



Use Authorization Number

End Customer Address:	End Customer Contact Information:
Name: Address: City: State/Province: Zip/Postal Code: Country:	Name: Title: Phone: Email:
Reseller:	Order Information:
Company Name: Carahsoft Address: 11493 SUNSET HILLSROAD, SUITE 100 City: Reston State: Virginia Zip/Postal Code: 20190-5328 Country: United States	Order Number: Date Issued to Reseller: Level 1 Support Provider: PO Number:
Vendor Contract Information:	Vendor Contact Information:
Term (Months): Start Date: End Date:	Name: Title: Phone: Email:

Product	Product Code	Units

Terms and Conditions

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



SUBSCRIPTION SERVICE AGREEMENT - GSA

This Subscription Service Agreement - GSA (including the End User Support Policy and the Nuvolo Upgrade Policy, attached hereto) ("**Agreement**") between Nuvolo Technologies Corporation ("**Nuvolo**") and the end user Ordering Activity under GSA Schedule contracts identified on the accompanying Nuvolo Use Authorization or Order Form ("**End User**").

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

1. DEFINITIONS

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

2. NUVOLO RESPONSIBILITIES

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

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

2.3 Protection of End User Data.

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

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



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

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

3. USE OF SUBSCRIPTION SERVICE

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

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

3.3 Usage Restrictions. End User will not and will not permit any third-party to do the following with respect to the Nuvolo Technology: (i) use the Subscription Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sub-license, sell, re-sell, rent, lease, transfer, distribute or time share or otherwise make any of it available for access by third parties except as otherwise expressly provided in an Order Form; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with the Subscription Service; (iv) disassemble, reverse engineer or decompile it; (v) copy, create derivative works based on or otherwise modify it except as permitted in this Agreement; (vi) remove or modify a copyright or other proprietary rights notice in it; (vii) use it to reproduce, distribute, display, transmit or use material protected by copyright or other intellectual property right (including the rights of publicity or privacy) without first obtaining the permission of the owner; (viii) use it to create, use, send, store or run Malicious Code or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation; or (ix) access or disable any Nuvolo or third party data, software or network (other than End User's instance of the Subscription Service in accordance with this Agreement).

3.4 Third Party Applications. In support of End User's authorized internal business use of the Subscription Service during the Subscription Term, Nuvolo may provide URL links or interconnectivity within the



Subscription Service to facilitate End User's use of Third-Party Applications, at End User's sole discretion. Notwithstanding the foregoing, any procurement or use of Third-Party Applications are solely between End User and the applicable third party and Nuvolo will have no liability for such Third-Party Applications.

4. **SERVICENOW PLATFORM**

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

5. **INTELLECTUAL PROPERTY AND LICENSES**

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

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

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

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

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

5.6 Federal Government End Use Provisions. Nuvolo provides the Subscription Service, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Subscription Service include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software). If a government agency has a need for rights not granted under these terms, it must negotiate with Nuvolo to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.



6. CONFIDENTIALITY

- 6.1 Obligations.** The recipient of Confidential Information shall: (i) at all times protect it from unauthorized disclosure with the same degree of care that it uses to protect its own confidential information, and in no event using less than reasonable care; and (ii) not use it except to the extent necessary to exercise rights or fulfill obligations under this Agreement. Each party shall limit the disclosure of the other party's Confidential Information to those of its employees and contractors with a need to access such Confidential Information for a party's exercise of its rights and obligations under this Agreement, provided that all such employees and contractors are subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each party's obligations set forth in this Section 7 shall remain in effect during the term and three (3) years after termination of this Agreement. The receiving party shall, at the disclosing party's request or upon termination of this Agreement, return all originals, copies, reproductions and summaries of Confidential Information and other tangible materials and devices provided to the receiving party as Confidential Information, or at the disclosing party's option, certify destruction of the same. Provisions for the return of End User Data are set forth in Section 11.4 (End User Data Portability and Deletion).
- 6.2 Required Disclosures.** A party may disclose the disclosing party's Confidential Information to a court or governmental body pursuant to a valid court order, law, subpoena or regulation, provided that the receiving party: (a) promptly notifies the disclosing party of such requirement as far in advance as possible to the extent advanced notice is lawful; and (b) provides reasonable assistance to the disclosing party in any lawful efforts by the disclosing party to resist or limit the disclosure of such Confidential Information. Nuvolo recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor. The Government End User recognizes that the exemption at 5 U.S.C. 552(b)(4) applies to "trade secrets and commercial or financial information obtained from a person and privileged or confidential" and such exempted trade secrets and information may not be released.
- 6.3 Equitable Remedies.** The parties agree that the receiving party's disclosure of Confidential Information except as provided herein may result in irreparable injury for which a remedy in money damages may be inadequate. The parties further agree that in the event of such disclosure or threatened disclosure, the disclosing party may be entitled to seek an injunction to prevent the breach or threatened breach without the necessity of proving irreparable injury or the inadequacy of money damages, in addition to remedies otherwise available to the disclosing party at law or in equity. When the End User is an instrumentality of the US Government equitable relief, award of attorney fees, costs or interest is only allowed against when explicitly provided by statute (e.g., Prompt Payment Act or Equal Access to Justice Act.)

7. REPRESENTATION, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

- 7.1 Representation.** Each party represents that it has validly entered into this Agreement and has the legal power to do so.
- 7.2 Nuvolo General Warranties.** Nuvolo warrants that Nuvolo will not materially decrease the functionality of the Subscription Service during a Subscription Term, and (b) Nuvolo will not materially decrease the overall security of the Subscription Service during a Subscription Term. For any breach of an above warranty, End User's exclusive remedies are those described in Section 10 (Term and Termination) below.
- 7.3 Nuvolo Subscription Service Warranty.** Nuvolo warrants that during the Subscription Term, the Subscription Service shall materially conform to the release notes as specified in the Documentation. To submit a warranty claim under this Section 7.3, End User shall (1) reference this Section 7.3; and (2) submit a support request to resolve the non-conformity as provided in the End User Support Policy. If the non-conformity persists without relief more than thirty (30) days after written notice of a warranty claim provided to Nuvolo under this Section 7.3, then End User may terminate the affected Subscription Service. Notwithstanding the foregoing, this warranty shall not apply to any non-conformity due to a modification of or defect in the Subscription Service that is made or caused by any person other than Nuvolo or a person acting at Nuvolo's direction. THIS SECTION 7.3 SETS FORTH END USER'S EXCLUSIVE RIGHTS AND REMEDIES (AND NUVOLO'S SOLE LIABILITY) IN CONNECTION WITH THIS WARRANTY.



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

8. INDEMNIFICATION

8.1 Indemnification by NUVOLO. Subject to the exclusions set forth below, Nuvolo shall: (i) have the right to intervene to defend End User, its officers, directors and employees against any third party suit, claim, action or demand (each a "Claim") excluding in all cases the use or provision of open source software and the ServiceNow Platform to the extent alleging that (A) the Subscription Service used in accordance with this Agreement infringes any third party patent, copyright or trademark, or misappropriates any third party trade secret; or (B) Nuvolo's personnel when onsite at End User's premises caused death, bodily harm or damage to tangible personal property due to their negligence or willful misconduct and (ii) pay any court-ordered award of damages or settlement amount to the extent arising from any such Claims. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516. If any portion of the Subscription Service becomes the subject of a Claim under Section 8.1(i), Nuvolo may: (a) contest the Claim; (b) obtain permission from the claimant for End User's continued use of the Subscription Service; (c) replace or modify the Subscription Service to avoid infringement, if such replacement or modification has substantially the same capabilities as the Subscription Service; or, if the foregoing (a), (b), and (c) are not available on commercially reasonable terms in Nuvolo's judgment, then (d) terminate End User's use of the affected Subscription Service upon sixty (60) days' written notice.

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

8.2 Reserved.

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

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



9. LIMITATION OF LIABILITY

- 9.1 Limitation of Liability.** TO THE EXTENT PERMITTED BY LAW, THE TOTAL, CUMULATIVE LIABILITY OF EACH PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS OR SERVICES PROVIDED HEREUNDER WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL BE LIMITED TO THE AMOUNTS PAID BY END USER FOR THE SUBSCRIPTION SERVICE GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS LIMIT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO: (1) A PARTY'S OBLIGATIONS IN SECTION 9 (MUTUAL INDEMNIFICATION); (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) LIABILITY WHICH, BY LAW, CANNOT BE LIMITED.
- 9.2 Exclusions.** TO THE EXTENT PERMITTED BY LAW, NEITHER NUVOLO NOR END USER SHALL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOST PROFITS (WHETHER DIRECT OR INDIRECT) OR LOSS OF USE OR DATA, COVER, SUBSTITUTE GOODS OR SERVICES, OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGE TO BUSINESS, REPUTATION OR GOODWILL), OR INDIRECT DAMAGES OF ANY TYPE HOWEVER CAUSED, WHETHER BY BREACH OF WARRANTY, BREACH OF CONTRACT, IN TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE CAUSE OF ACTION EVEN IF SUCH PARTY HAS BEEN ADVISED OF SUCH DAMAGES IN ADVANCE OR IF SUCH DAMAGES WERE FORESEEABLE. THE FOREGOING EXCLUSIONS SHALL NOT APPLY TO: (1) PAYMENTS TO A THIRD PARTY ARISING FROM A PARTY'S OBLIGATIONS UNDER SECTION 10 (MUTUAL INDEMNIFICATION); (2) INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; AND (3) LIABILITY WHICH, BY LAW, CANNOT BE LIMITED.
- 9.3 Gross Negligence; Willful Misconduct.** AS PROVIDED BY LAW, NOTHING HEREIN SHALL BE INTENDED TO LIMIT A PARTY'S LIABILITY IN AN ACTION IN TORT (SEPARATE AND DISTINCT FROM A CAUSE OF ACTION FOR BREACH OF THIS AGREEMENT) FOR THE PARTY'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S GROSS NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

10. TERM AND TERMINATION

- 10.1 Term of Agreement.** This Agreement commences on the Effective Date and continues until a party terminates in accordance with the terms of the Agreement and/or there are no Order Forms in effect.
- 10.2 Termination.** When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act).
- 10.3 End User Data Portability and Deletion.** End User must request any End User Data from ServiceNow as Nuvolo has no authorization to access or return such End User Data hereunder.
- 10.4 Surviving Provisions.** The sections titled "Intellectual Property and Licenses", "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Usage Restrictions", "End User Data Portability and Deletion," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement.

11. GENERAL PROVISIONS

- 11.1 Export Compliance.** The Subscription Service, other Nuvolo Technology, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Nuvolo and End User each represents that it is not named on any U.S. government denied-party list. End User represents and warrants that it is not located in and will not permit any User to access or use the Subscription Service in a U.S.-embargoed country and is not in violation of any U.S. export law or regulation.
- 11.2 Anti-Corruption.** End User has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from a Nuvolo employee or agent in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If End User learns of any violation of the above restriction, it will use reasonable efforts to promptly notify Nuvolo.



- 11.3 Insurance.** During the term of this agreement, Nuvolo shall obtain and maintain, at its own expense, the following minimum levels of insurance:
- Commercial General Liability \$1,000,000 each occurrence and \$2,000,000 aggregate.
 - Automobile Liability \$1,000,000.
 - Worker's Compensation as applicable \$500,000 (each incident).
 - Crime/Fidelity, including employee theft of client property \$500,000.
 - Professional Liability: includes Cyber and Media liability \$2,000,000.
 - Umbrella Coverage \$6,000,000.
- 11.4 Publicity and Reference.** Either party may publicly identify the other party as a customer or vendor, as applicable, using the other party's name to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71. End User and Nuvolo may host webinars and other joint marketing endeavors together as mutually agreed upon between the parties. Either party may issue a press release announcing End User's selection of the Subscription Service, the text of which will be subject to the other party's prior written approval, not to be unreasonably withheld or delayed. For the avoidance of doubt, Nuvolo shall have the right to contact the End User directly during any Subscription Term under this Section 11.3.
- 11.5 Trademark License.** Subject to the other party's prior written consent, compliance with this Agreement, including the restrictions set forth in this Section 11.4, each party grants to the other, until the expiration or termination of this Agreement, a limited, personal, revocable, non-sublicensable, non-transferable, non-exclusive license to display the Trademarks of the other party subject to that party's trademark and logo usage guidelines to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71. Each party agrees to: (i) cooperate with the other party to facilitate the monitoring and control of the license recipient's use of the trademarks in a promotional manner; (ii) upon request, use commercially reasonable efforts to provide the Trademark owner with specimens of its use of the Trademarks; and (iii) comply with any instructions of the Trademarks' owner in relation to such use, including, if so requested by the other party, submitting any proposed use of the Trademarks to the Trademarks' owner for review and approval prior to public use or dissemination of materials reflecting such use.
- 11.6 Force Majeure Event.** Excusable delays shall be governed by FAR 52.212-4(f) and this clause. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including without limitation: strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), trespassing, sabotage, theft or other criminal acts, failure of energy sources or transport network, acts of God, export bans, sanctions and other government actions, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, explosions, collapse of building structures, fires, floods, storms, earthquakes, epidemics or similar events, natural disasters or extreme adverse weather conditions (each a "**Force Majeure Event**"). The party suffering a Force Majeure Event shall use reasonable efforts to mitigate against the effects of such Force Majeure Event.
- 11.7 Usage of Aggregated Data; Monitoring Service.** End User agrees that Nuvolo may collect, use and disclose quantitative data derived from the use of the Subscription Service for industry analysis, benchmarking, analytics, marketing, and other business purposes in support of the provision of the Subscription Service. All data collected, used and disclosed will be in aggregate form only.
- 11.8 Entire Agreement and Order of Precedence.** This Agreement is the entire agreement between Nuvolo and End User regarding End User's use of Subscription Service and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject



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

- 11.9 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.
- 11.10 No Third-Party Beneficiaries.** There are no other third-party beneficiaries under this Agreement.
- 11.11 Notices.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) confirmed delivery by courier service, or (d), except for notices of termination or an indemnifiable claim (“**Legal Notices**”), the day of sending by email. Billing-related notices to End User will be addressed to the relevant billing contact designated by End User, and Legal Notices to End User will be addressed to End User and be clearly identifiable as Legal Notices. All other notices to End User will be addressed to the relevant Subscription Service system administrator designated by End User.
- 11.12 Waiver.** No failure or delay by either party in exercising any right hereunder will constitute a waiver of that right.
- 11.13 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.
- 11.14 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party’s prior written consent (not to be unreasonably withheld or delayed). Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 11.15 Governing Law.** This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the Federal laws of the United States, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods. Notwithstanding the foregoing, either party may at any time seek and obtain appropriate legal or equitable relief in any court of competent jurisdiction for claims regarding such party’s intellectual property rights. Neither Party shall be liable to the other Party under or in connection with this Agreement or any Order Form, for any claim not made in writing within six (6) years (or within the applicable statutory limitation period if shorter) of the date the facts giving rise to the claim were known or ought reasonably to have been known by the claiming Party.
- 11.16 Counterparts.** This Agreement may be executed by facsimile or electronic signature and in counterparts.



END USER SUPPORT POLICY

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

Scope

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

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

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

Business Hours

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

NUVOLO END USER CARE PORTAL

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

Incident Severity

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

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



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

Response Times

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

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

End User Responsibilities

End User's obligations are as follows:

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

Support Resources

- Nuvolo Website and Community - www.nuvolo.com
- Nuvolo End User Care Portal - <https://support.nuvolo.com>



NUVOLO UPGRADE POLICY

1. DEFINITIONS

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

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

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

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

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

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

2. UPGRADES AND UPDATES

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

3. NOTICE

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

4. SUPPORTED AND NON-SUPPORTED RELEASE FAMILIES

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

5. SERVICENOW

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