

**END USER LICENSE AGREEMENT  
TERMS AND CONDITIONS**

**NOTE REGARDING EVALUATION PRODUCTS AND BETA PRODUCTS:  
THIS END USER LICENSE AGREEMENT APPLIES ONLY TO GENERAL AVAILABILITY PRODUCTS**

This End User License Agreement (“Agreement”) is a legal agreement between you (“Customer”), the entity authorized to order under GSA Schedule contracts as defined in GSA Order OGP 4800.21, as may be revised from time to time, and all of Customer’s Affiliates that may use the Products, and the GSA Multiple Award Schedule (MAS) Contractor acting on behalf of Forescout Technologies, Inc. and each of its subsidiaries, including Forescout Technologies BV (formerly SecurityMatters BV) and Forescout Technologies Americas Inc. (formerly SecurityMatters Americas Inc.) (collectively “Forescout”). If Customer does not agree to the terms and conditions of this Agreement, Customer must promptly return the Products and any accompanying items (including printed materials and binders or other containers) to the place from which Customer obtained them. If Customer purchases the Products for use by any of its Affiliate(s), Customer will ensure that such Affiliate complies with the terms and conditions of this Agreement. This Agreement is binding on the GSA MAS Contractor and the Customer to the extent Products are ordered by Customer pursuant to the GSA Schedule contracts.

**1. DEFINITIONS.**

“ActiveCare” means Forescout’s support and maintenance services offerings as described in Exhibit A.

“Affiliate” means an entity that controls (i.e., parent), is controlled by (i.e., subsidiary), or is under common control with (i.e., sister) a Party to this Agreement. The term “control” as used in this definition shall mean possession, directly or indirectly of at least fifty percent (50%) of the voting securities of another entity (or other comparable interest for an entity other than a corporation), or the power to direct or cause the direction of the management or policies of an entity whether through ownership of securities, by contract or otherwise.

“Deployment Right” means the receipt of one (1) master copy of the Software and the right to deploy instances of the Software, whether via copy, download or otherwise, subject to the restrictions set forth in the applicable Order, including, without limitation, the designated Endpoint Count.

“Documentation” means the technical documentation and specifications applicable to any given Product created and published by Forescout such as datasheets and solution briefs. “Documentation” does not include marketing collateral.

“Endpoints” include, but are not limited to, each of the MAC and IP addresses located on a user device (e.g., laptops, tablets and smartphones), network infrastructure devices (e.g., switches, routers and access points), non-user devices (e.g., printers, IP phones, security/medical/manufacturing/consumer equipment), virtual machines (in data center or cloud) and cloud infrastructure components (e.g., AWS IAM Users, AWS VPCs, Azure Subscriptions, Azure VNets). For purposes of clarity, a network-enabled piece of hardware or virtual machine may have multiple MAC addresses and/or IP addresses associated with it, and each of those addresses will constitute an Endpoint. Endpoint information is retained by the Products, whether the Endpoint is online, offline, onsite, or detected by the Products via third-party integrations, from initial detection until the information is purged, based on policies defined by Customer. The terms “endpoint” or “device”, or any derivative thereof as used in any documentation provided by Forescout shall mean an Endpoint for the purposes of the Endpoint Count.

“Endpoint Count” is the maximum number of Endpoints monitored by the Products and licensed to Customer, as specified in the Order.

“Graphical User Interface” or “GUI” means the software program which provides the interface for Customer to operate the Products.

“Hardware” means the hardware appliance on which the Software is installed.

“License” means the type of Software license grant specified on the Order. The License may be term-based or perpetual.

“Order” means the applicable ordering document issued by (as applicable) Customer, authorized Forescout reseller, or authorized Forescout distributor that

refers to this Agreement, and that describes in greater detail Customer’s order-specific information, including, quantity, charges, billing information, pricing, payment, shipping information and the Products, License, Professional Services and ActiveCare services ordered.

“Product” means the Hardware and the Software that Customer has ordered as indicated on the applicable Order including without limitation any Affiliate Products as defined in Section 19.1.

“Professional Services” means the Forescout implementation, configuration, consulting, or training services to be provided to Customer under any applicable SOW or Datasheet as defined in Section 17.2.

“Software” means the proprietary software programs developed by, or licensed to, Forescout, made available in object code form, as more fully described within the Documentation, as well as any modifications, error corrections, bug fixes, or other updates thereto. “Software” also includes the proprietary GUI, and associated Documentation developed by Forescout.

**2. GRANT OF LICENSE; DEPLOYMENT RIGHTS; RESERVATION OF RIGHTS.**

**2.1. License.** Forescout hereby grants Customer a worldwide, nonexclusive, non-transferable, non-sublicensable (except as expressly permitted hereunder) limited license, solely for Customer’s internal business operations and solely to support the Endpoint Count and the license functionality specified in the applicable Order including, without limitation, the Endpoint Count.

**2.2. Deployment Right; Back Up Copies.** If Customer purchases a Software license designated as Flex (or CL-Lite) the license is inclusive of a Deployment Right in which case Customer will receive one (1) master copy of each category of Software listed in the applicable Order and shall have the right to (i) freely deploy such licenses within its network in conformance with, the Endpoint Count and (ii) download and use as many copies of the GUI and the Documentation as necessary to support Customer’s internal use of the Products. To the extent Customer purchases Software without a Deployment Right, Customer may only (x) use one (1) copy of the Software as installed on Hardware provided hereunder, (y) download electronically a reasonable number of copies of the Software for use with virtual appliances, and (z) download and use as many copies of the GUI and the Documentation as necessary to support Customer’s internal use of the Products. Customer may make a reasonable number of copies of the Software for backup purposes, provided that Forescout’s proprietary notices are contained in such copies.

**2.3. Reservation of Rights.** Except for the limited license(s) set forth herein, Forescout, and/or its licensors, own all title and proprietary rights, including without restriction all intellectual property rights, in and to the Software and Documentation, all copies thereof, and any modifications or derivatives all of which contain valuable trade secrets of Forescout and/or its licensors. The use license described herein is not a sale of the Software or any copy of it, nor is it a waiver of the rights of Forescout under U.S. copyright laws or any international, federal, state, or other applicable laws.

**3. LICENSE RESTRICTIONS.** Any license granted hereunder is for Customer’s internal use only. Except as expressly provided in this Agreement, Customer may not, and may not permit any third party to, use the Software for rental, timesharing, subscription service, hosting or outsourcing, or sublicense, lend, rent, lease or make the Software available to any third party. Customer acknowledges that the Software in source code form remains a confidential trade secret of Forescout and/or its licensors, and Customer may not, and may not permit any third party to (i) reverse engineer, decipher, decompile, modify or disassemble the Software or the Hardware or otherwise attempt to derive the source code of the Software (except as authorized by law), (ii) extract the Software from the Hardware, (iii) incorporate the Software in whole or in part in any other software or product, (iv) modify the Software, develop derivative works of the Software or allow others to do so, or (v) attempt to do any of the foregoing, without the express prior written consent of Forescout. If Customer makes any modifications to the Software, including any derivative works, Forescout

shall own such modifications. Except as expressly provided herein, Customer may not, and may not permit any third party to, reproduce the Software or remove any copyright, trademark, proprietary rights, disclaimer or warning notices placed on, included in or embedded in any part of the Hardware or the Software. Customer will not, and will not permit any third party to, disclose the results of any benchmark, functionality or performance tests run on the Software to any competitors of Forescout. Customer represents and warrants that its use of the Products, as well as its execution (if applicable), delivery and performance of this Agreement, does not conflict with any agreement or understanding to which Customer may be bound including, without limitation, any third party intellectual property rights. If Customer purchases any Products designated for a specified limited use as set forth in an Order, including without limitation, evaluation, beta, high availability, disaster recovery or lab testing ("Limited Use Products"), Customer may only use such Limited Use Products for the limited purpose for which they were purchased and may not use such Limited Use Products to exceed Customer's total authorized Endpoint Count on its network. Separate terms and conditions will apply to Limited Use Products. If Customer uses the Limited Use Products in violation of this Section, Forescout reserves the right to charge Customer applicable fees as provided in Section 15 (*Audit*) below.

**4. SERVICE PROVIDERS.** If Customer has arranged for a service provider (other than Forescout) to manage the Products on behalf of Customer ("Service Provider"), Customer may sublicense the Products to the Service Provider only for the purposes contemplated by this Agreement, provided that Service Provider complies with the terms and conditions hereof and Customer shall be responsible for such compliance.

**5. THIRD PARTY VENDOR PRODUCTS AND APPLICATIONS.** Customer acknowledges that it may be able to use the Products to interoperate with products and applications developed and sold independently by third party vendors. Forescout does not warrant, and this Agreement does not cover, any third party vendor products or applications, even if they are designated by Forescout as "certified," "approved," "recommended" or are otherwise provided by a third party that is a member of a Forescout partner program. Any purchase or use by Customer of any third party vendor product is solely between Customer and such vendor, and Customer agrees that Forescout has no liability or obligation to Customer for those products or applications, the results or use thereof, or the effect that the use thereof has on the operation of the Products.

**6. INTELLECTUAL PROPERTY OWNERSHIP.**

**6.1. Customer Material.** Customer shall retain all rights, title and interest in any and all Customer products, data, plans, specifications, reports, designs, network architecture, documentation and other similar information, or any derivatives thereof, developed, used or disclosed by Customer in its receipt of Professional Services under this Agreement and any applicable SOW (collectively "Customer Materials"). Except as explicitly set forth herein, no rights, title and interest in any Customer Materials are transferred to Forescout.

**6.2. Forescout Material.** Forescout shall retain all rights, title and interest in all Products, updates, data, plans, processes, methods, specifications, reports, designs, templates, scripts, code, technological "know how," technology, documentation and other similar information, and any derivatives thereof, developed, used or disclosed by Forescout (or a third party service provider acting on Forescout's behalf) in the performance of this Agreement including, without limitation, the provision of Professional Services and any applicable SOW as contemplated hereunder (collectively "Forescout Materials"). All Software updates and other changes, improvements, Fixes or other modifications to the Software provided under ActiveCare shall be deemed "Software" for purposes of this Agreement. Except as explicitly set forth herein, no rights, title or interest in any Forescout Materials is transferred to Customer under this Agreement.

**6.3. Work Product.** To the extent Forescout Materials are incorporated into the Professional Services or deliverables provided under this Agreement (collectively, "Work Product"), such Work Product is provided to Customer in a non-transferable, non-exclusive, world-wide and royalty free license to use the Work Product solely for Customer's internal business purposes upon payment in full of all fees and expenses due to Forescout for the applicable Professional Services and deliverables and subject to the Product license use restrictions, provided that (i) Customer may modify and enhance deliverables consisting of scripts and code solely for its own internal business purposes, and (ii) Customer will own the portion of the deliverables delivered to

Customer in tangible form consisting of written reports, analyses, architecture diagrams, projects plans and similar working documents. Customer agrees not to reverse engineer any software included in the WorkProduct.

**6.4. Feedback.** In the course of the Parties' performance of their obligations under this Agreement each Party may provide to the other Party comments, suggestions or other feedback on Forescout Materials or Customer Materials, as applicable (collectively, "Feedback"). Such Feedback is provided on an "as is" basis with no warranties of any kind and the receiving Party will have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use, modify, and distribute such Feedback in any manner without compensation, or attribution of any kind, to the providing Party.

**6.5. Reservation of Rights.** Each Party reserves all intellectual property rights not expressly granted to the other Party under this Agreement. Customer acknowledges and agrees that, subject to its confidentiality obligations in Section 10 (*Confidentiality*), Forescout is not restricted from developing, implementing, marketing or selling Products, ActiveCare or Professional Services or deliverables for other customers or projects that are similar to the Products, ActiveCare, Professional Services or deliverables provided under this Agreement.

**7. LIMITED WARRANTIES.**

**7.1. Software Warranty.** Forescout warrants to Customer that for a period of ninety (90) days from the date the Product is shipped or for a virtual Product, the date on which it is first made available electronically the Software will perform substantially in accordance with the accompanying Documentation, provided that such Software is used by Customer in accordance with such Documentation and this Agreement. Forescout further represents and warrants that as of the date a Product is shipped or for a virtual Product, the date on which it is first made available electronically, the Software will not contain any viruses, software traps, worms, trap doors, back doors, Trojan horses, or other similar malicious, disruptive or corrupting program code, programming instruction, or software, or similar items. This warranty shall not apply if the failure of the Software is attributed to Customer's failure to apply any updates, upgrades, or any other action or instruction recommended in writing by Forescout.

**7.2. Hardware Warranty.** Forescout warrants to Customer that for a period of ninety (90) days from the date of the Product is shipped, the Hardware (i) will be free from material defects in materials and workmanship and (ii) will perform in material conformity with the functions described in the accompanying Documentation, provided that such Hardware is used by Customer in accordance with such Documentation and this Agreement. Forescout further warrants that Customer will receive good and clear title to the Hardware, free and clear of all liens and encumbrances (excluding any Software licensed to Customer pursuant to Section 2 (*Grant of License; Reservation of Rights*) above).

**7.3. Professional Service Warranties.** Forescout represents and warrants that the Professional Services provided hereunder shall be provided in a professional and workmanlike manner.

**7.4. ActiveCare Warranty.** Forescout represents and warrants that it will provide the ActiveCare services in a professional and workmanlike manner.

**7.5. Warranty Remedies.** Forescout's sole and exclusive obligation and Customer's sole and exclusive remedy under the limited warranties provided in this Section 7 shall be as follows, (i) with respect to Sections 7.1 and 7.2, at Forescout's election, either: (a) replace the Hardware, or (b) use commercially reasonable efforts to make the Software perform substantially in accordance with the accompanying Documentation; and (ii) with respect to Sections 7.3 and 7.4, Forescout shall re-perform the applicable Professional Services within a reasonable time.

The above remedies are available only if Customer promptly notifies Forescout in writing within the applicable warranty period, or with regard to ActiveCare and Professional Services, within thirty (30) days following the date of completion of the applicable ActiveCare and Professional Services. If Customer discovers within the applicable warranty period of Sections 7.1 or 7.2 that the Hardware or the Software fails to substantially conform to the Documentation, Customer must promptly notify Forescout in writing and obtain a Return Material Authorization ("RMA") and an RMA number from Forescout prior to returning the Hardware or Software. Shipping costs for RMAs will be covered by Forescout. Any replacement Hardware or Software will

be warranted for the remainder of the original warranty period, or for ninety (90) days, whichever is longer.

**7.6. Warranty Exclusions.** The warranties set forth in this Section 7 are void if failure of the Products is a result of (i) Customer exceeding the licensed Endpoint Count (ii) any alteration or modifications to the Products, except by Forescout or a third party acting on Forescout's behalf; (iii) installation, operation, repair, or maintenance of the Products not in accordance with the Documentation; and (iv) abnormal physical or electrical or abnormal environmental conditions, accident, abuse, or misuse. In addition, the warranties are void if Customer is using the Products for beta, evaluation or demonstration purposes for which separate terms and conditions apply.

**7.7. Exclusive Warranties.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE WARRANTIES STATED ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, LOSS OF USE, LOST DATA OR QUALITY OF SERVICE. NO WARRANTIES SHALL ARISE UNDER THIS AGREEMENT FROM COURSE OF DEALING OR USAGE OF TRADE. Forescout does not warrant that Customer's use of the Hardware or the Software will be uninterrupted or error-free. Customer agrees that Customer has not relied on the future availability of any products or services in entering into this Agreement. Any ActiveCare services and/or Professional Services provided by Forescout to Customer represent a services arrangement and not a product warranty.

**7.8. No Returns, Exchanges, Refunds or Credits.** Except for returns permitted in accordance with Section 7.5 (*Warranty Remedies*), Forescout shall not accept any returns or exchanges of Products once the Products have been shipped or, for a virtual product, made available electronically. Further, other than as explicitly set forth herein, Forescout shall have no obligation to provide Customer any refund or credit with regard to an Order.

## 8. INDEMNITY.

**8.1. Indemnification.** Forescout agrees to, and shall, indemnify, defend to the extent permitted by 28 U.S.C. § 516 and hold Customer harmless from the associated costs and fees (including reasonable attorneys' fees and expenses) finally awarded by a court of competent jurisdiction or agreed to in settlement or compromise, to the extent that such fees and costs arise from a third party claim, proceeding or suit alleging that the Software provided to Customer pursuant to this Agreement infringes a third party patent, copyright or trade secret that is protected under the applicable jurisdiction in which the Products are being used (a "*Claim*").

**8.2. IP Indemnification.** Forescout agrees to, and shall, indemnify, defend and hold Customer harmless from the associated costs and fees (including reasonable attorneys' fees and expenses) finally awarded by a court of competent jurisdiction or agreed to in settlement or compromise, to the extent that such fees and costs arise from a third party claim, proceeding or suit alleging that the Software, Professional Services, or portion thereof, provided to Customer pursuant to this Agreement infringes a third party patent, copyright or trade secret that is protected under the applicable jurisdiction in which the Products are being used or where the Professional Services are performed, as applicable.

**8.3. Procedure.** Forescout's obligations hereunder shall be conditioned on Customer promptly notifying Forescout of any such Claim and permitting Forescout to intervene in the claim through counsel of Forescout's choosing expense, and to assume control over the defense and settlement of such Claim to the extent permitted by 28 USC 516; provided however, that: (i) Forescout shall keep Customer informed of, and consult with Customer in connection with the progress of such litigation or settlement; and (ii) Forescout shall not have any right, without Customer's written consent (which shall not be unreasonably withheld), to settle any such Claim if such settlement contains a stipulation to or admission or acknowledgment of any liability or wrongdoing (whether in contract, tort or otherwise) on Customer's part, or requires any specific performance or non-pecuniary remedy by Customer.

**8.4. Exceptions.** Notwithstanding the foregoing, Forescout will have no indemnification obligation to Customer under this Section 8 to the extent that any such Claim arises or results from (i) Customer's failure to use the Products, ActiveCare

services or Professional Services in conformance with the Documentation; (ii) the combination of the Products, ActiveCare services or Professional Services provided by Forescout under this Agreement with other products or services not provided by Forescout, to the extent that such Claim would not have resulted except for such combination; or (iii) the alteration or modification of the Products, ActiveCare services or Professional Services by or for Customer without Forescout's written consent, if such Claim would have been avoided in the absence of such alteration or modification. Furthermore, Forescout will have no indemnification obligations hereunder if the Claim could be avoided by Customer's use of alternative products or services provided or offered to Customer by Forescout at no additional cost that perform in a substantially similar fashion as the Product, ActiveCare services or Professional Services at issue.

**8.5. IP Remedies.** Should Software or Professional Services provided under this Agreement become, or in Forescout's reasonable opinion be likely to become, the subject of an infringement Claim, Forescout may, at its sole discretion and expense, either: (i) procure for Customer the right to exercise its rights under this Agreement; or (ii) in the case of Software, replace or modify the Software to make it non-infringing, provided that the same functions are performed by the replaced or modified Software, or, in the case of Professional Services, re-perform the Professional Services in a manner that is non-infringing, provided that Customer receives the material benefits of the Professional Services. If Forescout determines in its sole discretion that (i) or (ii) are not commercially reasonable, Forescout shall so notify Customer in writing and as applicable, terminate Customer's licenses to such affected Software or suspend or cancel the Professional Services under this Agreement. Upon Forescout's written notice of such termination, Customer shall return to Forescout all affected Software, or deliverables provided in connection with the affected Professional Services, in Customer's possession for a pro-rata refund of those fees paid by Customer to Forescout for (i) the affected Software calculated over a 36 month period on a straight line basis or (ii) the affected Professional Services calculated on a straight line basis over the duration of the Professional Services purchased.

**8.6. Entire Obligation.** Subject to Sections 8.3 and 8.4, Sections 8.1 and 8.2 state the entire liability of Forescout and Customer's exclusive remedy with respect to any Claim.

## 9. LIMITATION OF LIABILITY.

**9.1.** EXCEPT FOR FORESCOUT'S INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 8.2 (*IP INDEMNIFICATION*) OR A PARTY'S BREACH OF SECTION 10 (*CONFIDENTIALITY*), TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY, ITS LICENSORS, AFFILIATES, AGENTS, SUPPLIERS, DISTRIBUTORS AND RESELLERS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, LOST DATA OR LOSS OF USE, OR PROCUREMENT OF REPLACEMENT GOODS, HOWEVER INCURRED BY A PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**9.2.** EXCEPT FOR FORESCOUT'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8.2 (*IP INDEMNIFICATION*) OR A PARTY'S BREACH OF SECTION 10 (*CONFIDENTIALITY*), IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY FOR DIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL FEES PAID BY CUSTOMER DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE ACT OR OMISSION GIVING RISE TO THE CLAIM. This limitation of liability is cumulative and not per incident (i.e., the existence of two or more claims will not enlarge this limit).

**9.3.** The Parties acknowledge and agree that the disclaimers of warranty and the limitations of liability set forth herein reflect a reasonable allocation of risk between the Parties (including the risk that a contract remedy may fail of its essential purpose and result in consequential loss) and form an essential basis of the bargain between the Parties. THE LIMITATIONS OF THIS SECTION 9 SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE.

## 10. CONFIDENTIALITY.

**10.1. Confidential Information.** "Confidential Information" means any information which is disclosed by a Party (the "Discloser") in connection with this Agreement, directly or indirectly, in writing, orally or by drawings or inspection of equipment or

software, to the other Party (the "Recipient") or any of its employees or agents and that is designated or marked as "confidential" or "proprietary" at the time of disclosure or that, based on the circumstances surrounding the disclosure, the Recipient knows or reasonably should know is considered confidential. Confidential Information shall also include the Software and all documents provided with the Hardware that contain Forescout's confidential or trade secret information. The restrictions on disclosure set forth in this Section 10 shall not apply to Confidential Information which: (i) becomes publicly known without breach of this Agreement; or

(ii) the Recipient can show by written records was rightfully in its possession prior to the disclosure by the Discloser or becomes rightfully known to the Recipient without confidential or proprietary restriction from a source other than the Discloser; (iii) is approved for disclosure without restriction in a written document which is signed by a duly authorized officer of the Discloser, or (iv) is independently developed by the Recipient prior to the disclosure without reference to the Discloser's Confidential Information.

**10.2. Obligations.** Recipient may use the Discloser's Confidential Information solely for the purpose of exercising its rights and performing its obligations under this Agreement. Recipient agrees to take the same care with the Discloser's Confidential Information as it does with its own information of a similar nature, but in no event with less than a reasonable degree of care. Recipient shall limit access to the Confidential Information to those persons having a need to know such information, provided that each such employee and consultant is subject to a written agreement containing confidentiality obligations no less protective than those contained in this Agreement. Recipient may disclose Confidential Information: (i) insofar as disclosure is reasonably necessary to carry out and effectuate the terms of this Agreement; (ii) insofar as the Recipient is required by law or legal proceedings to disclose such information provided that the Recipient provides the Discloser with prompt written notice of such requirement to enable the Discloser to seek a protective order; (iii) insofar as disclosure is necessary to be made to the Recipient's independent accountants for tax or audit purposes; and (iv) insofar as the Parties may mutually agree in writing upon language to be contained in one or more press releases.

## 11. COMPLIANCE WITH LAWS.

**11.1. General.** Each Party will comply fully with all international and national laws and regulations that apply to the Products and to Customer's use thereof.

**11.2. Export Controls.** Customer represents that it is not a "Restricted Person," which shall be deemed to include any person or entity: (i) located in or a national of Cuba, Iran, Libya, North Korea, Sudan, Syria, or any other countries that may, from time to time, become subject to U.S. export controls for anti-terrorism reasons or with which U.S. persons are generally prohibited from engaging in financial transactions; or (ii) on any restricted person or entity list maintained by any U.S. governmental agency. Unless authorized by U.S. regulation or license, neither Party will, in connection with the activities contemplated by this Agreement, export or re-export, directly or indirectly, any Products, including without limitation, any technical data, computer software, or any product (or any part thereof), process, or service that is the direct product of any such technical data or computer software that has been received from the other Party in connection with the activities contemplated by this Agreement (hereinafter referred to collectively or individually, "Controlled Products") to any country (or nationals thereof) in Country Group E of the Export Administration Regulations of the United States ("EAR") or any other country subject to sanctions administered by the Office of Foreign Assets Controls (the then-current list can be found at <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx>). The Parties understand that countries other than the U.S. may restrict the import or use of strong encryption products or other items and may restrict such exports. The Parties agree to comply with any such import or other restrictions. Each Party represents and warrants that it is not currently debarred, suspended, or otherwise prohibited or restricted from exporting, re-exporting, receiving, purchasing, or otherwise obtaining any item, product, article, commodity, software or technology regulated by any agency of the U.S., and will immediately notify the other Party in the event that any of the foregoing occurs.

**12. DATA PROTECTION.** Unless necessary to use the Products, ActiveCare, or Professional Services, Customer agrees to not submit to Forescout: (i) any personally identifiable information; (ii) any protected health information regulated by the U.S.

Health Insurance Portability and Accountability Act ("HIPAA") or any similar federal, state, or local laws, rules, or regulations; or (iii) any information subject to regulation or protection under the Gramm-Leach-Bliley Act. Customer acknowledges that Forescout is not a Business Associate as defined by HIPAA and any submission to Forescout contrary to the foregoing statement is at Customer's own risk. Customer further acknowledges that Forescout is not acting as Customer's Business Associate or subcontractor as defined in HIPAA. Nonetheless, each Party will use commercially reasonable efforts to comply with applicable personal data protection and privacy laws where the Products are used.

## 13. INSURANCE.

**13.1.** During the term of the Agreement, Forescout agrees to maintain the following insurance coverage:

- (i) Commercial general liability insurance for a combined single limit of USD \$1,000,000 per occurrence and an aggregate limit of USD \$2,000,000 for bodily injury and property damage;
- (ii) Auto liability insurance for a combined single limit of USD \$1,000,000 for bodily injury and property damage for owned, non-owned and hired automobiles;
- (iii) Error & omissions liability insurance for a combined single limit of USD \$1,000,000 per claim and an aggregate limit of USD \$2,000,000;
- (iv) Statutory worker's compensation in accordance with applicable law; and
- (v) Employer's liability insurance with a maximum limit USD \$1,000,000.

**13.2.** Upon Customer's written request, Forescout will provide a certificate of Insurance evidencing the above policies with A.M. Best rated carriers with at least an A-VII rating.

## 14. SUPPORT AND PROFESSIONAL SERVICES.

**14.1. ActiveCare Support.** If Customer has separately ordered maintenance and support services through Forescout's ActiveCare program, the terms of such program are set forth at Exhibit A. Support is not included in the purchase price of the Products and must be purchased separately.

**14.2. Professional Services.** If purchased by Customer, Forescout will provide Customer certain Professional Services as described in a Statement of Work, referencing this Agreement ("SOW") between Customer and Forescout (or an authorized reseller) or in a Forescout datasheet ("Datasheet"), as applicable. Customer shall be invoiced for approved expenses incurred as a result of performing Professional Services in accordance with a SOW or Datasheet, as applicable. In the event that a SOW or Datasheet does not state that expenses are included in the Professional Services fees, then the GSA MAS Contractor shall invoice Customer for allowable expenses reasonably incurred in the performance of the Professional Services, provided that copies of valid receipts are submitted to Customer.

## 15. AUDIT AND DEPLOYMENT REPORT.

**15.1. Audit.** During the term of this Agreement, and for one (1) year following termination of this Agreement, Forescout (including its independent auditor) shall have the right to inspect and audit Customer's records and use of the Products to verify Customer's compliance with the terms of this Agreement, including without limitation, continuous monitoring of the number of Endpoints monitored by the Products in relation to the authorized Endpoint Count. In the event of an onsite audit, Forescout shall provide Customer with at least five (5) business days' prior written notice of such audit and shall conduct the audit during regular business hours in a manner so as not to unreasonably interfere with Customer's business. Customer shall provide Forescout reasonable assistance and access to relevant information in relation to the audit. To the extent an audit is performed remotely, Forescout shall adhere to Customer's authorization, access and enablement of policies. If an audit reveals a breach of this Agreement, (a) the GSA MAS Contractor shall invoice Customer the applicable fees (at Forescout's or the GSA MAS Contract's then-current rates, as applicable) attributed to such non-compliance, including, but not limited to, pro-rated fees for Unauthorized Use and ActiveCare with respect to such Unauthorized Use, plus interest at the rate of 1.5% per month, and (b) the GSA MAS Contractor shall invoice Customer for the reasonable costs incurred by Forescout to perform the audit.

**15.2. Deployment Report.** Within the thirty (30) day period prior to completing the first twelve (12) months of the Agreement's Initial Term, and annually thereafter,

Customer shall provide written notice to Forescout indicating the number of Software licenses put into production use and the total Endpoint Count in all of Customer's and its Affiliates environments (the "Deployment Report"). To the extent Customer has exceeded the Endpoint Count (or Estimated Endpoint Count), the GSA MAS Contractor shall invoice Customer for (i) the number of licensing units in excess of the Endpoint Count (or Estimated Endpoint Count) at the same rates as set forth in the most recent and applicable Order for Software unless otherwise agreed to by the Parties in writing, and (ii) pro-rated fees for ActiveCare for the Endpoints in excess of the Endpoint Count (or Estimated Endpoint Count) based upon the fees set forth in the most recent and applicable Order for ActiveCare (the "Endpoint Count True-Up"). In addition, Forescout shall have the right to inspect and audit Customer's records at the end of the Initial Term and any Renewal Term pursuant to this Section 18, as applicable, to verify Customer's compliance with the terms of this Agreement, the information contained in any Deployment Report(s) and any Endpoint Count True-Up.

**16. U.S. GOVERNMENT RESTRICTED RIGHTS.** This Section 19 applies only if Customer is an agency or other part of the U.S. Government ("Government End User"). Forescout licenses its Software and Documentation to users within the U.S. Government and any contractor thereof only under the terms of Forescout's standard federal licensing agreement for commercial end use. If Customer is a Government End User, Forescout hereby identifies the Software and Documentation, and, to the extent applicable, Customer will identify the Software and Documentation in all proposals and agreements with any Government End User or any contractor thereof, as follows: (i) For acquisition by or on behalf of civilian agencies, as necessary to obtain protection as "commercial computer software" and related documentation in accordance with the terms of the Party's standard software license agreement, as specified in 48 C.F.R. 12.212 of the Federal Acquisition Regulations ("FAR") and its successors; (ii) For acquisition by or on behalf of units of the U.S. Department of Defense, as necessary to obtain protection as "commercial computer software" and "commercial computer software documentation" in accordance with the terms of the Party's standard software license agreement, as specified in 48 C.F.R. 227.7202. To the extent applicable and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated, Customer may provide to a Government End User or, if Customer is a Government End User, such Government End User will acquire, the Software and Documentation with only those rights set forth in this Agreement.

## **17. TERM AND TERMINATION.**

**17.1. Term.** This Agreement (excluding any Orders or SOWs hereunder) is effective upon the Customer's award of an Order and will remain in full force and effect unless otherwise terminated in accordance with the termination provisions of Section 17.2 (Termination). The initial term of ActiveCare and/or any term-based License will commence on the effective date identified in an Order as applicable ("Initial Term") unless terminated earlier as set forth below.

**17.2. Termination.** Termination shall be governed by General Services Administration Acquisition Regulation 552.212-4(d) Disputes, GSAR 552.212-4(l) Termination for the Ordering Activity's Convenience, and GSAR 552.212-4(m) Termination for Cause. The GSA MAS Contractor and Forescout shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Customer's Contracting Officer.

**17.3. Effect of Termination.** Customer shall immediately cease using the Software, destroy the Software (and its accompanying Documentation) and Forescout Confidential Information or return the Software (and its accompanying Documentation) and Forescout Confidential Information to Forescout. Upon Forescout's request, Customer shall provide Forescout a certificate of destruction evidencing compliance with the foregoing.

**ActiveCare and/or Term Based License Reinstatement.** In no event shall Forescout be responsible for extending a term-based License or providing ActiveCare support for any Products if ActiveCare has been terminated pursuant to the terms of this Agreement. In order for Customer to resume lapsed ActiveCare as the result of termination, (i) Forescout must approve the Order, as determined in its sole discretion, and (ii) Customer must renew ActiveCare for a minimum of one (1) year term at the then-current GSA MAS Contract's ActiveCare rates. After Customer pays

the foregoing amounts in full, the effective date of the reinstated ActiveCare Term shall be the date following the termination date of the previous ActiveCare Term.

**17.4. Survival.** The following Sections shall survive any expiration or termination of this Agreement, in whole or in part, in accordance with their respective terms: 2 (Grant of License; Deployment Rights; Reservation of Rights), 3 (License Restrictions), 4 (Service Providers); 5 (Third Party Vendor Products and Applications), 6 (Intellectual Property Ownership), 8 (Indemnity), 9 (Limitation of Liability), 10 (Confidentiality), 11 (Compliance with Laws), 13 (Publicity), 16 (Audit and Deployment Report), 17 (U.S. Government Restricted Rights); 18 (Term and Termination), and 19 (General).

## **18. GENERAL.**

**18.1 Supplemental Terms.** From time to time, Forescout may offer Affiliate Products under this Agreement and as identified within the Forescout proposal or quote. The Affiliate Product Schedule is set forth in Exhibit B herein. The Affiliate Product Schedule applies to the Products described therein and sets forth different or supplemental terms related thereto including, without limitations applicable licensing, support, and warranty terms. "Affiliate Products" means the hardware, software, maintenance and professional services offered by a Forescout Affiliate subject to the terms of this Agreement as supplemented by the Affiliate Product Schedule.

**18.2 Independent Contractors.** The relationship of Forescout and Customer is that of independent contractors. There is no relationship of agency, partnership, joint venture, employment or franchise between the Parties. Neither Party has the authority to bind the other or to incur any obligation on the other's behalf or to represent itself as the other's agent or in any way that might result in confusion as to the fact that the Parties are separate and distinct entities.

**18.3 Governing Law.** This Agreement will be governed and construed under the federal laws of the United States.

**18.4 Notices.** All notices under this Agreement are required to be sent either via electronic delivery or by commercial overnight courier with written verification of delivery. All notices so given will be deemed received upon the date of receipt if by electronic delivery or two (2) days after dispatch for courier deliveries. If to Partner, all notices shall be sent to the address indicated in the most recent Order. If to Forescout, all notices shall be sent to [generalcounsel@forescout.com](mailto:generalcounsel@forescout.com) or to 190 West Tasman Drive, San Jose, CA 95134, USA; Attention: General Counsel.

**18.5 Severability.** If any provision of this Agreement is held invalid by the final determination of any court or other tribunal of competent jurisdiction, such provision shall be reformed only to the extent necessary to make it enforceable, and shall not affect the enforceability of (i) such provision under other circumstances or jurisdictions, or (ii) any other provision under all circumstances or jurisdictions. The invalid or unenforceable provision will be construed by such judicial body so as to be enforceable to the maximum extent compatible with applicable law.

**18.6 Headings; Language.** The headings used in this Agreement are for ease of reference only and will not be used to interpret any aspect of this Agreement. Regardless of any language into which this Agreement may be translated, the official, controlling and governing version of this Agreement shall be exclusively the English language version.

**18.7 Assignment.** Neither party may assign or transfer this Agreement, nor any rights or obligations under this Agreement without the prior written consent of the other party. Any attempted assignment in violation of the foregoing shall be void and of no effect. However, notwithstanding the foregoing, either party may assign this Agreement with approval in accordance with FAR 42.12, FAR 52.212-4(b) and GSAR 552.212-4(w)(1)(xi). This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the parties.

**18.8 Counterparts.** If applicable, this Agreement may be executed in two (2) counterparts, both of which taken together shall constitute one (1) single agreement between the parties. The parties may execute this Agreement by electronic signature which shall be deemed an original signature for all purposes. The parties agree that a version of this Agreement transmitted by means of electronic message or electronic record (electronic mail, electronic data interchange), once duly signed by the authorized representatives of each party, shall constitute a binding agreement and shall have the same force and effect as a document bearing the original signatures.

**18.9 Order of Precedence.** In the event of a conflict between this EULA, the terms

and conditions of the GSA Multiple Award Schedule Contract, and any Order, the conflict shall be resolved in accordance with GSAR 552.212-4(s) Order of Precedence.

**19.10 Entire Agreement.** This Agreement constitutes the entire agreement between the GSA MAS Contractor acting on behalf of ForeScout and Customer with respect to the subject matter hereof, and supersedes all prior agreements, understandings and negotiations, both written and oral, between the Parties with respect to such subject matter. No waiver, amendment or modification of any

provision of this Agreement shall be enforceable against the Parties unless it is in writing and signed by the GSA MAS Contractor and the GSA Contracting Officer. Except for the exclusive remedies specified herein, each Party will have all rights and remedies available to it at law or in equity for the protection of its rights hereunder, including an injunction enjoining the breach or threatened breach of this Agreement. This Agreement is not governed by the United Nations Convention of Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act, the application of each of which is hereby expressly excluded.

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**EXHIBIT A**  
**ACTIVECARE™**  
**TECHNICAL SUPPORT AND ESCALATION PROCESS**

**FORESCOUT SUPPORT IS AVAILABLE:**

- Via the Support Portal: <https://support.forescout.com/>
- By phone: 1-866-377-8773 (U.S.) or +1-708-237-6591 (International)
- By email: [support@forescout.com](mailto:support@forescout.com)

**RESPONSE TIMES ARE AS FOLLOWS:**

SEVERITY OF ISSUE	DEFINITION	RESPONSE TIMES	
		ActiveCare Basic	ActiveCare Advanced
<b>Sev 1 Critical</b>	<b>Product functionality severely impacted.</b> One or more production CounterACT® appliances are in a down state. CounterAct appliance is completely inaccessible and, as a result, Customer is unable to manage mission critical elements of its infrastructure.	<b>&lt;1 Hour</b> 8am – 5pm local time	<b>&lt;1 Hour</b> 24 x 7 x 365
<b>Sev 2 High</b>	<b>Product functionality is impacted.</b> Major functionality of the CounterAct appliance is running in a diminished state that does not result in an outage, or a circumstance, in Forescout’s sole reasonable discretion, if not corrected, could result in an outage impacting Customer.	<b>&lt;3 Hours</b> 8am – 5pm local time	<b>&lt;3 Hours</b> 24 x 7 x 365
<b>Sev 3 Medium</b>	<b>Product functionality is impeded, but functioning.</b> An important function, in the CounterAct appliance is experiencing an intermittent problem or a non-essential operation is failing consistently, however the appliance remains operable with little or no impact to functionality.	<b>&lt;8 Hours</b> 8am – 5pm local time	<b>&lt;8 Hours</b> 24 x 7 x 365
<b>Sev 4 Low</b>	<b>Product functionality is not affected, but symptoms exist.</b> Nominal impact request. For example, a request to install software, assistance with configurations, feature requests, and other non-critical questions.	Next Business Day	Next Business Day

**SUPPORT PROCESS:**

- Once a ticket is generated for an Error, the Technical Support Engineer (“TSE”) will update Customer as needed, per severity level, or as agreed until the ticket is closed.
- When a WebEx or equivalent troubleshooting session is held between Forescout and Customer, verbal communication is supplemented by a “chat box” where the dialog that is taking place is typed by the speaking party into the chat box. This is required to minimize any verbal language barriers.
- Once a ticket is entered for an Error, a severity level is assigned by the TSE in consultation with Customer. If Customer and the TSE cannot agree on the severity level, then Customer may immediately escalate the issue to Forescout Support management and, if necessary, to the VP of Customer Care.

**FORESCOUT SUPPORT MANAGEMENT VISIBILITY:**

- Severity 1 Issues are immediately reported to the Manager of Customer Support, Director of Support, and the VP of Customer Care.
- Severity 2 Issues are promptly reported to the Manager of Customer Support.
- Severity 3 and Severity 4 Issues that do not meet the applicable response times are promptly reported to the Manager of Customer Support.
- Support Issues that are escalated to Engineering are also reported to the Manager of Customer Support, Director of Support, VP of Customer Care, and VP of Sustaining Engineering.

**DEFECT FIXES AND FEATURE REQUESTS:**

- Forescout will make commercially reasonable efforts to resolve Support Issues in accordance with this Support Policy. Customer acknowledges that the timeline for resolution depends on the Severity level, Error complexity, availability of a workaround, and the availability of the information and systems required to determine the cause of the issue.
- Feature requests can be submitted to Forescout Support or the Forescout Sales Team. Forescout will evaluate such requests based on Forescout’s business needs.

**ACTIVECARE MAINTENANCE AND SUPPORT POLICY:**

**1. DEFINITIONS.**

Capitalized terms used in the ActiveCare Maintenance and Support Policy (the "Policy") and not otherwise defined shall have the meanings given them in the applicable ForeScout End User License Agreement.

"ActiveCare" means ForeScout's support and maintenance services as described herein that are either ActiveCare Basic or ActiveCare Advanced.

"Defective Product" means any Product, as determined by ForeScout, whereby a characteristic of the Product hinders its usability for the purpose for which it was designed and manufactured.

"Issue" means any of the four (4) severity level issues in the table above.

"Fix" means the repair or replacement of Product(s), including the Hardware, or the repair or replacement of the object or executable code of the Software, to remedy an Issue.

"Premier Hours" means twenty-four (24) hours a day, seven (7) days a week, and three hundred and sixty-five (365) days a year during the Term.

"Regular Hours" means 8:00AM to 5:00PM in Customer's local time zone during the Term. If the Products are in multiple locations with different time zones, Customer shall designate the controlling time zone for determining Regular Hours.

"Service Packs" means a single installable package of minor updates, fixes and enhancements for the CounterACT® software.

"ActiveCare Term" means the duration of the initial ActiveCare term, as specified in the ActiveCare Certificate provided by ForeScout to Customer, and any renewal ActiveCare terms of the applicable ActiveCare services.

"Workaround" means a change in the procedures or instructions provided by ForeScout to Customer in writing to avoid an Issue without substantially impairing Customer's use of the Products.

## **2. SCOPE OF ACTIVECARE.**

**2.1.** ForeScout will provide ongoing maintenance and support services for Products as detailed below and address any Issue in accordance with the Escalation Policy, above. In order to ensure consistent administration of support across its operations, Customer must elect either (i) ActiveCare Basic, or (ii) ActiveCare Advanced for all of its Products, whether existing or newly acquired. Any modification or amendment necessary to harmonize Customer's ActiveCare service level across all of Customer's Products shall be evidenced in writing and executed by an authorized representative for both parties. The GSA MAS Contractor will invoice Customer for any additional ActiveCare fees to increase the ActiveCare service level for its Products. For purposes of clarity, Customer may not simultaneously receive ActiveCare Basic for certain Products and ActiveCare Advanced for other Products. All services provided under ActiveCare shall be conducted in the English language. ForeScout shall use commercially reasonable efforts to provide the services set forth in this Section 2 during Regular Hours for ActiveCare Basic or Premier Hours for ActiveCare Advanced, as applicable.

## **3. FORESCOUT SUPPORT.**

**3.1.** Customer may contact ForeScout's support team ("ForeScout Support") through a list of persons designated by Customer in writing ("Authorized Contact Persons"). If Customer needs to add additional names to its Authorized Contact Persons list, Customer must notify ForeScout in advance, and the parties shall mutually determine an arrangement. Such Authorized Contact Persons must have adequate technical expertise or otherwise be trained in administering or managing the Products to assist ForeScout Support in troubleshooting Issues. All inquiries to ForeScout Support must be made by an Authorized Contact Person and ForeScout will have no obligation to accept calls directly from, or otherwise interact directly with personnel other than an Authorized Contact Person.

**3.2.** For ActiveCare Basic, ForeScout Support will respond to Customer during Regular Hours within the Severity Level Response Times. For ActiveCare Advanced, ForeScout Support will respond within the Severity Level Response Times. Severity Level Response Times and contact methods are provided above.

### **3.3. Software Updates.**

(i) Customer shall receive software releases or updates that ForeScout, in its discretion, makes generally available without additional charge.

(ii) In the event that Customer's ActiveCare Term has expired or is otherwise no longer valid, and Customer downloads and uses Modules, Service Packs, or other Software releases or updates that ForeScout makes generally available under ActiveCare, the GSA MAS Contractor will invoice Customer the then-current authorized Schedule Contract price for one (1) year of ActiveCare fees.

### **3.4. Advanced Hardware Replacement.**

(i) ForeScout will provide Hardware replacement for a Defective Product in advance of Customer's return of the defective Product, provided that Customer immediately notifies ForeScout in writing of such defect and requests a Return Material Authorization ("RMA"). If ForeScout Operations approves the return request and issues the RMA, (a) for shipments to U.S. locations under ActiveCare Basic, ForeScout will deliver the replacement Hardware within five (5) business days from ForeScout Operation's issuance of the RMA; (b) for shipments to U.S. locations under ActiveCare Advanced, ForeScout will deliver the replacement Hardware within two (2) business days from ForeScout Operation's issuance of the RMA. In order to ensure the foregoing delivery times, ForeScout Operations must have issued the RMA to Customer by 12pm PT. ForeScout does not guarantee delivery times for shipments outside the U.S. as transportation issues, alternative routing, and customs clearance may delay delivery.

(ii) Customer shall repack the defective Hardware in a ForeScout carton (provided with the advance replacement unit) to protect it from damage while in transit. Customer shall ship the defective Hardware to ForeScout, with the RMA number clearly displayed on the exterior of the package.

(iii) If, after attempting to repair the Hardware, ForeScout finds no Issue in the Hardware, the GSA MAS Contractor, acting on behalf of ForeScout, reserves the right to invoice Customer a reasonable replacement charge.

(iv) If Forescout does not receive the defective Hardware incorporating all original components delivered by Forescout, including, without limitation, hard drives, power supply and small form factor pluggable (SFPs), within thirty (30) days of Forescout's issuance of the RMA, the GSA MAS Contractor, acting on behalf of Forescout, may invoice Customer a replacement fee equal to the then-current list price of the applicable Product or components.

#### **4. SUPPORT ISSUE SEVERITY LEVELS.**

**4.1.** Forescout will exercise commercially reasonable efforts to correct any Issue reported to Forescout by Customer in the Products. Upon Forescout's receipt of notice of an Issue, Forescout will assign the Issue one of the severity levels and may escalate the Issues in accordance with the Escalation Policy, above.

**4.2.** Customer is responsible for providing sufficient information and data as reasonably requested to allow Forescout to correct the Issue. Customer acknowledges that Forescout will not be responsible for any loss or damages resulting from a failure by Customer to provide such information or data, or otherwise assist Forescout as and when reasonably requested. If Forescout believes that any Issue reported by Customer is not an Issue caused by the Products, Forescout will so notify Customer and will not be under any further obligation whatsoever to remedy the Issue.

**4.3.** If Forescout fixes an Issue in the most current Software release, then Forescout shall have no obligation to fix the same Issue in any prior Software release. Customer acknowledges that it will need to upgrade to the current Software release in order to obtain the benefit of such Fix.

#### **5. CUSTOMER RESPONSIBILITIES.**

**5.1.** Customer agrees to: (i) ensure that its environment complies with all applicable Forescout published system specifications; (ii) follow Forescout's procedures, including those specified herein, when contacting Forescout Support; (iii) provide Forescout reasonable access to all necessary information, systems, and personnel to resolve Issues; (iv) promptly implement all Software updates and Fixes provided by Forescout under this Agreement; (v) update Software to its supported versions; and (vi) use reasonable efforts to internally resolve any support questions prior to contacting Forescout Support.

**5.2.** During the ActiveCare Term, Forescout may collect information regarding Customer's support inquiries and communications. Customer agrees that, as a condition to entering into this Agreement and Forescout's commitment to providing ActiveCare, Forescout may use such information to generate aggregate data so long as the source or content of the communications are not disclosed.

**5.3.** If Customer moves or re-locates Hardware to a location in a country that is different from the country of its previous or original location, Customer must promptly notify Forescout in writing or by emailing Forescout at [HWTransfer@forescout.com](mailto:HWTransfer@forescout.com) and include the following minimum information: (i) the customer name, (ii) the appliance serial number, and (iii) the address and country of the appliance's new location.

**5.4.** Customer acknowledges and agrees that failure to provide the notice may diminish Forescout's ability to provide ActiveCare under this Agreement, including meeting any timescales specified herein.

#### **6. EXCLUSIONS.**

Forescout shall have no obligation to support the Products in the following events: (i) Product(s) is altered or damaged by acts not attributed to Forescout; (ii) the installation of or use of the Products (or any portion thereof) with other hardware or software not provided by Forescout; (iii) the Software is not supported in accordance with Forescout's End of Life Policy; (iv) any errors caused by Customer's negligence, abuse, misapplication, or use contrary to the written instructions specified by Forescout or as expressly specified in the applicable Documentation; (v) any errors caused by circumstances that are beyond Forescout's reasonable control; (vi) any issues related to unauthorized access or any security breach to Customer's network; (vii) the Hardware is no longer supported by Forescout in accordance with Forescout's then-current End of Life Policy; (viii) Customer is not current on its ActiveCare payments; (ix) Customer has exceeded the applicable Endpoint Count; (x) Customer's failure to implement all updates to the Software made available under this Agreement; (xi) any Issue that is not reproducible by Forescout; or (xii) any issues with the Products caused by a third party service provider. In addition, Forescout shall have no obligation to support any third party software or hardware, whether or not such third party software or hardware is provided by Forescout.

## EXHIBIT B

FORESCOUT TECHNOLOGIES, INC.  
AFFILIATE PRODUCT SCHEDULE FOR  
SILENTDEFENSE

This Affiliate Product Schedule for SilentDefense (“Product Schedule”), is incorporated by reference into the Forescout End User License Agreement (the “EULA” or “Agreement”) between the Customer and the GSA MAS Contractor acting on behalf of Forescout. Terms not defined herein are defined in the Agreement. This Product Schedule applies only if the Order includes SilentDefense, and if the Products, Maintenance and Professional Services purchases are specifically intended for use of and with SilentDefense. In the event of a conflict as between this Product Schedule and the Agreement, the term of the Product Schedule shall govern.

**1. Definitions**

“Command Center License” means an individual license key associated with a single physical or virtual machine installed with an operating system and the SilentDefense Command Center for purposes of managing the number of SilentDefense sensors set forth within the Documentation specifications or the Forescout proposal or quote.

“Individual Sensor License” means an individual license key associated with a single physical or virtual machine installed with an operating system and the SilentDefense sensor software component limited by the throughput capacity per sensor and/or a different licensing restriction identified within the Documentation specifications or the Forescout proposal or quote.

“Sensor Site License” means a SilentDefense sensor license associated with a specified individual location, and which may not be used at any other locations. Each Sensor Site License allows for the installation of an unlimited number of sensors across the associated site but limited by the throughput capacity per sensor and/or a different licensing restriction as identified within the Documentation specifications or the Forescout proposal or quote.

“SilentDefense” means Software that provides a nonintrusive network monitoring and situational awareness platform for in-depth visibility and cyber resilience for industrial control systems (ICS) and SCADA networks.

“SilentDefense Products” means the Software purchased by Customer associated with an Individual Sensor License, Command Center License or Sensor Site License.

**2. License**

The term “Software” in the Agreement includes “SilentDefense.” Forescout hereby grants Customer the rights to use SilentDefense limited to the SilentDefense Products purchased by Customer under the terms of the Agreement and limited by the terms of the Order and this Product Schedule. In

addition to the restrictions set forth in the Agreement, Customer shall not, without Forescout’s prior written consent (i) install, access or use SilentDefense on hardware and/or an operating system other than the hardware and operating system for which the Software was originally licensed to Customer and other than provided by, or certified by, Forescout, or (ii) remove or relocate the Software to another location than the location where Forescout has given its consent. For the avoidance of doubt, a SilentDefense license shall not be licensed based upon, or subject to, an Endpoint Count.

**3. Maintenance.** ActiveCare does not apply to SilentDefense. Forescout’s obligation to provide maintenance for SilentDefense will be set forth in the Order and in accordance with the Technical Support Policy set forth at Exhibit C (“Technical Support Policy”). Forescout is not obliged to provide Maintenance under the Technical Support Policy with regards to a version of the Software that is not supported according to the Technical Support Policy. “Maintenance” means service Levels 1, 2 and 3, which may include Updates and Upgrades of SilentDefense, offered during Forescout’s normal business hours as described in the Technical Support Policy. “Update” means a bug fix, update, patch, module replacement or improved version of the whole or any part of SilentDefense, provided as part of the Maintenance. “Upgrade” means a new version of SilentDefense consisting of a major release to be implemented on the hardware as a result of a hardware update or change.

**4. Hardware Warranty**

**4.1 Pass-through Warranties and Rights.** If Customer purchases any hardware from Forescout as set forth in the Order, Customer understands that Forescout is facilitating the sale of such hardware between the manufacturer or vendor of the hardware (“Manufacturer”) and Customer, and Forescout is not a contractual party to the transaction. Forescout, as its sole obligation to Customer, shall pass through or assign to Customer the rights Forescout obtains from the Manufacturer of such hardware, including warranty, representations, covenants and indemnification rights, all to the extent that such rights are assignable. Customer agrees to coordinate any hardware returns due to a breach of warranty directly with the Manufacturer.

**4.2 Professional Services.** Customer acknowledges and agrees that Professional Services are sold separately from the Product. If Customer purchases Professional Services from Forescout, Customer hereby grants Forescout access to the Product for the purposes of allowing Forescout to perform the services stated in the SOW or Datasheet.

## EXHIBIT C

## SecurityMatters Technical Support Policy

In November 2018, Forescout acquired SecurityMatters. References to SecurityMatters below will mean Forescout.

## 1 Software releases

In general, SecurityMatters releases updates and upgrades in accordance with its published release cycle. A new version includes improvements and new functionalities. It may also include updates such as patches or security patches. New product versions and updates are distributed via the SecurityMatters Portal. These can be installed with remote assistance or, if agreed with reseller, on-site assistance of the support team (see Appendix Support Systems and Documentation).

## 2 Technical Support Levels

The product technical support follows a multi-level support model of three levels:

1. Level 1 handles the majority of basic questions.
2. Level 2 supports customer during deployment and maintenance activities, such as installations and upgrades, and can troubleshoot product misbehaviors.
3. Level 3 is a specialized group of subject matter experts that perform complex event analysis on misbehaviors of the product able to provide quick workaround and hot fixes if necessary.

The support levels are described in more detail below.

Additional support levels and procedures can be agreed in writing as part of a service level agreement to suit customer requirements.

### 2.1 SecurityMatters Support Services

#### 2.2 Level 1

The goal of Level 1 support is to assist with common issues and answer general questions related to the Software. The Level 1 support team shall be available via email during service hours or as agreed otherwise with the customer.

Level 1 support representatives shall have a general and broad understanding of the product. Level 1 support staff are not required to understand the inner workings of the product or how to interpret the monitoring information.

Level 1 support representatives shall gather information from the customer to determine the customer's issue. The information could be installation type (e.g. physical, virtual, bundled), system components affected (e.g. Command Center), Error messages, log files, screenshots and possibility data (e.g. PCAP files), as well as, the action the customer tried to achieve or the steps that were taken. Once the issue has been identified, the support representative shall examine the possible solutions available. Solutions can be found in the Documentation and the SecurityMatters Knowledge Base. The Knowledge Base provides answers to reoccurring questions and issues. Some issues may be straightforward to solve, while others may require more interaction with the customer.

If no solution can be found, the Level 1 support representatives shall escalate the issue to Level 2 support representatives. Before escalating, Level 1 representatives must have gathered all relevant deployment information and they shall document the (unsuccessful) steps taken as well as what has already been accomplished.

Examples of potential problems addressed by Level 1:

- User got locked out of the SilentDefense Command Center
- User cannot find how to change the time zone settings
- Questions regarding the deployment of a virtual machine of SilentDefense (e.g. common problems when deploying on different hypervisors)
- Questions about which protocols are recognized or parsed
- Questions about how to configure widgets/syslog forwarding/LDAP integration/etc.

#### 2.2.1. Level 2

Level 2 support tackles more complex issues that may not always have a straightforward, documented solution available. Level 2 support representatives shall be

able to actively troubleshoot the product with customer.

When an issue is escalated to Level 2 support, a Level 2 support specialist shall first study the actions taken at Level 1 support. If the cause of the customer's issue is unclear, the Level 2 support specialist shall start the troubleshooting process, by running tests, diagnostics and considering the monitored environment to understand the problem. When a documented solution is available, the Level 2 support representative shall offer the solution to the customer and may guide the customer through the process (for example, via remote web conference with screen sharing and take-control functions). The Level 2 specialist shall use best efforts to come up with a solution or workaround.. If the issue is an open Error, the support specialist shall report it to a Level 3 expert.

Examples of potential problems addressed by Level 2:

- Verifying a system Error
- Give suggestions on sensor placement points
- Diagnosis of hardware issues
- Basic suggestions on profile tuning
- Assistance during event analysis
- Support during installations and upgrades

### 2.2.2. Level 3

Level 3 support concerns in-depth troubleshooting related to errors and product mishbehaviors. Errors are also analyzed by Level 3 support to determine the impact and urgency.

Examples of potential problems addressed by Level 3 support:

- A software Error that needs to be fixed
- Customer finds strange network behavior and asks for analysis. This could involve PCAP analysis and Software event analysis

Outcomes of the Level 3 support are workaround instructions and procedure or hot fixes.

## 3 Support Terms

### 3.1 Fixing of Errors

After receipt of a request for Level 2 or 3 support, SecurityMatters shall do the best of its ability attempt to fix any Errors in the Software and/or make corrections in any later Updates or releases of the product in accordance with and subject to this Technical Support Policy and the terms of the main body of the Agreement.

### 3.2 Pre-requisites

Customer shall lend any reasonable cooperation required by SecurityMatters for the purpose of performing the support, including but not limited to (i) the temporary suspension of use of the Software if SecurityMatters deems this to be necessary and (ii) allowing SecurityMatters access to the customer's site(s) or (online) to the System, e.g. to test patches (see also the Appendix Support Systems and Documentation).

If customer fails to lend the cooperation requested, SecurityMatters may suspend or limit the support. If SecurityMatters is providing support on the basis of information to be provided by customer, this information shall be prepared in accordance with the conditions to be imposed by SecurityMatters and provided at the risk and expense of customer.

Customer guarantees that all materials, information, software, procedures and instructions that it and/or the customers make available to SecurityMatters for the purpose of providing SecurityMatters Support Services is accurate and complete and that all data carriers issued to SecurityMatters meet SecurityMatters' specifications.

### 3.3 Reinstatement of Support Services

If customer has not paid a Maintenance Fee for a Product in any year(s), SecurityMatters will perform the support services in any subsequent year only if Customer renews support for a minimum of a one (1) year term at the then-current GSA MAS Contract's applicable rate.

### 3.4 Service hours

Requests for support may be done anytime by means of electronic submission during Service Hours. Service Hours are from 9:00am – 3:00am (CET/CEST) on working days of SecurityMatters, according to the laws of the Netherlands, unless otherwise agreed upon.

### 3.5 Response times

SecurityMatters shall make every effort to ensure that the support is provided with due care and in accordance with this Technical Support Policy and any other arrangements and procedures agreed in writing with customer. SecurityMatters shall respond to a request of support as soon as possible, provided that SecurityMatters shall only respond on requests during Service Hours.

SecurityMatters shall be entitled to provide the Software with temporary solutions, or with software bypasses or problem-avoiding restrictions.

Priority	Meaning	Description	Response Time	Resolution time
Urgent	Blocking Error	Error has a far-reaching and immediate effect on the normal use of the product. No alternative solution with similar options and performance is available.	4 hours	2 calendar days
High	Misbehavior	Error has a significant effect on the normal use of the product. An alternative solution is available (with some limitations).	8 hours	5 calendar days
Normal	Misbehavior	Error has a limited effect on the normal use of the Software.	2 working days	15 calendar days
Low	Misbehavior	Error has no negative effect on the normal use of the Software.	3 working days	20 calendar days

Response Time is intended to be the elapsed time beginning when Customer creates a service request until SecurityMatters first responds during Service Hours. Resolution Time is intended to be the elapsed time beginning when a support request is submitted by Customer until when the issue is resolved.

### 3.6 End of life support

SecurityMatters shall never be obliged to provide support services to any version that customer obtained from SecurityMatters more than 2 (two) years ago. However security patches to mitigate or fix product vulnerabilities are distributed only for last version and the version before the last one.

### 3.7 Use of third parties

SecurityMatters is entitled to use third parties to fulfil its obligations, provided it remains solely responsible and liable towards the Customer for any breach of the agreements with customer committed by such third parties in accordance with the provisions of the agreements.

### 3.8 Exclusions

Support services shall not include the fixing of Errors arising from or related to:

- a) usage errors or the improper use of the product, including errors that occur during the data input process or in the data itself;
- b) changes to the product other than those carried out by or on behalf of SecurityMatters;
- c) use of the product contrary to the applicable conditions or contrary to the instructions in the Documentation;
- d) changes to or errors, defects or shortcomings in the hardware or Software that is not included within the scope of the SecurityMatters Support Services to be carried out by SecurityMatters pursuant to this Agreement;
- e) failure by Reseller or the customer to have SecurityMatters Support Services carried out on the Software in a timely manner;
- f) the use of an older version of the Software that is no longer maintained by SecurityMatters;
- g) the recovery of scrambled or lost data;
- h) other causes that are not attributable to SecurityMatters.

If SecurityMatters carries out any services in connection with the above mentioned provisions, SecurityMatters shall be entitled to invoice these services in accordance with its standard rates. This shall not affect the other fees payable by the customer in respect of support of the Software.

SecurityMatters shall under no circumstances be obliged to recover data that has been scrambled or lost as a result of breakdowns and/or any third party

services.

#### Appendix – Support systems & documentation

##### Email

The support teams of SecurityMatters can be reached with the dedicated email address [support@fore Scout.com](mailto:support@fore Scout.com) with usage questions, feedback and Error reports. The support team analyzes each request and opens a ticket in the internal ticketing system if necessary. In most cases the support team can directly respond with a solution or will offer a remote assistance call. For other cases, additional information, such as SilentDefense logs, screenshots or PCAPs may be requested.

##### Web portal

The SecurityMatters Portal is used to provide standard product documentation, software packages, product updates and security patches.

##### Remote access

By default, SecurityMatters has no remote access to the product. For the performance of the support, the support team may require temporary access to the Software or System. Remote access can be granted via a web conference tool, such as Webex or GoToMeeting. A web conference allows Reseller or the customer to watch and interact with the support team. For on-site assistance SecurityMatters requires networking access to the Systems. In some cases physical access may be required.