



GLOVIA OM ISVFORCE SOLUTION SERVICE AGREEMENT

(Non-negotiable)

These Glovia OM ISVForce Solution Service Agreement terms ("**Terms**") apply to the use of any subscription for the GLOVIA OM ISVForce Solution purchased from Fujitsu North America, Inc., a California corporation with its principal place of business at 2821 Telecom Parkway, Richardson, TX 75082 ("**Fujitsu**"). Subscriptions for the GLOVIA OM ISVFORCE Solution must be purchased from Fujitsu pursuant to a GLOVIA OM Solution Service Order ("**Service Order**") between Fujitsu and You. By accessing the subscriptions described herein, You expressly agree to the terms and conditions of the Agreement, as defined in the Service Order to which these Terms relate.

1. DEFINITIONS

- (a) "**AppExchange**" means the online directory of on-demand applications that work with the Service, located at <http://www.appexchange.com> or at any successor websites.
- (b) "**ISVForce Solution**" means the combination of GLOVIA OM and ISVForce Service provided by Fujitsu to You.
- (c) "**Org**" means a separate set of Your Data and SFDC product customizations held by SFDC in a logically separated database (i.e., a database segregated through password-controlled access).
- (d) "**Platform**" means SFDC's web-based on-demand platform for developing and operating on-demand applications.
- (e) "**GLOVIA OM**" means the online, Web-based platform service provided by Fujitsu to you as part of the ISVForce Solution.
- (f) "**ISVForce Service**" or "**Service**" means the online services provided by SFDC to facilitate (i) interoperability between GLOVIA OM and the ISVForce Service, and (ii) the provision of GLOVIA OM functionality by SFDC.
- (g) "**SFDC**" means salesforce.com.
- (h) "**Users**" means Your employees, representatives, consultants, contractors or agents who are authorized to use the Service subject to these Terms as a result of a subscription to the ISVForce Solution having been purchased for such User, and have been supplied user identifications and passwords by You (or by Salesforce.com or Fujitsu at Your request).
- (i) "**You**" and "**Your**" means the customer entity which has contracted to purchase subscriptions to use the ISVForce Solution pursuant to a Service Order that is subject to the conditions of these Terms, together with any other terms required by Fujitsu.
- (j) "**Your Data**" means all electronic data or information submitted by You as and to the extent it resides in the Service.

2. Use of Service.

- (a) Each User subscription to the ISVForce Solution shall entitle one User to use the ISVForce Solution, subject to these Terms, together with any other terms required by Fujitsu. User subscriptions cannot be shared or used by more than one User (but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment with You or otherwise changed job status or function and no longer require use of the Solution). NOTE: Your subscription to use the ISVForce Solution hereunder does not include a subscription to use the SFDC Service.
- (b) Notwithstanding any access You may have to the Platform or the ISVForce Service via GLOVIA OM, Fujitsu is the sole provider of the ISVForce Solution and You are entering into a contractual relationship solely with Fujitsu. In the event that Fujitsu ceases operations otherwise ceases or fails to provide the ISVForce Solution, SFDC has no obligation to provide the ISVForce Solution, to refund You any fees paid by You to Fujitsu, or to assume the relationship with Customer. NOTE: Fujitsu is solely responsible for providing support in connection with the ISVForce Solution.
- (c) You (i) are responsible for all activities occurring under Your User accounts; (ii) are responsible for the content of all Your Data; (iii) shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the ISVForce Solution, and shall notify Fujitsu promptly of any such unauthorized use You become aware of; (iv) will provide to Fujitsu a report from Fujitsu Enterprise Application GLOVIA OM User Management once every six months of each subscription term, or at any other time upon reasonable request of Fujitsu, to verify the user count against the purchased count for each type of

subscription; and (iv) shall comply with all applicable local, state, federal and foreign laws and regulations in using the ISVForce Solution.

- (d) You shall use the ISVForce Solution solely for Your internal business purposes and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the ISVForce Solution available to any third party, other than to Users or as otherwise contemplated by these Terms; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (iv) send or store viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the ISVForce Solution, GLOVIA OM or the data contained therein; or (vi) attempt to gain unauthorized access to the ISVForce Solution or its related systems or networks.
- (e) You shall not (i) modify, copy or create derivative works based on the ISVForce Solution; (ii) extract information from a GLOVIA OM Object inside salesforce.com and pull into any other salesforce.com Object or application for the purposes of allowing other people who do not have a GLOVIA OM license to access information contained inside a GLOVIA OM Object; (iii) create Internet "links" to or from the ISVForce Solution, or frame or mirror any content forming part of the ISVForce Solution, other than on Your own intranets or otherwise for Your own internal business purposes; (iv) reverse engineer the Platform, the ISVForce Solution; or (v) access the ISVForce Solution in order to (A) build a competitive product or service, or (B) copy any ideas, features, functions or graphics of the ISVForce Solution.

- 3. **Third-Party Providers.** Fujitsu and other third-party providers, some of which may be listed on pages within SFDC's website and including providers of AppExchange applications, offer products and services related to the ISVForce Solution, including implementation, customization and other consulting services related to customers' use of the ISVForce Solution, and applications (both offline and online) that interoperate with the ISVForce Solution, such as by exchanging data with the ISVForce Solution, or by offering additional functionality within the user interface of the ISVForce Solution through use of the ISVForce Solution's application programming interface. Any exchange of data or other interaction between You and a third-party provider, including but not limited to the ISVForce Solution, and any purchase by You of any product or service offered by such third-party provider, including but not limited to the ISVForce Solution, and any related support obligations for such offering, are solely between You and such third-party provider. In addition, from time to time, certain additional functionality (not defined as part of the ISVForce Solution) may be offered by SFDC or Fujitsu to You, for an additional fee, on a pass-through or OEM basis pursuant to terms specified by the licensor and agreed to by You in connection with a separate purchase by You of such additional functionality. Your use of any such additional functionality shall be governed by such terms, which shall prevail in the event of any inconsistency with the terms of these Terms.
- 4. **Proprietary Rights.** Subject to the limited rights expressly granted hereunder, Fujitsu and its licensors reserve all rights, title and interest in and to the ISVForce Solution, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth in these Terms. The ISVForce Solution is deemed confidential information of Fujitsu or its licensors, and You will not use it or disclose it to any third party except as permitted in these Terms.
- 5. **Compelled Disclosure.** If either You, Fujitsu, or Fujitsu's licensors) is compelled by law to disclose confidential information of the other party, it shall provide the other party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.
- 6. **Suggestions.** You agree that Fujitsu and/or its licensors shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into any of their products or services any suggestions, enhancement requests, recommendations or other feedback provided by You or Your Users relating to the operation of the ISVForce Solution.
- 7. **Suspension and Termination.** Your use of the ISVForce Solution may be immediately terminated and/or suspended upon notice due to (a) a breach of these Terms (including non-payment of fees) by You or any User, (b) the termination or expiration of Fujitsu's agreement pursuant to which Fujitsu is providing the ISVForce Solution to You, and/or (c) a breach by Fujitsu of its obligations to its licensors with respect to the subscriptions it is providing to You in connection with these Terms. NOTE: You acknowledge and understand that (i) access to the ISVForce Solution, may be suspended due to Your non-payment to SFDC or other breach of Your SFDC Agreement, and (ii) in the event Your relationship with SFDC is terminated as a result of non-payment or other material breach of Your SFDC Agreement, Your subscriptions to the ISVForce Solution would also be terminated. In no case will any such termination or suspension give rise to any liability of SFDC, or Fujitsu to You for a refund or other compensation.
- 8. **Subscriptions Non-Cancelable.** Subscriptions for the ISVForce Solution are non-cancelable during a subscription term.
- 9. **Representations and Warranties.** Fujitsu represents and warrants that: (a) the ISVForce Solution will perform materially in accordance with the relevant portions of the User Guide or the GLOVIA OM online help, as amended from time to time; (b) subject to Section 11, below (Integration with Third-Party Applications), the functionality of the ISVForce Solution will not materially decrease during the term of a Customer's Service Order; (c) it has the legal power to enter into and perform its obligations under these Terms and has obtained and will maintain any and all consents, approvals, licenses, or other authorizations necessary for the performance of its obligations under these Terms.

NEITHER FUJITSU (EXCEPT AS EXPRESSLY PROVIDED HEREIN) NOR SALESFORCE.COM MAKES ANY WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO WITH RESPECT TO THE ISVFORCE SOLUTION, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, FUJITSU AND ITS LICENSORS DISCLAIM ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE ISVFORCE SOLUTION, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

10. **No Liability.** IN NO EVENT SHALL FUJITSU OR SFDC HAVE ANY LIABILITY TO YOU OR ANY USER FOR ANY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR DAMAGES BASED ON LOST PROFITS, HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. **Integration with Third-Party Applications.** The ISVForce Solution may contain features designed to interoperate with third-party applications (e.g., Google, Facebook or Twitter applications). To use such features, You may be required to obtain access to such third-party applications from their providers. If the provider of any such third-party application ceases to make third-party application available for interoperation with the ISVForce Solution features on reasonable terms, Fujitsu may cease providing such ISVForce Solution features without entitling You to any refund, credit, or other compensation.

12. GENERAL PROVISIONS

(a) **Compliance with Trade Law and Ethical Brand Representation Standards.** Each party will comply with all applicable laws and regulations relating to the performance of its obligations under these Terms and shall comply in all respects with all applicable laws in its activities under these Terms, including without limitation all laws, governmental regulations, ordinances, and judicial administrative orders (collectively, "**Laws**"), including, but not limited to, the United States Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-1, et seq. (the "FCPA") and those Laws restricting or prohibiting trade with certain individuals and/or countries. You shall promptly inform Fujitsu in writing upon becoming aware of any violations of the Laws in connection with these Terms. You hereby acknowledge and agree that any violation by You of this section will constitute a material breach of these Terms. In the event of such a violation, Fujitsu will have the right to terminate the Service Order and Your use of the ISVForce Solution, without any liability whatsoever to You, immediately upon providing written notice of termination to You. Termination of the Service Order and Your use of the ISVForce Solution by Fujitsu under this Section shall be in addition to, and not in lieu of, Fujitsu's other legal rights and remedies.

(b) **Export Compliance.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the ISVForce Solution. Without limiting the foregoing, (i) each of Fujitsu and You represent that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) You shall not permit Users to access or use the ISVForce Solution in violation of any U.S. export embargo, prohibition or restriction.

(c) **Relationship of the Parties.** The parties are independent contractors. These Terms does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

(d) **Notices.** Except as otherwise specified in these Terms, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv), except for notices of termination or an indemnifiable claim ("**Legal Notices**"), the first business day after sending by email. Notices to Fujitsu shall be addressed to Fujitsu North America, Inc. 2821 Telecom Parkway, Richardson, TX 75082 Attn: Legal Department. All notices to You shall be addressed to the relevant Service system administrator designated by You. Billing-related notices to You shall also be addressed to the relevant billing contact designated by You, and Legal Notices to You shall also be addressed to the person identified in the "Customer Info" section of the Service Order.

(e) **Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under these Terms shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

(f) **Severability.** If any provision of these Terms is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of these Terms shall remain in effect.

(g) **Applicability.** These Terms govern the ISVForce Solution provided to You by Fujitsu in connection with Fujitsu's provision of the ISVForce Solution to You. For clarity, these Terms do not supersede any agreement between SFDC and You with respect to SFDC Services purchased by You directly from SFDC.

- (h) **Assignment.** You may not assign any of your rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Fujitsu (not to be unreasonably withheld). Any purported assignment by You in breach of this paragraph shall be, at Fujitsu's election, grounds for termination of the Service Order and Your use of the ISVForce Solution upon written notice to You.
- (i) **Governing Law & Jurisdiction.** The law that will apply in any lawsuit arising out of or in connection with these Terms, and which courts have jurisdiction over any such lawsuit, depend on where You are domiciled.

If you are domiciled in:	The governing law is:	The courts having exclusive jurisdiction are:
The United States of America, Mexico or a Country in Central or South America or the Caribbean	California and controlling United States federal law	San Francisco, California, U.S.A.
Canada	Ontario and controlling Canadian federal law	Toronto, Ontario, Canada
A Country in Europe, the Middle East or Africa	England	England
Japan	Japan	Tokyo, Japan
A Country in Asia or the Pacific region, other than Japan	Singapore	Singapore

- (j) **Entire Agreement.** These Terms, including all exhibits and addenda hereto and all Service Orders, constitutes the entire agreement between the parties and supersede all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Without limiting the foregoing, these Terms supersede the terms of any online Master Subscription Agreement electronically accepted by You. No modification, amendment, or waiver of any provision of these Terms shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of these Terms and any exhibit or addendum hereto or any Service Order, the terms of such exhibit, addendum or Service Order shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or in any other order documentation (excluding Service Orders) shall be incorporated into or form any part of these Terms, and all such terms or conditions shall be null and void.

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