4950 SW 72nd Ave • Suite 119 • Miami, FL • 33155 • Tel. 786.259.0084 • Fax. 888.846.4116

SUPPORTNOW Software Defect Services Terms and Conditions

AGREEMENT DATE: August 16, 2024

This SupportNow Terms and Conditions (the "SupportNow Terms and Conditions") sets forth the terms and conditions applicable to the provision by Force 5 Inc. ("FORCE 5") of maintenance and support services for the FORCE 5 software products separately licensed to you by Force 5 (the "Software") and for which you have paid the applicable annual maintenance fee ("SupportNow Services"). Sections 6, 7, and 8 only apply only when SupportNow Services are purchased separately and not included as part of a purchase option such as a Subscription, Term Period, or included with a Force 5 Appliance. All software, documentation, and media provided to you under the terms and conditions of this SupportNow Terms and Conditions are also subject to the terms and conditions of the applicable FORCE 5 End User Software License Agreement and applicable order letter relating to the Software.

1. DEFINTIONS. When used in these SupportNow Term and Conditions, the underlined phrases in this Section shall have the following meanings:

a) Corrections. The term "Corrections" includes, but is not limited to, fixes, workarounds, component replacements, patches and/or documentation changes made generally available by FORCE 5 to its SupportNow customers.

b) Defects. The term "Defects" shall mean defects in the distribution media or material differences between the operation of the Software and the description of the operation of the Software as provided in the applicable end-user documentation.

c) Latest Release. The term "Latest Release" shall mean the most current release of the Software generally available at the time a support request is submitted by you.

d) Release or Update. The term "Release" or "Update" are terms that refer to a revision of software that contains defect corrections, minor enhancements or improvements of the software's functionality. This is usually designated by a change in the number to the right of the decimal point (e.g., from Release 5.3 to 5.4).

e) SupportNow Live. The term "SupportNow Live" shall mean FORCE 5's telephone support service providing access to SupportNow experts Monday through Friday, 9 AM EST to 5 PM EST, excluding holidays, and 24 hour emergency best effort callback coverage.

f) SupportNow Online. The term "SupportNow Online" refers to FORCE 5's global online service network which provides access to Knowledgebase, problem reporting, Corrections, tools and documentation.

g) Version or Upgrade. The term "Version" or "Upgrade" are terms that refer to a revision of software that contains new or improved functionality. This is usually designated by a change in the number to the left of the decimal point (e.g., from Version 5.4 to 6).

2. **WHAT YOU RECEIVE AS A FORCE 5 SUPPORTNOW SERVICES CUSTOMER:** You will receive the following: (i) SupportNow Live support for twelve (12) months from the date of your purchase or the initial term specified in an order letter or other document in written or electronic form provided by FORCE 5 or its authorized reseller (the "Initial Term"); (ii) Corrections for twelve (12) months from your date of purchase or the Initial Term, as applicable; (iii) online web support (including a subscription to SupportNow Online) for twelve (12) months from your date of purchase or the Initial Term, as applicable; (iv) Releases for twelve (12) months from your date of purchase or the Initial Term, as applicable; and (v) Versions for twelve (12) months from your date of purchase or the Initial Term, as applicable.

3. **REPORTED DEFECTS:** Our SupportNow staff will, with your assistance in providing sufficient information and the minimum length source code sufficient for FORCE 5 to reproduce the suspected Defect, investigate a suspected Defect in the Latest Release or immediately prior Release of the Software by attempting to reproduce it. If the Defect is confirmed, FORCE 5 will use commercially reasonable efforts to provide a Correction in a future Release. When provided under this SupportNow Terms and Conditions, such Correction will be provided without additional charge. FORCE 5 reserves the right to discontinue SupportNow Services without notice on a past Correction for any Software after you receive or are given access to a new Release or new Version (as applicable) of the Software containing that Correction.

4. **ADDITIONAL SERVICES AND CHARGES:** FORCE 5 reserves the right to charge for services which are not the result of Defects in the Software. FORCE 5 will notify you prior to commencement of work if the services requested constitute billable services and seek written authorization to proceed with the services. Examples of potentially billable services include:

   a) Debugging application coding errors in a customer's application; and
   b) Debugging problems in non-maintained Software, or in combinations of Software and non-supported products, where the problem occurs in the non-supported product.

   FORCE 5 may offer under separate agreements additional maintenance-related services, such as training and consulting. Such services can be performed at a mutually agreeable site and time. These services are normally charged on a time and materials basis plus expenses and are subject to availability.

5. **ITEMS NOT COVERED BY THESE SUPPORTNOW TERMS AND CONDITIONS:** The following are excluded from the SupportNow Services:

   a) Altered or modified Software unless altered or modified pursuant to these SupportNow Terms and Conditions;
   b) Any combination of the Software and other software not covered by these SupportNow Terms and Conditions;
   c) A Release or Version of the Software for which maintenance services have been discontinued by FORCE 5;
   d) A Release or Version that has been withdrawn by FORCE 5 from the market or is otherwise not generally available;
   e) Defects caused by your negligence or fault;

f) Defects resulting from hardware malfunction or malfunction of software not covered by these SupportNow Terms and Conditions;
g) Defects that do not significantly impair or affect the operation of the Software;
h) Software used on an unsupported computer or operating system;
i) Other software products sold separately by FORCE 5;
j) Options, extensions, Releases, Versions, Updates or Upgrades to the Software sold separately by FORCE 5, unless generally made available to SupportNow customers for the applicable Software at no additional charge; and
k) Charges associated with your accessing the internet.

6. **TERM AND TERMINATION:** These SupportNow Terms and Conditions will become effective and SupportNow Services provided hereunder will commence when FORCE 5 receives your order for SupportNow Services, and may be terminated by FORCE 5 in the event your payment of the applicable annual maintenance fee for such order is not received within forty five (45) days of the date of invoice. Unless terminated earlier in accordance with the terms of these SupportNow Terms and Conditions, the SupportNow Services provided hereunder will cease on the last day of the maintenance period which is twelve (12) months from the commencement of SupportNow Services under these SupportNow Terms and Conditions or the end of the Initial Term, as applicable. These SupportNow Terms and Conditions may be terminated at any time upon fifteen (15) days written notice by either party to the other party for any violation of any material terms and conditions of these SupportNow Terms and Conditions and failure to cure such violation.

7. **MAINTENANCE RENEWAL:** The first annual maintenance fee shall be paid in accordance with Item 6 above. Annual maintenance fees for new annual maintenance periods must be paid in advance on or prior to each anniversary of the commencement of SupportNow Services. Approximately forty-five (45) days prior to the termination of the then current annual support period, FORCE 5 will invoice you for the next year's renewal of the SupportNow Services. If you elect to renew the SupportNow Services, the annual maintenance fee due for the next maintenance period shall be, at the date of invoice, the amount paid for in the previous year, plus standard price increase if any, provided that the price increase will be no more than the previous 12 month CPI-U as published by the US Department of Labor or 3%, whichever is lower.

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FORCE 5 reserves the right to withdraw SupportNow Services on any or all Software, and to alter the prices, terms and conditions for the SupportNow Services in advance of any renewal of SupportNow Services. Any such withdrawal or alterations will amend these SupportNow Terms and Conditions between you and FORCE 5 as of such renewal date.

8. **MAINTENANCE RE-INSTATEMENT:** If you allow the SupportNow Services to expire, in order to reinstate SupportNow Services for a 12-month term for the applicable Software you must pay the following to FORCE 5:

a) if you are licensing the Latest Release of such Software, a fee equal to the then current annual maintenance fee for the applicable copy of the Software, plus 20% of the then current annual maintenance fee to bring the Software up to date with any new Corrections, enhancements

and/or improvements thereto provided to SupportNow customers, plus the then current annual maintenance fee prorated for the period extending back to the date of expiration of SupportNow Services; or

b) if you are not licensing the Latest Release of such Software, a fee equal to the then current annual maintenance fee for the applicable copy of Software, plus the then current upgrade fee for the Latest Release of the Software.

9. **EXCLUSION OF DAMAGES.** NEITHER FORCE 5 NOR ANY OF ITS THIRD-PARTY SUPPLIERS SHALL BE LIABLE FOR ANY INJURY, LOSS OR DAMAGE, WHETHER INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL, ARISING OUT OF THE SUPPORTNOW SERVICES OR THE USE OR INABILITY TO USE THE SOFTWARE, INCLUDING WITHOUT LIMITATION LOST PROFITS, DATA OR PROGRAMS, AND THE COST OF RECOVERING SUCH DATA OR PROGRAMS, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

10. **LIMITATION OF LIABILITY.** ANY LIABILITY OF FORCE 5 SHALL BE LIMITED IN THE AGGREGATE TO THE AMOUNTS PAID BY YOU FOR THE SUPPORTNOW FEES PAID FOR THE THEN-CURRENT SUPPORTNOW TERM. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION AND OTHER TORTS. FORCE 5'S THIRD PARTY SUPPLIERS SHALL HAVE NO LIABILITY TO YOU FOR ANY DAMAGES SUFFERED BY YOU OR ANY THIRD PARTY AS A RESULT OF USING THE PRODUCTS. THESE SUPPORTNOW TERMS AND CONDITIONS, HOWEVER, SHALL NOT PURPORT TO EXCLUDE OR RESTRICT THE LIABILITY OF FORCE 5 OR ITS THIRD-PARTY SUPPLIERS TO ANY EXTENT NOT PERMITTED BY LAW.

11. **OWNERSHIP**. FORCE 5 and its third-party suppliers have and will retain all ownership rights to the Software, including all patent rights, copyrights, trademarks, service marks, related goodwill, trade secrets and confidential and proprietary information relating thereto. You have no rights to the Software except as explicitly stated in these SupportNow Terms and Conditions or the applicable FORCE 5 End User Software License Agreement.

12. **MISCELLANEOUS:** You may not assign these SupportNow Terms and Conditions to a third party without the prior written consent of FORCE 5. FORCE 5 shall not be liable for failure or delay in performing its obligations due to circumstances outside its reasonable control ("Force Majeure"). Unless otherwise agreed in a mutually-executed writing by the parties, these SupportNow Terms and Conditions and the applicable FORCE 5 End User Software License are the only agreements between FORCE 5 and you with respect to the Software. These SupportNow Terms and Conditions supersede all prior agreements, oral or written, relating to SupportNow Services for the Software. If you acquired the Software in North America these SupportNow Terms and Conditions are governed by the laws of the state of Florida. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. These SupportNow Terms and Conditions may be performed by and/or assigned to the FORCE 5 related company or third party which FORCE 5 allocates from time to time to provide such SupportNow Services to customers in your country. The nature of this Service may require that Force 5, Inc. team members have access to your company data or information. Your Company explicitly grants this access and uses this Data or Information to perform the Service. All Company Data and Information will be treated as Force 5 Confidential and will have the same protection offered in the Force 5 Mutual NDA (https://force5.com/wp-content/uploads/2022/01/Mutual-NDA.pdf).

13. SUPPORTNOW CONTACTS: For all software products: Phone: 786.259.0084

14. SUPPORTNOW SALES CONTACT: For All Software Products: Phone: 786.259.0084

15.0 SUPPORTNOW DEFINITIONS

15.1.1 Licensee and Licensor will jointly use the following definitions to document and respond to errors or deficiencies that may exist. If Licensee determines that an error or deficiency exists in the programs supported by the maintenance fees under this Agreement, Licensee will provide written notification (either via the Web support Portal or by calling the help desk and generating a ticket) to Licensor of such error or deficiency, along with supporting data and programs that document such error or deficiency. Licensor shall respond as indicated.

15.1.1.1 **Critical - Severity 1 Error**:

15.1.1.1.1 A "Severity 1 Error" shall mean that the Software is non-operational and no users can access the system, or the functionality is significantly decreased, or back-up or other security of data can no longer be performed. The defect affects mission-critical systems or information in the production environment. This may include any defect related to customer or personal safety, system availability, overall data integrity or ability to serve the customer.

15.1.1.1.2 "Severity 1 Error" events shall require immediate resolution by Licensor. Licensor shall initiate a remedy immediately following notification by Licensee. Licensor support personnel as well as Licensee's personnel may be required to sustain a twenty-four (24) hour per day effort to determine the root cause of the problem or until circumvention or resolution is provided. Licensor will provide regular updates informing Licensee of the progress to remedy the reported problem. For Severity 1 Errors only, telephone support is available to report irregularities 24 hours per day 7 days per week.

15.1.1.2 High - Severity 2 Error:

15.1.1.2.1 A "Severity 2 Error" shall mean that the System is operational with functional limitations or restrictions but there is minimal business impact. Defect has a large impact on the functionality of the application, but does not require immediate release into the production environment.

15.1.1.2.2 For "Severity 2 Error" events Licensor must start the error correction not later than 4 hours following notification by Licensee. The error correction must commence by the start of the next business day following notification, if such notification has been received at a time two hours before end of a business day. Licensor shall work to correct Severity 2

Errors during normal business hours. Licensor will provide regular updates informing Licensee of the progress to remedy the reported problem. Licensor shall use reasonable efforts to correct such errors within five (5) business days.

15.1.1.3 **Medium - Severity 3 Error**:

15.1.1.3.1 A "Severity 3 Error" shall mean the System is operational with functional limitations or restrictions that are not critical to the overall system operation. Defect has a moderate impact on the functionality of the application, however the application remains usable by all groups.

15.1.1.3.2 For "Severity 3 Error" events Licensor shall work to correct Severity 3 Errors during normal business hours. Licensor shall use reasonable efforts to correct such errors within thirty (30) business days.

15.1.1.4 **Low - Severity 4 Error**:

15.1.1.4.1 A "Severity 4 Error" shall mean the System is operational with problems or errors, which have little impact on system operations. Severity 4 Errors shall include, but not be limited to, documentation errors. Defect has a minor impact on the functionality of the application.

"Severity 4 Error" events are normally corrected in the next maintenance release of the System