



# Terms & Conditions

GENERAL TERMS AND CONDITIONS PLAT4MATION B.V., PLAT4MATION BVBA AND PLAT4MATION.COM

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## 1. Definitions

Agreement(s): Every agreement between Plat4mation and its Customer(s).

<b>Confidential Information:</b>	All information from the Customer that is recorded and marked as confidential or secret or the information that reasonably should be classified as confidential or secret considering the circumstances of the disclosure of the information to Plat4mation.
<b>Customer:</b>	Every person or company who enters into an agreement with Plat4mation. General Terms: This document General Terms and Conditions Plat4mation B.V., Plat4mation BVBA and Plat4mation.com.
<b>License:</b>	The right of the Customer to receive updates and/or support from Plat4mation.
<b>Parties:</b>	Plat4mation and the Customer.
<b>Product(s):</b>	All products offered and provided by Plat4mation, including but not limited to Plat4mation ServiceNow Applications and Powerpacks.
<b>Service(s):</b>	All services offered and provided by Plat4mation, including but not limited to the Plat4mation ServiceNow-services.
<b>Plat4mation:</b>	The limited liability company Plat4mation B.V. organized and existing under the laws of the Netherlands, having its registered office in Utrecht (3511 MJ), at Arthur van Schendelstraat 650 (Chamber of Commerce number 58858334).

## 2. About Plat4mation

Plat4mation owns and operates the website Plat4mation.com, through which website Plat4mation offers its Products and Services to Customers. Plat4mation services range from strategic advice on Platform as a Service (PaaS) technology, to ServiceNow implementations and custom ServiceNow App development and support.

### 3. Applicability

- 3.1 The General Terms apply to all use of the Plat4mation.com website, all offers by Plat4mation at Plat4mation.com and all Agreements.
- 3.2 The applicability of any general conditions from the Customer are expressly rejected.
- 3.3 All Services and Products are offered subject to the acceptance by the Customer of this General Terms without modification of any of the terms and conditions contained herein and all other operating rules, Privacy Policy and procedures that may be published from time to time on Plat4mation.com.
- 3.4 In the event the Customer does not agree to all the General Terms and the Privacy Policy, the Customer may not access Plat4mation.com nor use any of Plat4mation's Services or Products.
- 3.5 In the event one of the articles in this document General Terms appears to be void or declared void, all other terms/articles in these General Terms will remain valid. Plat4mation and the Customer will hold consultations in order to replace these void or voidable provision(s) with new provision(s).

### 4. Offers

- 4.1 All offers and other statements issued by Plat4mation shall be subject to contract, except where specified otherwise in writing by Plat4mation.
- 4.2 The Customer guarantees the accuracy and completeness of the information that it submits to Plat4mation and on which Plat4mation bases its offer.
- 4.3 The Customer shall at all time exercise the greatest possible care to ensure that the requirements that Plat4mation's services must meet are accurate and comprehensive.
- 4.4 The Agreement is concluded at the time that Plat4mation confirms the acceptance by the Customer of Plat4mation's offer.

### 5. Changes in the General Terms

- 5.1 Plat4mation reserves the right, at its sole discretion, to modify, change or replace any terms in these General Terms. If Plat4mation decides to modify, change or replace the General Terms, it will inform its Customer about it by email and will post the changes on Plat4mation.com.
- 5.2 If the Customer continues the use of or access to the Products and Services following an amendment of the General Terms as mentioned in this article, this will constitute on acceptance of the amended General Terms.

## 6. Term of the Agreement

- 6.1 Unless Parties agree otherwise, the Agreement will have a duration of one (1) year.
- 6.2 The term of the Agreement shall be extended automatically for the duration of the originally agreed period unless the Customer or Plat4mation terminates the Agreement in writing with due observance of a notice period of three (3) months before the end of the relevant period.

## 7. Privacy

- 7.1 The Customer shall indemnify Plat4mation against any claims by individuals whose personal data is recorded or processed within the context of a register of personal data maintained by the Customer or for which the Customer is responsible pursuant to the law or otherwise, unless the Customer is able to demonstrate that the acts that form the basis of the claim are exclusively attributable to Plat4mation.
- 7.2 Responsibility for the data processed using the service provided by Plat4mation shall rest solely with the Customer. The Customer shall guarantee Plat4mation that the content, the use and/or the processing of the data is not unlawful and does not infringe the rights of third parties. The Customer shall indemnify Plat4mation against legal claims by thirds parties, of whatever nature, in relation to this data or the execution of the Agreement.
- 7.3 If the Agreement stipulates that Plat4mation is obliged to provide some form of information security, this security shall meet the specifications in respect of security agreed between the Parties in writing. Plat4mation shall not guarantee that the information security will be effective under all circumstances. If the Agreement does not include an explicit description of security measures, the security measures shall be of such a level that, having regard to the state of the art, the sensitivity of the data and the costs associated with the implementation of the security measures are not unreasonable.
- 7.4 If computer, data, or telecommunications facilities are used during the execution of the Agreement or otherwise, Plat4mation shall be entitled to assign access or identification codes to the Customer. Plat4mation shall be entitled to change the access or identification codes assigned. The Customer shall treat the access and identification codes as confidential and with due care and shall only disclose these codes to authorized members of staff. Plat4mation shall under no circumstances be liable for any damage or costs arising from the use or misuse of access or identification codes, except where misuse was possible as a result of an act or omission on the part of Plat4mation.

## 8. General Representation

- 8.1 The Customer represents and warrants that its use of Plat4mation Products and Services will be in strict accordance with these General Terms, the Plat4mation Privacy Policy, the Agreement and all applicable law and regulations.
- 8.2 The Customer represents and warrants that its use of Plat4mation Products and Services will not infringe or misappropriate Plat4mation's licenses or intellectual property rights or third-party rights.
- 8.3 The Customer warrants that no rights of third parties preclude the provision of a Product or a Service by Plat4mation.
- 8.4 The Customer warrants to refrain itself towards Plat4mation or third parties from any acts or omissions contrary to generally accepted standards such as:
  - a) the use or distribution of spam, not machine- or randomly generated, and does not contain unethical or unwanted commercial content designed to drive traffic to third party sites or boost the search engine rankings of third-party sites, or to further unlawful acts (such as phishing) or mislead recipients as to the source of the material (such as spoofing).
  - b) the distribution or maintenance of viruses, worms, malware, Trojan horses or other harmful or destructive content.
  - c) the distribution or maintenance of pornographic content or content that contains threats or incite violence towards individuals or entities, or a violation of the privacy or publicity rights of any third party.
  - d) the advertisement of content via unwanted electronic messages such as
  - e) spam links on newsgroups, email lists, other blogs and web sites, and similar unsolicited promotional methods.
  - f) the distribution or maintenance of misleading content.
- 8.5 The Customer will provide all assistance as reasonably desired by Plat4mation to the delivery and commissioning of the Products or Services.
- 8.6 In order to facilitate the proper execution of the Agreement by Plat4mation, the Customer shall at all times provide Plat4mation with all data or information that Plat4mation deems to be useful, necessary and desirable and to give its full cooperation in a timely manner. If the Customer deploys its own personnel and/or agents within the context of providing cooperation in the execution of the Agreement, these personnel and agents shall have the necessary knowledge, expertise, and experience.
- 8.7 The Customer shall bear the risk of the selection, the use, the application and the management within its organization of the software, hardware, websites, data files and other products and materials and of the services to be provided by Plat4mation. The Customer itself shall arrange for the correct installation, assembly and commissioning and for application of the correct settings to the hardware, software, websites, data files and other products and materials. The Customer is also responsible for training and use by employees or other users.

- 8.8 If the Customer fails to make the data, documents, hardware, software, materials or employees that Plat4mation deems useful, necessary or desirable for the purpose of executing the Agreement available to Plat4mation, to make these available in good time or in accordance with the Agreements, or if the Customer fails to meet its obligations in any other way, Plat4mation shall be entitled to suspend the execution of the Agreement in part or in full and shall also be entitled to invoice the resulting costs in accordance with its standard rates, without prejudice to Plat4mation's right to exercise any other statutory and/or agreed right.
- 8.9 If Plat4mation's employees are carrying out activities on the Customer's business premises, the Customer shall ensure that any facilities reasonably requested by these employees, such as a workspace containing computer, data and telecommunication facilities, are provided free of charge. The workspace and facilities shall meet all statutory and other applicable requirements in relation to working conditions. The Customer shall indemnify Plat4mation against any claims by third parties, including Plat4mation's employees, who suffer injury in connection with the execution of the Agreement as a result of an act or omission on the part of the Customer or of unsafe situations within the Customer's organization.
- 8.10 If use is made of computer, data, or telecommunication facilities, including the internet, during the execution of the Agreement, the Customer shall be responsible for selecting the correct resources required for this purpose and for ensuring that these are available in full and in a timely manner, with the exception of those facilities that fall under the direct use and management of Plat4mation. Plat4mation shall under no circumstances be liable for losses or costs arising as a result of transmission errors, breakdowns, or the non-availability of these facilities, unless the Customer is able to demonstrate that these losses or costs are the result of intentional acts or deliberate recklessness on the part of Plat4mation's management.

## 9. Intellectual Property

- 9.1 All intellectual property rights to the software, websites, data files, hardware or other materials such as analyses, designs, documentation, reports, quotations and related preliminary material developed or made available to the Customer based on the Agreement shall remain exclusively vested in Plat4mation, its licensors or its own supplier. The Customer shall only acquire those rights of use that are explicitly granted in these General Terms and by law. Any rights of use granted to the Customer shall be nonexclusive, non-transferable to third parties and non-sub licensable.
- 9.2 The Customer shall not be permitted to remove or amend any details in relation to the confidential nature or in relation to copyrights, brand names, trade names or any other intellectual property right from the software, websites, data files, hardware or materials.
- 9.3 Even if the Agreement does not explicitly provide for such authority, Plat4mation shall be permitted to install technical provisions for the purpose of protecting the software, hardware, data files, websites, and suchlike in relation to an agreed

restriction on the content or the term of the right to use these objects. The Customer shall under no circumstances be permitted to remove or circumvent such technical provisions or to arrange for this to be carried out.

- 9.4 In the case the use of a Product or Service intellectual property rights arise on the part of the Customer, at Plat4mation's discretion, the Customer will give Plat4mation a worldwide, royalty free and non-exclusive license to use these intellectual properties and reproduce, modify, adapt, and publish the content solely for the purpose or transfer the intellectual property rights to Plat4mation. To the extent necessary the Customer will promptly cooperate and take such actions and execute such documents as necessary or desirable to affect such transfer of rights, including but not limited to, executing separate deeds of transfer.

## 10. Updates & Support/License

- 10.1 In the event the Agreement refers to the purchase of a Product as well as a License, the License will have a duration of one year. Unless the Parties agree otherwise, the License will consist of obtaining updates and support from Plat4mation. After one (1) year, the Customer must purchase a new License to retain the right to updates and support.
- 10.2 In the event the Agreement refers to the purchase of a Service as well as a License, the License will have a duration of six (6) weeks and the License will consist of obtaining support by Plat4mation. The six (6) week period commences on the day the Agreement is concluded (see Article 4.4 of these General Terms). After the aforementioned period the (rights with regard to the) License will expire. The Customer will have to purchase a new License to retain the right to support.
- 10.3 Plat4mation reserves the right to charge the Customer additional costs for maintenance fee if the terms as mentioned in 10.1 and 10.2 expire.
- 10.4 The Customer is not allowed to share or resell the License.
- 10.5 Without any liability to compensate the Customer Plat4mation reserves the right to disable updates and support in case of abuse and / or in the event the Customer is in violation of the preceding paragraph. This will not grant the Customer the right to a refund.

## 11. Prices & Payment

- 11.1 All prices are exclusive of VAT and other levies and any other additional costs. Except where agreed otherwise, all prices are in Euro and the Customer must affect all payments in Euros.
- 11.2 Payments will be charged immediately and will only be refundable under the refund policy in article 12.



- 11.3 Plat4mation is entitled to adjust the price of a Product or Service, even after conclusion of the Agreement, if one of the price-determining factors changes without the liability to compensate the Customer.
- 11.4 The Customer is, under the provisions of the previous paragraph, not entitled to terminate the Agreement, unless the first agreed price is increased by more than 10%.

## 12. Refund Policy

- 12.1 For questions, concerns, problems or complains, the Customer can contact Plat4mation via [Plat4mation.com](http://Plat4mation.com).
- 12.2 Products can be returned within thirty (30) days after the Agreement has been concluded in which case Plat4mation will refund the full purchase price. The Customer can contact Plat4mation by replying to the purchase e- mail or through the contact form, with a clear explanation of why the Product is not to the satisfaction of Customer.
- 12.3 The right to a refund will expire after thirty (30) days after the Agreement has been concluded.
- 12.4 Articles 12.2 and 12.3 shall not apply to Agreements relating the purchase of a Service, and products purchased via the ServiceNow store ([store.service-now.com](http://store.service-now.com)).
- 12.5 In the event a Service does not meet its standards the Customer must contact Plat4mation via [Plat4mation.com](http://Plat4mation.com) and explain why the Customer is not satisfied with the Service. Plat4mation will consider the complaints of the Customer, while it remains at Plat4mation's sole discretion to grant a refund.
- 12.6 If Plat4mation cannot provide the Customer with the Service within two (2) months after the Agreement has been concluded, Plat4mation may cancel the Contract without any notification of default and without any liability to compensate the Customer. In the event of such a cancellation Plat4mation will provide the Customer with a refund.

## 13. Delivery Dates

- 13.1 All (delivery) periods and (delivery) dates agreed or specified by Plat4mation shall be established to the best of Plat4mation's knowledge on the basis of the information available to it at the time of entering into the Agreement. Interim (delivery) dates agreed between the parties or specified by Plat4mation shall in all cases be target dates, shall not have a binding effect on Plat4mation and shall in all cases be merely indicative.

- 13.2 Plat4mation shall make every reasonable effort to observe final (delivery) periods and final (delivery) dates wherever possible. Plat4mation shall not be bound by a (delivery) period or (delivery) date, final or otherwise, that can no longer be achieved as a result of circumstances outside of Plat4mation's control that occurred after the date on which the Agreement was concluded. Plat4mation shall also not be bound by a (delivery) date or (delivery) period, final or otherwise, if the parties have agreed on a change to the content or scope of the Agreement (additional work, change in specifications etc.) or a change in the approach to the execution of the Agreement. If there is a risk that a time period will be exceeded, Plat4mation shall consult with the Customer in order to discuss the implications of the overrun for the rest of the schedule.
- 13.3 The mere fact that a (delivery) period or (delivery) date, final or otherwise, specified by Plat4mation or agreed between the parties has been exceeded, shall not mean that Plat4mation is in default. In all cases – therefore also in the event that the parties have agreed a final (delivery) period or (delivery) date explicitly in writing - Plat4mation shall not be in default as a result of the fact that a delivery period or date has been exceeded until such time as the Customer has given written notice of default. The notice of default must contain as comprehensive and detailed a description of the breach as possible, in order to ensure that Plat4mation has the opportunity to respond adequately.
- 13.4 If it is agreed that the fulfilment of the agreed work in stages, Plat4mation is entitled to postpone the commencement of the work to a further stage until the Customer has approved the results of the previous stage.

## 14. Disclaimer

- 14.1 The Customer agrees to indemnify and hold harmless Plat4mation, its contractors, and its licensors (i.e. ServiceNow and GPL), from and against any and all claims and expenses, including attorneys' fees, arising out of its use of Plat4mation Products and Services, including but not limited to a violation of the Agreement or these General Terms.
- 14.2 The Products and Services are provided "as is". Customer understands and agrees that its usage of the Products and Services are at its sole risk.
- 14.3 Plat4mation, its suppliers and licensors hereby disclaim all warranties of any kind, express or implied, including, without limitation, the warranties of merchantability, fitness for a particular purpose and non-infringement.
- 14.4 Neither Plat4mation nor its suppliers and licensors, make any warranties that the Products and Services will:
- a) meet the Customer requirements;
  - b) be error free, or;
  - c) that access thereto will be continuous.
- 14.5 None of these General Terms or any of Plat4mation's expressions can be understood or construed as a guarantee for any specific result on any Product or Service.

## 15. Liability

- 15.1 Plat4mation is not liable for damage or loss caused as a result of any default in the fulfilment of its obligations towards the Customer or on any other ground.
- 15.2 If Plat4mation were to be held liable towards the Customer, Plat4mation would only be liable for direct damages or loss caused by acts on the part of Plat4mation. Plat4mation will never be liable for any indirect damages or loss such as resulting loss, loss due to delay, loss of profit, loss of savings, reduced goodwill, loss due to business interruption, loss as a result of claims from the Customer's clients, loss in connection with the use of items, materials or software provided by third parties and loss in connection with the engagement of secondary suppliers by Plat4mation on the Customer's instructions. The liability of Plat4mation due to the scrambling, destruction or loss of data or documents is also excluded.
- 15.3 Plat4mation's total liability for direct as damages is limited to the value of the Agreement which the liability follows from, with a maximum amount of € 50.000,00 (fifty thousand Euros). If the Agreement is essentially a continuing performance contract with a term of more than one year, the sum stipulated for the Agreement shall be set at the total fees (excl. VAT) stipulated for one year.
- 15.4 The exclusions and restrictions to Plat4mation's liability, as described in the preceding paragraphs, shall not affect the remaining exclusions and restrictions to Plat4mation's liability set out in this General Terms in any way.
- 15.5 The exclusions and restrictions referred to in in this article shall no longer apply if and in so far as the loss is the result of intentional acts or deliberate recklessness on the part of Plat4mation's management.
- 15.6 Except where performance by Plat4mation is permanently impossible, Plat4mation shall only be liable as a result of an attributable failure to perform an agreement if the Customer gives Plat4mation immediate notice of default in writing, setting a reasonable term in which the breach can be remedied, and Plat4mation still attributable fails to meet its obligations after this period. The notice of default must contain as comprehensive and detailed a description of the breach as possible, in order to ensure that Plat4mation has the opportunity to respond adequately.
- 15.7 A condition for the existence of any right to compensation shall in all cases be that the Customer notifies Plat4mation in writing of the loss or damage as soon as possible after it occurs. Any claims for damages against Plat4mation shall expire by the mere passage of thirty (30) days from the date on which the claim arose.
- 15.8 The Customer shall indemnify Plat4mation against all claims by third parties due to (product) liability as a result of a fault in a product or system delivered by the Customer to a third party and that partly consisted of hardware, software or other materials provided by Plat4mation, unless and in so far as the Customer is able to demonstrate that the damage or loss was caused by this hardware, software or other materials.

- 15.9 The provisions of this article and all other restrictions and exclusions of liability referred to in these General Terms shall also apply in favor of all (legal) persons that Plat4mation engages to execute the Agreement.

## 16. Statement of Non-Disclosure

- 16.1 This article will apply if Plat4mation desires to disclose, examine or use Confidential Information.
- 16.2 Plat4mation undertakes to disclose, examine or use the Confidential Information only for the purpose and execution of the Agreement.
- 16.3 Plat4mation will keep the Confidential Information secure and the Confidential Information will not be disclosed to any third party, except to their employees and professional advisors.
- 16.4 Nothing in this article will prevent Plat4mation from disclosing Confidential Information as required to comply with applicable law and regulations and binding orders of governmental entities or regulatory authorities that have jurisdiction over it.
- 16.5 Confidential Information does not include information that:
- a) was in Plat4mation's possession before such Confidential Information was imparted by the Customer or is independently developed by any servant, agent or employee or otherwise developed on behalf of Plat4mation without access to or use or knowledge of the Confidential Information imparted by the Customer;
  - b) is in or subsequently comes into the public domain;
  - c) is received by Plat4mation without restriction on disclosure or use from a third party which third party has a lawful right to make such disclosure, or
  - d) can be shown to have been independently developed by Plat4mation or on behalf of Plat4mation by means other than through his access to any Confidential Information.
- 16.6 The statement of non-disclosure as mentioned in this article will endure for as long as the Agreement endures.

## 17. Force Majeure

In the event of force majeure as intended in Section 6:75 of the Dutch Civil Code [Burgerlijk Wetboek], Plat4mation is entitled to terminate the agreement wholly or partially or postpone the execution thereof without any liability to compensate the Customer. Amongst other situations, force majeure shall include: (i) a situation of force majeure encountered by Plat4mation's own suppliers, (ii) failure by secondary suppliers engaged by Plat4mation on the Customer's instructions to duly meet their obligations, (iii) the defectiveness of items, hardware, software or materials provided by third parties that Plat4mation has been instructed to use by the Customer, (iv) government measures, (v) electricity failure, (vi) faults affecting the internet, computer network or telecommunication facilities, (vii) war, (viii) workload, (ix) strike action, (x) general transport problems, (xi) the unavailability of one or

more members of staff and/or unforeseen consequences for putting into use an update or support action of (a Product or Service from) Plat4mation.

## 18. Termination

- 18.1 If the Customer fails to meet any obligation arising from the agreement(s) concluded with Plat4mation the General Terms or the Privacy Policy properly or in due time, if the Customer is bankrupt or bankruptcy has been filed for the Customer, if the Customer has been granted or applied for a suspension of payment, Plat4mation is, without any notification of default being required for this, entitled to suspend the execution of the agreement or to terminate the agreement without any liability to compensate the Customer and notwithstanding the rights accruing to Plat4mation, including the right to claim compensation from the Customer.
- 18.2 If the Customer has made a (down) payment and Plat4mation subsequently terminates the agreement, the Customer owes Plat4mation this down payment as a penalty, notwithstanding Plat4mation's entitlement to compensation.
- 18.3 The Customer is not entitled to terminate any Agreement with Plat4mation with the exception of the provisions in article 11.4.
- 18.4 In the event of a situation as mentioned in article 12.6 Plat4mation is entitled to terminate the Agreement without any notification of default and without any liability to compensate the Customer.

## 19. Applicable Law

- 19.1 All Agreements, offers, or use of the Products and Services or the General Terms are governed by Dutch law. The applicability of the Convention for the International Sale of Goods (CISG) is excluded.
- 19.2 Any disputes that may arise between Plat4mation and the Customer on the basis of an agreement concluded between Plat4mation and the Customer or as a result of further agreements that arise from such an agreement, shall be brought before the District Court of Utrecht, location Utrecht, unless a different court is prescribed by law, in which case Plat4mation is authorized to bring the proceeding before the prescribed court.