compliance with, all other provisions of the Agreement, including the Data Location Conditions.

- (c) Nothing in this clause 4.3 relieves the Supplier of its obligations to protect and keep Customer Data secure in accordance with the Agreement, including the Supplier's obligations under clause 20 (Privacy) of the Agreement.

4.4 Change to location of Customer Data

- (a) Subject to the Core Terms, the Supplier must not (and the Supplier must ensure that its Personnel do not) change the location of any data centres to a location other than that specified in the Order Form without notifying the Customer in writing at least six months prior to such proposed change or such other timeframe specified in the Order Form.
- (b) The Supplier must not propose changing the location of any data centres to any location that is identified as an "excluded location" in the Order Form or that would cause the Supplier to breach its obligations under the Agreement.
- (c) The Supplier must ensure that the notice it provides under clause 4.4(a) sets out:
 - (i) the proposed change to location and any associated change to data centre conditions;
 - (ii) the date on which the Supplier proposes the change will occur;
 - (iii) the reason for the proposed change;

- (iv) any impact of such changes on the Customer's or Permitted Users' ability to access, use and interact with the Cloud Services;
 - (v) the proposed data migration and security measures that the Supplier will apply; and
 - (vi) such other details as reasonably required by the Customer.
- (d) The Supplier agrees to provide all assistance reasonably requested by the Customer to assess the proposed change to the data centre location.
- (e) The Supplier acknowledges and agrees that where the Supplier or its Personnel changes the data centre location with respect to the Cloud Services:
- (i) the Supplier has no entitlement to additional costs as a result of the data centre change (including, the costs of any data migration or backup); and
 - (ii) the change to the data centre location will be at the Supplier's sole cost.

4.5 Media decommissioning process

- (a) The Supplier must conduct a media decommissioning process prior to the final disposal of any storage media used to store Customer Data. The Supplier must ensure that:
- (i) it uses NIST 800-88 industry standard (or substantially equivalent) for destruction of sensitive materials, including Customer Data, before such media leaves the Supplier's data centres for disposition; and
 - (ii) it complies with any additional requirements in respect of decommissioning that may be set out in the Order Form.
- (b) If requested by the Customer, the Supplier must provide the Customer with a report or certification showing that clause 4.5(a) has been complied with.

4.6 Data control and other requirements

The Supplier must:

- (a) implement and comply with all relevant data retention and disposal requirements specified in the Agreement; and
- (b) ensure that the accessibility or usability of Customer Data does not change detrimentally in any respect, subject to any agreed downtime of the Cloud Services.

PART C: SUPPORT SERVICES

5. Provision of Support Services

5.1 Application

This Part C applies where it is specified in the Order Form that the Supplier will provide Support Services in relation to the Cloud Services.

5.2 Support Period

All Support Services under this Module must be provided for the Support Period.

5.3 General

- (a) The Supplier must carry out the Support Services specified in the Order Form.
- (b) The Supplier must carry out the Support Services:
 - (i) in accordance with the requirements in this Part C and any additional requirements specified in the other Order Documents;
 - (ii) to meet any applicable Service Levels;
 - (iii) in a manner that is consistent with the Specifications; and
 - (iv) in a manner that causes minimal disruption to Permitted Users and the Customer's operations.

5.4 Help desk

- (a) If the Order Form specifies that the Supplier will provide help desk Services, the Supplier must provide help desk Services during the times of operation and in accordance with the Specifications and any other requirements of the Agreement.
- (b) The Supplier must:
 - (i) respond to, and investigate, requests to the help desk in a timely and efficient manner and in accordance with any requirements and Service Levels specified in the Order Documents; and
 - (ii) ensure the help desk is provided by Personnel who are sufficiently qualified and experienced to resolve and escalate issues.

PART D: GENERAL

6. Training

6.1 Training Services

- (a) This clause 6 only applies where it is specified in the Order Form that the Supplier will provide training Services or Deliverables.
- (b) Unless otherwise specified in the Order Documents, the Supplier must:
 - (i) provide training Services and any training materials at the times and in accordance with the requirements specified in the Order Documents; and
 - (ii) prepare and submit to the Customer's Representative for approval, by the date specified in the Order Documents, a training Plan for carrying out the training Services. The training Plan must:
 - A. describe the type of training Services to be provided (for example, user training, "train-the trainer" training or awareness training);
 - B. describe how the training will be delivered;
 - C. specify the responsibilities of both parties in connection with the training, including any Customer Supplied Items to be provided in connection with the training;

- D. specify any maximum and/or minimum number of attendees per training course; and
 - E. include such other detail as specified in the Order Documents.
- (c) For clarity, the training Plan is a Document Deliverable. Clause 8 (Document Deliverables) of the Agreement therefore applies to the training Plan, including any updates to it.
- (d) Training will occur at the location(s) specified in the Order Documents or such other location(s) agreed by the Customer in writing.

6.2 Training Reports

- (a) Where specified in the Order Form, the Supplier must provide the Customer's Representative with written reports in relation to the provision of training Services (**Training Reports**). Unless otherwise specified in the Order Form, the Training Reports must cover:
- (i) the status of the training;
 - (ii) any issues that the Supplier has encountered in delivering the training;
 - (iii) any "lessons learnt" or areas for future improvement; and
 - (iv) such other details as set out in the Order Form.
- (b) The Training Reports must be provided by the Supplier on a fortnightly basis for the duration of the training Services or at such other intervals as set out in the other Order Documents.

7. Additional and ancillary Deliverables and Services

7.1 Provision of additional and ancillary Deliverables and Services

The Supplier must supply:

- (a) any additional or related Deliverables or Services specified in the Order Documents, including (where specified):
- (i) Data Services; and
 - (ii) the provision of Non-ICT Services and associated Deliverables; and
- (b) all other goods and services that are incidental or ancillary to the provision of the Deliverables and Services under this Module and that are required to ensure that the Cloud Services complies with the Specifications and other requirements of the Agreement.

7.2 Requirements

The Supplier must provide all additional, related, incidental and/or ancillary Deliverables and Services specified in clause 7.1 in accordance with all applicable requirements and timeframes under the Agreement.

8. Records

- (a) The Supplier must keep and maintain full and accurate records of all Deliverables and Services provided under this Module in accordance with the Agreement and this clause 8.
- (b) Unless otherwise specified in the Order Documents, the records must include the following details:
 - (i) any issues in relation to the Deliverables and Services that have arisen or been reported by the Customer;
 - (ii) a record of any Deliverables provided as part of the Cloud Services, including the:
 - A. date provided;
 - B. quantity provided; and
 - C. name and (where applicable) serial number of the Deliverables;
 - (iii) any repairs, replacements or other remedial action taken by the Supplier or its Personnel in relation to any Deliverables (or parts or components) that have been supplied as part of the Cloud Services;
 - (iv) any Delays associated with the provision of the Deliverables and Services and the reason for those Delays;
 - (v) any actions that the parties need to take, or decisions that need to be made, to ensure the provision of the Deliverables and Services in accordance with the requirements of the Agreement;
 - (vi) the progress of the Deliverables and Services against any Project Plan; and
 - (vii) such other records in relation to the Deliverables and Services that are specified in the Order Form.
- (c) The Supplier must, at its sole cost, provide copies of the records required to be maintained and kept under this clause 8 to the Customer's Representative in accordance with the times set out in the Order Documents or as otherwise reasonably required by the Customer.

9. Exceptions

- (a) The Supplier is not liable for any failure of the Cloud Services to comply with the Agreement to the extent arising as a result of:
 - (i) any Critical CSI not operating in accordance with the Agreement;
 - (ii) any misuse of the Cloud Services by the Customer;
 - (iii) the Customer's combination, operation or use of the Cloud Services with any other product, equipment, software or document of the Customer or a third party except where:
 - A. such combination, operation or use is authorised under the Agreement;

- B. the Supplier supplied the Cloud Services on the basis that they can be combined, operated or used with the Customer's or relevant third party products; or
 - C. such combination, operation or use should have been reasonably anticipated by the Supplier having regard to the nature and purpose of the Cloud Services;
- (iv) damage caused by the operation of the Cloud Services other than in accordance with any recommended and reasonable operating procedures specified in the Order Form and User Documentation; or
- (v) any Virus, Denial of Service Attack or other malicious act that adversely affects the Cloud Services or associated Services and Deliverables (or any software installed on the Deliverables or connected to them), except to the extent that the Virus, Denial of Service Attack or other malicious act was:
- A. introduced or carried out by the Supplier or its Personnel;
 - B. caused or contributed to by any wrongful act or omission of the Supplier or its Personnel; or
 - C. due to the Supplier or its Personnel breaching the Agreement, including any failure to comply with the security obligations under the Agreement.
- (b) The Customer may, at its sole discretion, request the Supplier to provide Services in respect of correcting or resolving any of the issues set out in clause 9(a) and, if so, the Supplier must provide such Services on a time and materials basis, based on the rates and charges specified in the Payment Particulars or as otherwise agreed between the parties in writing. However, any issue that results from one or more of the circumstances specified in clauses 9(a)(iii)A to 9(a)(iii)C or clauses 9(a)(v)A to 9(a)(v)C must be rectified at the Supplier's sole cost and in accordance with the Agreement.

Annexure A: Definitions and interpretation

1. Definitions and interpretation

1.1 Definitions

Terms used in this Module have the meaning set out in Schedule 1 (Definitions and interpretation) of the Agreement, unless otherwise defined below:

Agreement has the meaning given to it in the ICT Agreement entered into under the NSW Government's Digital.NSW ICT Purchasing Framework, of which this Module forms a part.

Australian Government Information Security Manual means the Australian Government's manual of the same name available at <https://www.cyber.gov.au/acsc/view-all-content/advice/using-australian-government-information-security-manual> (or such other link as notified by the Customer to the Supplier).

Cloud Services means the Cloud Services identified in the Order Form, which may include:

- (a) Software as a Service;
- (b) Platform as a Service; or
- (c) Infrastructure as a Service.

Customer Provided Data means the Customer Data provided by the Customer to the Supplier (or extracted by the Supplier as part of providing the Supplier's Activities) and in respect of which the Supplier is to provide the Data Services. Customer Provided Data includes any data derived or generated from the Customer Provided Data as a result of the provision of the Supplier's Activities.

Data Services means any data Services specified in the Order Form to be provided by the Supplier in respect of the Customer Provided Data.

Module means this document (including Annexure A), which is the Cloud Module under the Agreement.

Non-ICT Services means Services that form part of the Supplier's Activities, but which do not comprise ICT Services or Deliverables.

Permitted Purpose means the use and purposes specified in clause 2.2 and any other purposes specified in the Order Form.

Permitted Users means:

- (a) Customer Users; and
- (b) such other persons specified in the Order Form or who the Supplier has permitted to access and use the Cloud Services in accordance with the Agreement.

Services Period has the meaning given to this term in clause 1.3.

Support Period means the period during which the Supplier will provide the specific category of Support Services as specified in the Order Form or as otherwise agreed between the parties in writing.

Support Services means the support and maintenance Services to be provided by the Supplier in respect of the Cloud Services and as specified in the Order Form.

Third Party Components means software applications, components, plug-ins, products and programs (excluding Open Source Software) that are owned by third parties and are stated in the Order Form or which are otherwise used in the provision of the Deliverables and Services.

Training Reports has the meaning given to this term in clause 6.2(a).

Unilateral Variation has the meaning given to this term in clause 1.4(a).

User Licensing Model means where the Cloud Services are licensed to the Customer on a per-user basis.

1.2 Interpretation

Unless as otherwise expressly specified, in this Module:

- (a) the rules of interpretation set out in Schedule 1 (Definitions and interpretation) of the Agreement will apply to this Module; and
- (b) a reference to a clause or Part is a reference to a clause or Part in this Module.