

# FORCENOW MASTER LICENSE AND SERVICES AGREEMENT

**IMPORTANT NOTICE: PLEASE READ THE FOLLOWING AGREEMENT CAREFULLY BEFORE PLACING YOUR ORDER AND BEFORE SUBMITTING ANY PERSONAL INFORMATION VIA THIS WEBSITE.** By placing an Order with ForceNow on this website or through other means, clicking the "buy" button, or checking the terms and conditions box, You agree to the following terms and conditions.

This Master **License and Services Agreement ("Agreement")** is a legal agreement between ForceNow LLC, a Colorado limited liability company ("**ForceNow**"), and You. ForceNow provides military- and enterprise-grade cybersecurity services ("**Services**") at an affordable price to its customers, and You desire to access these Services. You and ForceNow are collectively referred to as the "**Parties**" and each is a "**Party**." Accordingly, these recitals are incorporated into this Agreement and the Parties agree as follows:

**1. Definitions.** Capitalized terms not defined in this **Section 1** have the meanings ascribed elsewhere in this Agreement:

(a) "**Aggregated Statistics**" means data and information related to Your use of Services, used by ForceNow in an aggregated and anonymized manner, to compile statistical and performance information for provision and operation of Services.

(b) "**Authorized User**" means Your employees, consultants, contractors, and agents who are authorized by You to access and use the Services under the rights granted to You by this Agreement.

(c) "**Your Data**" means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of You or an Authorized User through the Services.

(d) "**Documentation**" means ForceNow's user manuals, handbooks, and guides relating to the Services provided by ForceNow to You either electronically or in hard copy form, as well as end-user documentation relating to the Services available at [www.forcenow.com/documentation](http://www.forcenow.com/documentation).

(e) "**ForceNow IP**" means the Services, the Documentation, and any and all intellectual property provided to You or any Authorized User in connection with the foregoing. For the avoidance of doubt, ForceNow IP includes Aggregated Statistics and any information, data, or other content derived from ForceNow's monitoring of Your access to or use of the Services, but does not include Your Data.

(f) "**Order**" means the order You place with ForceNow at <http://www.forcenow.com/status#packages>.

(g) "**Services**" means the services described in the Order, as well as any downloadable software provided to You by ForceNow provide those services.

(h) "**Third-Party Products/Services**" means any third-party products and/or services described in the Order that are provided with or incorporated into the Services.

(i) "**You**" means the individual or entity executing this Agreement with ForceNow.

**2. Access and Use.**

(a) Provision of Access. Subject to and conditioned on Your payment of Fees and compliance with the terms and conditions of this Agreement, ForceNow hereby grants You a non-exclusive, non-transferable right to access and use the Services during the Term, solely for use by Authorized Users under the terms and conditions of this Agreement. Such use is limited to Your internal use. ForceNow shall provide to You the necessary passwords and network links or connections to allow You to access the Services. The total number of Authorized Users will not exceed the number authorized in the Order, except as expressly agreed in writing by the Parties and subject to any appropriate adjustment of Fees.

(b) Documentation License. Subject to the terms and conditions contained in this Agreement, ForceNow hereby grants to You a non-exclusive, non-sublicensable, non-transferable license to use the Documentation during the Term solely for Your internal business purposes in its use of the Services.

(c) Software License. You agree to the following license provisions of this Subsection 2(c) for any software provided by ForceNow to You as part of Services:

(i) Subject to Your compliance with the terms of Subsection 2(c), ForceNow grants You the right to install and use one copy of the software per device for use by only one person at a time as part of Your use of the Services. The software or website that is part of the Services may include third-party code. Any third-party scripts or code, linked to or referenced from the software or website, are licensed to You by the third parties that own such code, not by ForceNow. Notices, if any, for the third-party code are included for Your information only.

(ii) The software is licensed, not sold, and ForceNow reserves all rights to the software not expressly granted by ForceNow, whether by implication, estoppel, or otherwise. This license does not give You any right to, and You may not: 1) circumvent or bypass any technological protection measures in or relating to the software or Services; 2) disassemble, decompile, decrypt, hack, emulate, exploit, or reverse engineer any software or other aspect of the Services that is included in or accessible through the Services, except and only to the extent that the applicable copyright law expressly permits doing so; 3) separate components of the software or Services for use on different devices; 4) publish, copy, rent, lease, sell, export, import, distribute, or lend the software or the Services, unless ForceNow expressly authorizes You to do so; 5) transfer the software, any software licenses, or any rights to access or use the Services; 6) use the Services in any unauthorized way that could interfere with anyone else's use of them or gain access to any service, data, account, or network; or 7) enable access to the Services by unauthorized third-party applications.

(d) Use Restrictions. You shall not use the Services for any purposes beyond the scope of the grant in this Agreement. You shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Services or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; or (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

(e) Reservation of Rights. ForceNow reserves all rights not expressly granted to You in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to You or any third party any intellectual property rights or other right, title, or interest in or to the ForceNow IP.

(f) Suspension. Notwithstanding anything to the contrary in this Agreement, ForceNow may temporarily suspend Your and any Authorized User's access to any portion or all of the Services if: (i) ForceNow reasonably determines that (A) there is a threat or attack on any of the ForceNow IP; (B) Your or any Authorized User's use of the ForceNow IP disrupts or poses a security risk to the ForceNow IP or to any other customer or vendor of ForceNow; (C) You, or any Authorized User, is using the ForceNow IP for fraudulent or illegal activities; (D) subject to applicable law, You have ceased to continue Your business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) ForceNow's provision of the Services to You or any Authorized User is prohibited by applicable law; (ii) any vendor of ForceNow has suspended or terminated ForceNow's access to or use of any third-party services or products required to enable You to access the Services; or (iii) in accordance with Section 5(a)(iii) (any suspension described in Subsection 2(e)(i), (ii), or (iii), is a "**Service Suspension**"). ForceNow shall use commercially reasonable efforts to provide written notice of any Service Suspension to You and to provide updates regarding resumption of access to the Services following any Service

Suspension. ForceNow shall use commercially reasonable efforts to resume providing access to the Services after the event giving rise to the Service Suspension is cured. ForceNow will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that You or any Authorized User may incur as a result of a Service Suspension.

(g) Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, ForceNow may monitor Your use of the Services and collect and compile Aggregated Statistics. As between ForceNow and You, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by ForceNow. You acknowledge that ForceNow may compile Aggregated Statistics based on Your Data input into the Services. You agree that ForceNow may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law.

### **3. Your Responsibilities.**

(a) General. You are responsible and liable for all uses of the Services and Documentation resulting from access provided by You, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, You are responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by You will be deemed a breach of this Agreement by You. You shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Services, and shall cause Authorized Users to comply with such provisions.

(b) You understand and agree that this Agreement is enforceable against You and any entity with which You are employed or affiliated and on whose behalf the Services are used. If You are entering into this Agreement on behalf of Yourself and such entity, You represent that You have the authority to bind the entity to this Agreement. You hereby represent and warrant that You have carefully read and understood this Agreement, that You are of legal capacity, and that You accept this Agreement freely, voluntarily, and with full knowledge and understanding of its terms and conditions.

(c) Third-Party Products/Services. ForceNow may from time to time make Third-Party Products/Services available to You. For purposes of this Agreement, such Third-Party Products/Services are subject to their own terms and conditions and the applicable flow-through provisions referred to in the Order. If You do not agree to abide by the applicable terms for particular Third-Party Products/Services, then You should not install or use those Third-Party Products/Services.

**4. Support**. Additional support services are available for additional fees, as listed at ForceNow's website, located at [www.forcenow.com/support](http://www.forcenow.com/support). The access rights granted under this Agreement entitle You to access the additional support services described on ForceNow's website during the Term, for the fees listed at ForceNow's website.

### **5. Fees and Payment.**

(a) Fees. You agree to pay ForceNow the fees ("**Fees**") listed in the applicable Order. Unless otherwise expressed in the Order, You will be charged these Fees automatically, using the credit card You have provided on file with ForceNow, for monthly and annual subscription plans. For non-subscription Services, You agree to pay the Fees stated in the invoice within 30 days of the invoice date.

(b) If You fail to make any payment when due, without limiting ForceNow's other rights and remedies: (i) ForceNow may charge interest on the past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (ii) You agree to reimburse ForceNow for all reasonable costs incurred by ForceNow in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (iii) if such failure continues for 60 days or more after the due date, ForceNow may suspend Your and Your Authorized Users' access to any portion or all of the Services until such amounts are paid in full.

(c) Taxes. All Fees and other amounts payable by You under this Agreement are exclusive of taxes and similar assessments. You are responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any

kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by You, other than any taxes imposed on ForceNow's income.

6. **Confidential Information.** From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information[, whether orally or in written, electronic, or other form or media/in written or electronic form or media, that is marked, designated, or otherwise identified as "confidential" (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations under this Agreement. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

7. **Intellectual Property Ownership; Feedback.**

(a) **ForceNow IP.** You acknowledge that, as between You and ForceNow, ForceNow owns all right, title, and interest, including all intellectual property rights, in and to the ForceNow IP and, with respect to Third-Party Products/Services, the applicable third-party providers own all right, title, and interest, including all intellectual property rights, in and to the Third-Party Products/Services.

(b) **Your Data.** ForceNow acknowledges that, as between ForceNow and You, You own all right, title, and interest, including all intellectual property rights, in and to Your Data. You grant to ForceNow a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display Your Data and perform all acts with respect to Your Data as may be necessary for ForceNow to provide the Services to You, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Your Data incorporated within the Aggregated Statistics.

(c) **Feedback.** If You or any of Your employees or contractors sends or transmits any communications or materials to ForceNow by mail, email, telephone, or otherwise, suggesting or recommending changes to the ForceNow IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), ForceNow is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. You assign to ForceNow on Your behalf, and on behalf of Your employees, contractors and/or agents, all right, title, and interest in, and ForceNow is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although ForceNow is not required to use any Feedback.

**8. Limited Warranty and] Warranty Disclaimer.**

(a) ForceNow warrants that the Services will conform in all material respects to the service levels set forth in the Order when accessed and used in accordance with the Documentation. ForceNow does not make any representations or guarantees regarding uptime or availability of the Services unless specifically identified in the Order. The remedies set forth in Section 9 are Your sole remedies and ForceNow's sole liability under the limited warranty set forth in this Section 8(a). THE FOREGOING WARRANTY DOES NOT APPLY, AND FORCENOW STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS/SERVICES.

(b) EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8(a), ALL FORCENOW IP IS PROVIDED "AS IS" AND FORCENOW HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. FORCENOW SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 8(a), FORCENOW MAKES NO WARRANTY OF ANY KIND THAT THE FORCENOW IP, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET YOUR OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

**9. Indemnification.**

(a) ForceNow Indemnification.

(i) ForceNow shall indemnify, defend, and hold harmless You from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) ("**Losses**") incurred by You resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the Services, or any use of the Services in accordance with this Agreement, infringes or misappropriates such third party's U.S. intellectual property rights, provided that You promptly notify ForceNow in writing of the claim, cooperates with ForceNow, and allows ForceNow sole authority to control the defense and settlement of such claim.

(ii) If such a claim is made or appears possible, You agree to permit ForceNow, at ForceNow's sole discretion, to (A) modify or replace the Services, or component or part thereof, to make it non-infringing, or (B) obtain the right for You to continue to use the component or part thereof. If ForceNow determines that neither alternative is reasonably available, ForceNow may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to You.

(iii) This Section 9(a) will not apply to the extent that the alleged infringement arises from: (A) use of the Services in combination with data, software, hardware, equipment, or technology not provided by ForceNow or authorized by ForceNow in writing; (B) modifications to the Services not made by ForceNow; or (C) Your Data ; or (D) Third-Party Products/Services.

(b) Your Indemnification. You agree to indemnify, hold harmless, and, at ForceNow's option, defend ForceNow from and against any Losses resulting from any Third-Party Claim that Your Data, or any use of Your Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights and any Third-Party Claims based on Your or any of Your Authorized User's (i) negligence or willful misconduct; (ii) use of the Services in a manner not authorized by this Agreement; (iii) use of the Services in combination with data, software, hardware, equipment, or technology not provided by ForceNow or authorized by ForceNow in writing; or (iv) modifications to the Services not made by ForceNow, provided that You may not settle any Third-Party Claim against ForceNow unless ForceNow consents to such settlement, and further provided that ForceNow will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

(c) Sole Remedy. THIS SECTION 9 SETS FORTH YOUR SOLE REMEDIES AND FORCENOW'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES INFRINGE, MISAPPROPRIATE, OR

OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN NO EVENT WILL FORCENOW'S LIABILITY UNDER THIS SECTION 9 EXCEED THE TOTAL FEES COLLECTED FROM YOU BY FORCENOW UNDER THIS AGREEMENT.

**10. Limitations of Liability.** IN NO EVENT WILL FORCENOW BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER FORCENOW WAS ADVISED OF THE POSSIBILITY OF THOSE LOSSES OR DAMAGES OR THOSE LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL FORCENOW'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THREE TIMES THE TOTAL AMOUNTS PAID TO FORCENOW UNDER THIS AGREEMENT IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM OR \$100,000, WHICHEVER IS LESS.

**11. Term and Termination.**

(a) Term. You will receive Services based on the subscription type You acquire and You will have certain rights to use the Services during the license/subscription period ("**License Period**"), which shall begin on the date of Your initial installation of ForceNow's software regardless of the number of copies that You are permitted to use, and shall last for the period of time set forth in the Documentation or the applicable Order from ForceNow. Services will automatically be deactivated at the end of the License Period, and You will not be entitled to receive any feature or content updates to the Services.

(b) For subscriptions, You will receive Services for as long as You pay for Your subscription. If You fail to pay the subscription Fees according to the terms and conditions of Section 5, Your account will be suspended.

(c) You agree that if You do not continue to abide by the terms of this Agreement You have no right to use Services and You will uninstall any software provided by ForceNow and terminate Your use of Services.

(d) Termination. In addition to any other express termination right set forth in this Agreement:

(i) ForceNow may terminate this Agreement, effective on written notice to You, if You: (A) fail to pay any amount when due, and the failure continues more than 60 days after ForceNow's delivery of written notice thereof; or (B) breach any of Your obligations under Section 2(c) or Section 6;

(ii) either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured 30 days after the non-breaching Party provides the breaching Party with written notice of such breach; or

(iii) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(e) Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, You shall immediately discontinue use of the ForceNow IP and, without limiting Your obligations under Section 6, You shall delete, destroy, or return all copies of the ForceNow IP and certify in writing to the ForceNow that the ForceNow IP has been

deleted or destroyed. No expiration or termination will affect Your obligation to pay all Fees that may have become due before such expiration or termination or entitle You to any refund.

(f) Survival. This Section 11(d) and Sections 1, 5, 6, 7, 8(b), 9, 10, and 12 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

## **12. Miscellaneous.**

(a) Entire Agreement. This Agreement, together with any other documents incorporated herein by reference and all related Orders, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, the related Orders, and any other documents incorporated herein by reference, the following order of precedence governs: (i) first, this Agreement, excluding Orders; (ii) second, Orders, in order of the date the Order is placed (i.e. an older Order takes precedence over a newer Order); and (iii) third, any other documents incorporated herein by reference.

(b) Notices. All notices, requests, consents, claims, demands, waivers, and other communications (each, a "Notice") must be in writing and addressed to the Parties at the addresses on the first page of this Agreement (or to an address that may be designated by the Party giving Notice). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

(c) Force Majeure. In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond the reasonable control of the Party invoking *force majeure*, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

(d) Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any Agreement provisions will be effective unless made in writing and signed by the waiving Party. Except as otherwise indicated in this Agreement: (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver to that right, remedy, power or privilege; and (ii) no single or partial exercise of any right, remedy, power, or privilege under this Agreement will preclude the further exercise of that right, remedy power, or privilege, or the exercise of any other right, remedy, power, or privilege.

(e) Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, the provision will not affect any other provision, nor invalidate nor render unenforceable any other provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect their original intent as closely as possible so that the transactions originally contemplated are reflected in the modified Agreement to the greatest extent possible.

(f) Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice- or conflict-of-law provisions of any other jurisdiction. Any legal suit, action, or proceeding arising out of or related to this Agreement or to the licenses granted will be instituted exclusively in the state or federal courts located in the State of Colorado, and each Party irrevocably submits to the exclusive jurisdiction of these courts in any suit, action, or proceeding.

(g) Assignment. You may not assign any of its rights or delegate any of its obligations under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of

ForceNow. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

(h) Export Regulation. You shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), that prohibit or restrict the export or re-export of the Services or any Your Data outside the US.

(i) US Government Rights. Each of the Documentation and the software components that constitute the Services is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if You are an agency of the US Government or any contractor therefor, You only receive those rights with respect to the Services and Documentation as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government users and their contractors.

(j) Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 6 – or You, if You violate the provisions of Section 2(c) – would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

(k) Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.



# FORCENOW MASTER LICENSE AND SERVICES AGREEMENT

## MANAGED DETECTION AND RESPONSE (MDR)

By accepting MDR Services, You agree to grant ForceNow's representatives permission to: (i) use whatever support or remote access tools are necessary to investigate the incident(s); (ii) install ForceNow proprietary or third-party licensed remote access tools, for the sole purpose of providing MDR Services; (iii) access Your computer remotely and to modify settings and configurations, including installing or removing specific items, to solve a problem or diagnose more complex problems, either as a result of a pre-approved action or as a direct response to an incident warranting a response under Section 1, above; and (iv) gather data from Your computer for the sole purpose of providing MDR Services. The terms of this attachment are incorporated by this reference into the Agreement, and capitalized terms used but not defined below have the meaning given to those terms in the Agreement.

### 1. SERVICES.

**Managed Detection and Response ("MDR")** – ForceNow's MDR Services are automated detection and response services mediated through human-in-the-loop intervention when certain counterthreat action thresholds have been exceeded. ForceNow's MDR includes both downloadable and cloud-based software as well as certain Third-Party Products/Services chosen by ForceNow to optimize its MDR services. Additionally MDR services include the following:

- Continuous Monitoring: 24/7 monitoring of metadata generated from the ForceNow agent and Microsoft security tools, as applicable; suspicious activity; and alerts;
- Threat Assessment: Incident detection and reporting (if, in ForceNow's sole judgment reporting of a particular incident is warranted, notification will be provided to Your primary point of contact within 24 hours of the discovery of the incident); forensics analysis; threat detection, analysis, investigation
- Phone Support: Available to You 7 a.m. - 7 p.m. weekdays, Mountain Time

You should consult the Documentation for more information about ForceNow MDR services or visit the ForceNow MDR information link at: <http://www.forcenow.com/status#service-features>. Although ForceNow continually improves the quality and content of its MDR services, ForceNow's MDR services do not include specialized cyber-professional services addressing broad-scope industrial incident response; investigation and forensic services related to cybersecurity adversaries; tabletop exercise and next-generation penetration tests related to cyber-security; or any other specialized cyber-professional services.

**NOTE:** *The following are **NOT** included in MDR Services:*

- Forensic analyses of attacks
- Investigation or analysis of events not generated (identified) by ForceNow's sensor suite
- Support for devices (printers, servers, mobile devices, laptops, workstations, cloud computing environments) NOT covered under the active subscription agreement

### 2. AVAILABILITY.

The Services, Third-Party Products/Services, or material or products offered through the Services may be unavailable from time to time, may be offered for a limited time, or may vary depending on Your region or device. ForceNow strives to maintain Services at full availability, however, all online services suffer occasional disruptions and outages, and ForceNow is not liable for any disruption or loss You may suffer as a result. You will be notified within a commercially reasonable period of any unscheduled outages to Services. You may view the status of Services at any time at the following site: <http://www.forcenow.com/status>. In the event of an outage, You may not be able to retrieve Your Data that You've stored. Accordingly, ForceNow recommends You regularly backup Your Data.