

## ATTACHMENT A – COSHESITY, INC.

1. Products. This Agreement covers all Cohesity and its licensors' products, services and software (whether purchased directly from Cohesity or its authorized reseller or distributor, as applicable) (collectively, the "Products"). All such Products are listed on an applicable order form issued by Ordering Activity. Without limiting the foregoing, this Agreement applies to:

- Cohesity hardware products ("Hardware")
- The Cohesity distributed file system ("Core Software") and all additional software products and features ("Add-On Software") supplied by Cohesity or its partners to Ordering Activity intended for execution by such Hardware for which Ordering Activity has been authorized to use.
- Software ("Separate Software") supplied by Cohesity or its partners to Ordering Activity intended for execution on separate hardware (such as agents or backup applications) for which Ordering Activity has been authorized to use.
- When the term "Software" is used generally in this Agreement it includes all of the foregoing software.

2. Software License; Restrictions. Subject to the terms hereof, the underlying GSA Schedule contract, Schedule pricelist, applicable purchase order, and any applicable use or capacity limitations, Cohesity grants to Ordering Activity a personal, nonsublicensable, nonexclusive right to use the authorized portions of the Software in object code form only and only in accordance with applicable user documentation. Cohesity retains ownership of all copies and Ordering Activity will maintain the copyright notice and any other notices that appear on the Product on any copies and any media. Ordering Activity acknowledges that Software may contain or be distributed with third party software ("Third Party Software"). Ordering Activity will not (and will not allow any third party to) (i) modify, reverse engineer or attempt to discover any source code or underlying ideas or algorithms of any Software (except to the extent that applicable law prohibits reverse engineering restrictions), (ii) provide, lease, lend, disclose, use for timesharing or service bureau purposes, or otherwise use or allow others to use for the benefit of any third party, any Software (except as expressly and specifically authorized by Cohesity), (iii) allow the transfer, transmission, export, or re-export of any Software or portion thereof in violation of any export control laws or regulations, (iv) disclose to any third party any benchmarking or comparative study involving any Software, or (v) use or attempt to use portions of the Add-On Software or Separate Software that have not been licensed for a fee.

3. Reserved.

4. Limited Warranty & Support. Cohesity supplies a limited warranty, the current version of which is listed below in Exhibit B. Thereafter, Ordering Activity is entitled to receive only the support and maintenance services specified for the applicable Support Level and term that Ordering Activity has ordered (in accordance with the support levels described in Cohesity's standard Support and Maintenance Terms (the "Support Terms") found in Exhibit A below. Cohesity will use reasonable commercial efforts to provide the support and maintenance services for the Products and software as and to the extent described in the Support Terms.

5. RESERVED.

6. EXCLUDED USES. THE COHESITY PRODUCTS ARE NOT DESIGNED OR INTENDED FOR USE IN APPLICATIONS IN WHICH FAILURE OF SUCH PRODUCTS COULD REASONABLY BE EXPECTED TO RESULT IN PERSONAL INJURY, LOSS OF LIFE, OR CATASTROPHIC PROPERTY DAMAGE (THE "EXCLUDED USES"). THE ORDERING ACTIVITY HAS THE SOLE RESPONSIBILITY FOR PROTECTING ITS DATA -- BY PERIODICALLY CREATING REDUNDANT COPIES OR OTHERWISE -- AND COHESITY IS NOT RESPONSIBLE FOR LOST OR CORRUPTED DATA, WORK STOPPAGE, RE-RUN TIME, INACCURATE OUTPUT, COMPUTER FAILURE OR MALFUNCTION ASSOCIATED WITH OR OCCURRING DURING ANY EXCLUDED USE.

7. Reserved.

## Exhibit A

### Cohesity Support and Maintenance Terms and Conditions

These Cohesity Support and Maintenance Terms and Conditions (the “Support Terms”) apply to any Ordering Activity who is entitled to receive support services from Cohesity, Inc. (“Cohesity”) for specific Cohesity software product(s) (the “Software Product”) and/or hardware product(s) (the “Hardware Product” and together with the Software Product, “Products”) pursuant to a written agreement or order between Ordering Activity and Cohesity (or its authorized reseller or distributor, as applicable) (an “Agreement”). Ordering Activity is entitled to receive only the support specified for the applicable Support Level and term that Ordering Activity has ordered pursuant to such Agreement. To the extent Cohesity has become obligated for support and maintenance, the following will apply with respect to Products so long as they remain Cohesity’s standard terms for support and the Ordering Activity is in full compliance with Cohesity’s end-user agreement (the “EULA”).

*IMPORTANT: The Software Product is ONLY supported on Cohesity-certified hardware, firmware and operating system configurations. Contact support for a current list of certified configurations.*

Support Level	Support Hours	Initial Response Time	Parts Delivery Time
Standard	24 x 7	<ul style="list-style-type: none"><li>• <b>P3 Errors:</b> Eight (8) Business Hours</li><li>• <b>P2 Errors:</b> Four (4) Business Hours</li><li>• <b>P1 Errors:</b> Two (2) Business Hours</li></ul>	<ul style="list-style-type: none"><li>• <b>Continental U.S.:</b> Next Business Day</li><li>• <b>Hawaii, Alaska:</b> Two (2) Business Days</li><li>• <b>Europe<sup>1</sup>:</b> Next Business Day</li><li>• <b>Rest of World:</b> Best Efforts</li></ul>
<b>Add-On Services</b> (may be added for an additional fee): <ul style="list-style-type: none"><li>• Hardware Non-Return Option</li><li>• Spare Parts Package (onsite)</li></ul>			

- 1. Support and Maintenance Services.** Support and Maintenance Services consist of using reasonable efforts to provide (a) Error Correction and Telephone Support provided to a single consistent named technical support contact Ordering Activity concerning the installation and use of the then current release of a Product, (b) E-mail Support, (c) Web Support, (d) Software Product updates that Cohesity in its discretion makes generally available to its support and maintenance customers without additional charge, and (e) support for Hardware Products as set forth in Section 3 below (“Hardware Support” and, clauses (a)-(e) collectively, “Support”). Cohesity shall provide Support for the Previous Sequential Release to a Software Product for ninety (90) days following the release of the applicable Software Product and Ordering Activity is solely responsible for installing applicable Product updates if Ordering Activity wishes to continue to receive Support following such ninety (90) days.
- 2. Error Priority Levels.** Cohesity shall exercise commercially reasonable efforts to correct any Error reported by Ordering Activity in the current unmodified release of a Product in accordance with the priority level assigned to such Error by Cohesity (in Cohesity’s sole and absolute discretion).
  - **Priority 1 Errors** - Cohesity shall respond within the Initial Response Time and promptly commence the following procedures: (i) assign Cohesity engineers to correct the Error; (ii) notify Cohesity management that such Errors have been reported and of steps being taken to correct such Error(s); (iii) provide Ordering Activity with periodic reports on the status of the corrections; and (iv) in the case of Software Products, initiate work to

provide Ordering Activity with a Workaround or Fix or, in the case of Hardware Products, initiate Hardware Support pursuant to Section 3 below.

- Priority 2 Errors - Cohesity shall respond within the Initial Response Time and promptly commence the following procedures: (i) assign Cohesity engineers to correct the Error; (ii) provide Ordering Activity with periodic reports on the status of the corrections; and (iii) in the case of Software Products, initiate work to provide Ordering Activity with a Workaround or Fix or, in the case of Hardware Products, initiate Hardware Support pursuant to Section 3 below.
- Priority 3 Errors - Cohesity shall respond within the Initial Response Time and promptly commence the following procedures: (i) assign Cohesity engineers to correct the Error; (ii) provide Ordering Activity with periodic reports on the status of the corrections; and (iii) in the case of Software Products, initiate work to provide Ordering Activity with a Workaround or Fix or, in the case of Hardware Products, initiate Hardware Support pursuant to Section 3 below.
- Priority 4 Errors - Cohesity will use reasonable efforts to acknowledge Ordering Activity's problem report and commence reasonable efforts to supply a Fix for the Error.

If Cohesity believes that a problem reported by Ordering Activity may not be due to an Error, Cohesity will so notify Ordering Activity. At that time, Ordering Activity may (1) instruct Cohesity to proceed with problem determination at its possible expense as set forth below, or (2) instruct Cohesity that Ordering Activity does not wish the problem pursued at its possible expense. If Ordering Activity requests that Cohesity proceed with problem determination at its possible expense and Cohesity determines that the error was not due to an Error, Ordering Activity shall issue a purchase order, at Cohesity's then-current GSA consulting rates, for all work performed in connection with such determination, plus reasonable related expenses incurred therewith. Ordering Activity shall not be liable for (i) problem determination or repair to the extent problems are due to Errors; or (ii) work performed under this paragraph in excess of its instructions; or (iii) work performed after Ordering Activity has notified Cohesity that it no longer wishes work on the problem determination to be continued at its possible expense (such notice shall be deemed given when actually received by Cohesity). If Ordering Activity instructs Cohesity that it does not wish the problem pursued at its possible expense or if such determination requires effort in excess of Ordering Activity's instructions, Cohesity may, at its sole discretion, elect not to investigate the error with no liability therefor.

3. Hardware Support. If Hardware Support is included in the Support services purchased by Ordering Activity, then Cohesity will use reasonable efforts to deliver to Ordering Activity, at no charge, replacement parts that Cohesity determines are required within the Part Delivery Time. Actual delivery times may vary if Ordering Activity's location is remote and/or if common carriers encounter delays or require special transportation arrangements for reaching Ordering Activity's site, or if customs clearances impose delays. Replacement parts may be new or refurbished at Cohesity's option. Defective parts must be returned following Cohesity's standard RMA process (the current version is included below), unless Ordering Activity has purchased the Hardware Non-Return Option as an Add-On to its Agreement.

If Ordering Activity has been given possession of a Spare Parts Package (an "SPP"), Ordering Activity: (A) shall store the SPP in a safe and locked location suitable for enterprise server equipment; (B) acknowledges the SPP is Cohesity's property; and (C) shall NOT break the seal or otherwise attempt to access the SPP unless and until Cohesity Support instructs Ordering Activity to do so, at which point the parts accessed shall be considered replacement parts.

4. Exclusions. Cohesity shall have no obligation to support: (i) altered or damaged Products or any portion of a Product incorporated with or into other software and/or hardware, as applicable; (ii) any Software Product that is not the then-current release or immediately Previous Sequential Release; (iii) Product problems caused by Ordering Activity's negligence, abuse or misapplication, use of Products other than as specified in Cohesity's user manual or other causes beyond the control of Cohesity; (iv) Software Products installed on any hardware that is not supported by Cohesity; (v) third party products not provided by Cohesity; or (vi) Third Party Software. Cohesity shall have no liability for any changes in Ordering Activity's hardware which may be necessary to use Software Products due to a Workaround or maintenance release.

5. Definitions.

- "Business Hours" means the hours during which Cohesity makes Telephone Support available on its regular business days.
- "E-mail support" means the ability to make requests for technical support assistance by e-mail, including automated reply and/or ticketing generation, at any time (with reasonable efforts by Cohesity to respond within

one business day) concerning the installation and use of Hardware Products and/or the then-current release of a Software Product and the Previous Sequential Release.

- “Error” means an error in a Product which significantly degrades such Product as compared to Cohesity’s published performance specifications.
- “Error Correction” means the use of reasonable commercial efforts to correct Errors.
- “Fix” means the repair or replacement of object or executable code versions of a Software Product or documentation to remedy an Error.
- “Hardware Non-Return Option” means an optional Add-On Service that entitles the Ordering Activity to retain defective persistent data storage hardware parts that could retain sensitive data, such as flash memory, solid state disks and hard disk drives, that have been replaced by Cohesity (“Non-Return Parts”) pursuant to Hardware Support (Section 3) that is included in the Support services purchased by Ordering Activity. If Ordering Activity has purchased this Add-On Service, Ordering Activity will not be required to return Non-Return Parts per Cohesity’s RMA policy.
- “Initial Response Time” means the amount of time between Cohesity receiving a support request from Ordering Activity and responding to such request, as determined by the Support Level applicable to Ordering Activity.
- “Part Delivery Time” means the number of days after Cohesity has diagnosed a problem and determined that hardware replacement parts are required for Support for such problem, as determined by the Support Level applicable to Ordering Activity.
- “Previous Sequential Release” means the release of a Software Product which has been replaced by a subsequent release of the same or upgraded Software Product.
- “Priority 1 Error” means an Error which causes Ordering Activity’s production use of a Product to be stopped, or so severely impacted that Ordering Activity cannot reasonably continue use of the Product.
- “Priority 2 Error” means an Error which causes important Product features to be unavailable (and, in the case of Software Products, with no acceptable Workaround), but Ordering Activity’s production use is capable of continuing.
- “Priority 3 Error” means an Error which causes important Product features to be unavailable (but, in the case of Software Products, a Workaround is available), or less significant Software Product features to be unavailable, but Ordering Activity’s production use is capable of continuing.
- “Priority 4 Error” means any Error which is not a Priority 1 Error, Priority 2 Error, or Priority 3 Error.
- “Support Hours” means the hours (prevailing Pacific time) on Cohesity’s regular business days that Cohesity provides Telephone Support, as determined by the Support Level applicable to Ordering Activity.
- “Support Level” means the level of support stated in the applicable purchase order.
- “Telephone Support” means technical support telephone assistance concerning the installation and use of Hardware Products and/or the then current release of a Software Product and the Previous Sequential Release.
- “Web Support” means information available on the World Wide Web, including access to product and support forums, frequently asked questions, and product documentation.
- “Workaround” means a change in the procedures followed or data supplied by Ordering Activity to avoid an Error without substantially impairing intended use of a Software Product.

THESE TERMS AND CONDITIONS CONSTITUTE A SERVICE CONTRACT AND NOT A PRODUCT WARRANTY. ALL PRODUCTS AND MATERIALS RELATED THERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH BELOW.

### **RMA PROCESS**

A case is required for hardware troubleshooting and product (or part) replacement. All returns must be authorized and assigned a Return Materials Authorization (“RMA”) number in advance by Cohesity support personnel. Replacement products and components are shipped to Ordering Activity based on instructions generated by Cohesity support personnel.

Cohesity products and components that are (A) covered under the terms and conditions of Cohesity's Express Limited Warranty; or (B) covered under a purchased support package (collectively "Covered Products") must be pre-authorized for return by Cohesity with an RMA number marked on the outside of the package and packaged appropriately for safe shipment. Only packages with RMA numbers written on the outside of the shipping carton and/or the packing slips and shipping paperwork will be accepted by Cohesity's receiving department, or its designated repair partner. All other packages will be rejected.

Once Cohesity support personnel have determined a replacement part (or product) is needed, a replacement will be shipped. The Ordering Activity (or its designated service provider) will receive a dispatch number which also acts as the RMA number. Cohesity will be responsible for all freight charges for returned Covered Products or components via a Cohesity designated carrier.

If an Ordering Activity's technical support level entitlement allows retention of defective hardware parts, there is no requirement to return any defective hardware part to Cohesity. However, all other defective hardware parts must be returned via this RMA Process.

## **Exhibit B**

### **Express Limited Warranty**

1. Cohesity warrants solely to the Ordering Activity of its products (the "Products") only that:
  - The hardware Products and/or each hardware component thereof will be free from material defect in workmanship (under normal use and conditions) for one (1) year from the date of purchase. This warranty does not apply to (a) expendable or consumable parts, (b) any software contained on the Products or otherwise supplied by Cohesity, (c) Products which are returned in any manner that is not in compliance with Cohesity's then-current RMA policies, (d) any Product from which the serial number has been removed, or (e) any Product that has been damaged or rendered defective for any reason other than caused by Cohesity or a Cohesity authorized service provider.
  - The software Products will operate, for a period of 90 days from the date of availability to the Ordering Activity, substantially in accordance with, and as described in, the documentation provided by Cohesity (directly or indirectly) to Ordering Activity and the user manual accompanying such delivery.
2. Cohesity's sole obligation under the express warranty set forth in Section 1 shall be, at Cohesity's option and expense, to repair or replace the applicable component and/or Product; provided that in the event of a breach of the foregoing warranty within thirty (30) days of shipment, Cohesity will replace any non-compliant Product with a new Product within five (5) business days of notice via its then-current RMA procedure. Ordering Activity must contact Cohesity's technical support center within the applicable warranty period to obtain a Return Material Authorization ("RMA") number. In order to obtain warranty services, dated proof of purchase may be required by Cohesity in its sole discretion. Products may not be returned without an RMA number.
3. Access to Cohesity's technical support center for any and all questions, consultation, deployment assistance, or problem reports regarding the Products or any software shall be provided only pursuant to a separate service and support agreement. This warranty does not provide advance replacement parts.
4. EXCEPT AS EXPRESSLY PROVIDED ABOVE, TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW ALL PRODUCTS, SOFTWARE AND SERVICES ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY WARRANTY WHATSOEVER, AND COHESITY AND ITS SUPPLIERS EXPRESSLY DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED, AND STATUTORY INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND FITNESS FOR A PARTICULAR PURPOSE. COHESITY ALSO EXPRESSLY DISCLAIMS AND MAKES NO WARRANTY REGARDING ERROR-FREE USE, NON-INTERRUPTION OF USE OR FREEDOM FROM BUGS. COHESITY WILL HAVE NO LIABILITY FOR THE LOSS OR CORRUPTION OF ANY DATA STORED ON ANY PRODUCT FOR ANY REASON.
5. THIS AGREEMENT SHALL NOT IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE,

INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT'S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAR 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).