Alfresco Software, Ltd.
2839 Paces Ferry Rd SE
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Atlanta, GA 30339
http://www.alfresco.com/

Carahsoft Rider to Manufacturer End User License Agreements
(for U.S. Government End Users)

1. **Scope.** This Carahsoft Rider and the Alfresco Software, Ltd. ('Manufacturer') End User License Agreement (EULA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").

2. **Applicability.** The terms and conditions in the attached Manufacturer EULA http://www.alfresco.com/legal/agreements/ are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41. U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. **§** 3727 and 41 § U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's EULA are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft' s contract #GS-35F-0119Y, including, but not limited to the following:

(a) **Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under GSA contracts as set forth in GSA ORDER 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

(b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 200 0) (Deviation I 2010) (AUG 1987), and 52.212 -4 (f) Excusable delays. (JUN 2010) regarding which the GSAR and the FAR provisions shall take precedence.

(c) **Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

(d) **Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b)

(a) Error! Unknown document property name.

If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

(e) Termination. Clauses in the Manufacturer EULA referencing termination or cancellation the Manufacturer's EULA are hereby deemed to be deleted. Termination shall be governed by the FAR 52.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:

> Carahsoft may request cancellation or termination of the License Agreement on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section Q below or if such remedy is otherwise ordered by a United States Federal Court..

(f) Consent to Government Law / Consent to Jurisdiction. Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.

(g) Force Majeure. Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer EULA referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.

(h) Assignment. All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer EULA are hereby deemed to be deleted.

(i) Waiver of Jury Trial. All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer EULA are hereby deemed to be deleted.

(j) Customer Indemnities. All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.

(k) Contractor Indemnities. All Manufacturer EULA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.

(l) Renewals. All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.

(m) Future Fees or Penalties. All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C.

1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.

(n) Taxes. Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all federal, state, local taxes and duties.

(o) Third Party Terms. Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.

(p) Installation and Use of the Software. Installation and use of the software shall be in accordance with the Rider and Manufacturer EULA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.

(q) Dispute Resolution and Venue. Any disputes relating to the Manufacturer EULA and to this Rider shall be resolved in accordance with the FAR, and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Ordering Activity expressly acknowledges that Carahsoft, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.

(r) Limitation of Liability: Subject to the following:

> Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

(s) Advertisements and Endorsements. Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

(t) Public Access to Information. Manufacturer agrees that the EULA and this Rider contain no confidential or proprietary information and acknowledges the EULA and this Rider will be available to the public.

(u) Confidentiality. Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court.

Alfresco Master Agreement

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE PURCHASING AND/OR USING SOFTWARE OR SERVICES FROM ALFRESCO. BY USING ALFRESCO SOFTWARE OR SERVICES, COMPANY SIGNIFIES ITS ASSENT TO AND ACCEPTANCE OF THIS AGREEMENT AND ACKNOWLEDGES IT HAS READ AND UNDERSTANDS THIS AGREEMENT. AN INDIVIDUAL ACTING ON BEHALF OF AN ENTITY REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THAT ENTITY. IF COMPANY DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT USE ALFRESCO SOFTWARE OR SERVICES.

This Alfresco Master Agreement, including the attachments and documents located at URLs (the "**Agreement**") is between Alfresco Software, Ltd., a United Kingdom corporation ("**Alfresco**"), and the purchaser or user of Alfresco software and services who accepts the terms of this Agreement ("**Company**"). The effective date of this Agreement ("**Effective Date**") is the earlier of the date that Company signs or accepts this Agreement or the date that Company uses Alfresco's software or services.

1. SCOPE OF AGREEMENT

1.1 Framework. This Agreement establishes a framework that will enable Alfresco to provide Software and services, including training, consulting, and support services, to Company. "**Software**" means Alfresco software and other software programs branded by Alfresco and/or its Affiliates; provided, Software does not include third party software which may be provided therewith or Alfresco Community. The specific services, including Subscriptions, (the "**Services**") and/or Software that Alfresco will provide to Company will be described in an "**Order Form**" signed by the parties or otherwise accepted by Alfresco which may consist of (a) one or more mutually agreed order forms, statements of work, or similar transaction documents, or (b) an order placed by Company with a Business Partner (defined below). "**Subscription**" means a certain scope of support services provided for a defined period of time (typically one or three years). The parties agree that the terms of this Agreement will govern all purchases and use by Company of Software and Services unless otherwise agreed by the parties in writing.

1.2 Affiliates. Alfresco and Company agree that Affiliates of Company may acquire Software and Services from Alfresco or its Affiliates by entering an Order Form with Alfresco (or an Alfresco Affiliate) that incorporates the terms and conditions of this Agreement. The parties acknowledge that adjustments to the terms of this Agreement may be made in a particular Order Form (for example, to address disparate tax and/or legal regimes in other geographic regions). "**Affiliate**" means an entity that owns or controls, is owned or controlled by, or is under common control or ownership with a party, where "control" is the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

1.3. Business Partners. Alfresco has entered into agreements with other organizations ("**Business Partners**") to promote, market, sell, and support certain Software and Services. When Company purchases Software and Services through a Business Partner, Alfresco confirms that it is responsible for providing the Software and Services to Company under the terms of this Agreement. Alfresco is not responsible for (a) the actions of Business Partners, (b) any additional obligations Business Partners have to Company, or (c) any products or services that Business Partners supply to Company under any separate agreements between a Business Partner and Company.

2. OBLIGATIONS OF THE PARTIES

2.1 On-Site Obligations. If Alfresco personnel are working on Company's premises (a) Company will provide a safe and secure working environment for Alfresco personnel, and (b) Alfresco will comply with all reasonable workplace safety and security standards and policies, applicable to Company's employees, of which Alfresco is notified in writing by Company in advance.

2.2 Changes to Work and Delays. Changes to the Services will be made only through a written change order signed by both parties. In the event that (a) Company fails to timely fulfill its obligations under an Order Form, and this failure adversely impacts the provision of Services, or (b) events outside of either party's reasonable control cause a delay in or otherwise affect Alfresco's ability to perform its obligations under an Order Form, Alfresco will be entitled to appropriate relief, including adjusting the timing of its delivery of applicable Services.

2.3 Assistance. Company may provide Alfresco access to Company information, systems, and software ("**Company Information**"), and resources such as workspace, network access, and telephone connections as reasonably required by Alfresco in an Order Form to provide the Services. Company understands and agrees that (a) the completeness, accuracy of, and extent of access to, any Company Information provided to Alfresco may affect Alfresco's ability to provide Services, and (b) if reasonable access to Company Information is not provided, Alfresco will be relieved from providing any Services dependent upon such access. Company will obtain any third party consents necessary to grant Alfresco access to the Company Information that is subject to the proprietary rights of, or controlled by, any third party, or which is subject to any other form of restriction upon disclosure.

3. FEES AND PAYMENT

3.1 Fees and Expenses. Fees for the Services (the "**Fees**") will be identified in an Order Form and are (a) due upon Alfresco's acceptance of an Order Form or, for renewal of Services, at the start of the renewal term, and (b) payable in accordance with Section 3.2. Fees are stated in United States Dollars, must be paid in United States Dollars, and, unless otherwise specified in writing, do not include out-of-pocket

expenses or shipping costs. Company will reimburse Alfresco for all reasonable expenses Alfresco incurs in connection with the performance of Services other than Subscriptions. Company agrees to pay Alfresco the applicable Fees for each Installed System. An "**Installed System**" means a single central processing unit ("**CPU**") with up to four (4) cores on which the Software is installed or executed.

3.2 **Invoices**. If Company desires credit terms with respect to the payment of Fees, Company will reasonably cooperate with Alfresco in establishing and periodically re-confirming Company's credit-worthiness. If credit terms are provided to Company, Alfresco will invoice Company for the Fees upon Alfresco's acceptance of the applicable Order Form, upon acceptance of any future Order Form, and up to thirty (30) days prior to the start of any renewal term. Unless otherwise specified in an Order Form and subject to Alfresco's approval of credit terms, Company will pay Fees and expenses, if any, no later than thirty (30) days from the date of each invoice; provided, however, that Fees for professional services and training are due prior to delivery. Any and all payments made by Company pursuant to this Agreement are non-refundable except as otherwise provided in this Agreement. Alfresco reserves the right to suspend or cancel performance of all or part of the Services, modify or revoke all or part of Company's license rights in the Software, and/or change its credit terms if actual payment has not been received within thirty (30) days of the invoice date.

3.3 **Taxes.** All Fees are exclusive of Taxes. Company will pay Alfresco an amount equal to any Taxes arising from or relating to this Agreement or an applicable Order Form which are paid by or are payable by Alfresco. "**Taxes**" means any form of sales, use, value added or other form of taxation and any fines, penalties, surcharges or interest, but excluding any taxes based solely on the net income of Alfresco. If Company is required to withhold or deduct any portion of the payments due to Alfresco, Company will increase the sum payable to Alfresco by the amount necessary so that Alfresco receives an amount equal to the sum it would have received had Company made no withholdings or deductions.

4. **REPORTING AND RECORDS**

4.1 **Reporting**. Company will notify Alfresco (or the Business Partner from whom Company purchased the Software or Services) promptly if the actual number of Installed Systems exceeds the number of Installed Systems for which Company has paid the applicable Fees. In its notice, Company will include the number of additional Installed Systems and the date(s) on which such the Software was first used on such Installed Systems. Alfresco (or the Business Partner) will invoice Company for the applicable Fees and Company will pay such Fees no later than thirty (30) days from the date of the invoice.

4.2 **Records Retention**. Company will maintain accurate records necessary to verify the number of Installed Systems. Upon Alfresco's written request, Company will provide Alfresco with such records within ten (10) business days. If Company has more Installed Systems than Company has paid for, Company will immediately pay Alfresco the applicable per unit rate for such Installed Systems.

5. **LICENSE AND OWNERSHIP**

5.1 **Grant to Company**. Subject to Company's compliance

with the terms and conditions of this Agreement, including timely payment of the Fees for the initial term and any renewal terms, Alfresco grants to Company: (a) a non-exclusive, non-transferable, non-sublicensable, perpetual license to use, copy and modify the Software only for Company's own internal use of the Software and limited to the number of Installed Systems designated in an Order Form; (b) the rights in the third party software provided with the Software set forth in the licenses applicable to such third party software; (c) for the term designated in an Order Form, the right to receive Services for the Software; and (d) a perpetual license to use the Software on additional CPUs for the purpose of disaster recovery testing.

5.2 **Restrictions**. Company will not, directly or indirectly: (a) sublicense, resell, rent, lease, distribute, market, commercialize or otherwise transfer rights or usage to: (i) the Software, (ii) any modified version or derivative work of the Software created by the Company or for the Company, or (iii) Alfresco Community (which includes all non-supported versions of Alfresco-developed software), for any purpose including timesharing or service bureau purposes; (b) remove or alter any copyright, trademark or proprietary notice in the Software; (c) transfer, use or export the Software in violation of any laws or regulations of any government or governmental agency; (d) use any of the Services for the Alfresco Community software or for any Installed System for which Services have not been purchased; or (vi) reverse engineer, decompile or modify any encrypted or encoded portion of the Software.

5.3 **Proprietary Rights**. Alfresco and its licensors will own all right, title, and interest to the Software, technology, information, code or software provided to Company, including all portions, copies or modifications thereof.

5.4 **United States Government End Users.** The Software and its documentation are "Commercial items," "Commercial computer software" and "Computer software documentation" as defined by the Federal Acquisition Regulations ("FAR") and Defense Federal Acquisition Regulations Supplement ("DFARS"). Pursuant to FAR 12.211, FAR 12.212, DFARS, 227.7202-1 through 227.7202-4, and their successors, the U.S. Government acquires the Software and its documentation subject to the terms of this Agreement.

6. **TERM AND TERMINATION**

6.1 **Term and Termination of Agreement**. The term of this Agreement will begin on the Effective Date and will terminate at the expiration of ninety (90) days following written notice of termination given by one party to the other. Termination of this Agreement will not operate to terminate any Order Form and the terms and conditions of this Agreement will continue in full force and effect to the extent necessary to give effect to any Order Form in effect at the time of termination of this Agreement and until such time as the applicable Order Form expires or is terminated in accordance with Section 6.2 below.

6.2 **Term and Termination of Order Form**

6.2.1 The term of an Order Form begins on the date the Order Form is executed ("**Order Form Effective Date**") and continues for the term stated in the Order Form. Thereafter, the term for Subscriptions will automatically renew for successive terms of one (1) year each, unless either party gives written notice to the other of its intention not to renew at least sixty (60) days before

the commencement of the next renewal term. Company must use the Services set forth in an Order Form during the term specified in the Order Form or if not specified, within 180 days of the Order Form Effective Date; if unused, such Services will be forfeited.

6.2.2 If Alfresco or Company materially breaches the terms of an Order Form, and such breach is not cured within thirty (30) days after written notice of the breach is given to the breaching party, then the other party may, by giving written notice of termination to the breaching party, terminate the applicable Order Form and/or this Agreement; provided, however, that no cure period will be required for a breach of Section 7 of this Agreement. The termination of an individual Order Form will not terminate any other Order Form or this Agreement unless otherwise specified in the written notice of termination. Without prejudice to any other right or remedy of Alfresco, in the event either party terminates an Order Form, Company will pay Alfresco (or the Business Partner from whom Company purchased Software or Services) for all Services provided up to the effective date of termination.

6.3 **Survival**. If this Agreement or an Order Form is terminated for any reason, Sections 3, 4, 5.2, 5.3, 6.3, 7, 8.2, 9, and 11 of this Agreement (as the same are incorporated into each Order Form) will survive such termination.

7. **CONFIDENTIALITY**

7.1 **Obligations.** During the term of this Agreement, both parties agree that (a) Confidential Information will be used only in accordance with the terms and conditions of this Agreement; (b) each will use the same degree of care it utilizes to protect its own confidential information, but in no event less than reasonable care; and (c) the Confidential Information may be disclosed only to employees, agents and contractors with a need to know, and to its auditors and legal counsel, in each case, who are under a written obligation to keep such information confidential using standards of confidentiality not less restrictive than those required by this Agreement. Both parties agree that obligations of confidentiality will exist for a period of two (2) years following initial disclosure of the particular Confidential Information. "**Confidential Information**" means all information disclosed by either Alfresco or Company ("**Disclosing Party**") to the other party ("**Recipient**") during the term of this Agreement that is either (y) marked confidential or (z) disclosed orally and described as confidential at the time of disclosure and subsequently set forth in writing, marked confidential, and sent to the Recipient within thirty (30) days following the oral disclosure.

7.2 **Exclusions.** Confidential Information will not include information which: (a) is or later becomes publicly available without breach of this Agreement, or is disclosed by the Disclosing Party without obligation of confidentiality; (b) is known to the Recipient at the time of disclosure by the Disclosing Party; (c) is independently developed by the Recipient without use of the Confidential Information; (d) becomes lawfully known or available to the Recipient without restriction from a source having the lawful right to disclose the information; or (e) is generally known or easily ascertainable by parties of ordinary skill in the business of the Recipient. The Recipient will not be prohibited from complying with disclosure mandated by applicable law if, where reasonably practicable and without breaching any legal or regulatory requirement, it gives the Disclosing Party advance notice of the disclosure requirement.

8. **REPRESENTATIONS AND WARRANTIES**

8.1 **General Representations and Warranties**. Alfresco represents and warrants that: (a) the Services will be performed in a professional and workmanlike manner by qualified personnel; (b) it has the authority to enter into this Agreement with Company; and (c) to Alfresco's knowledge, the Software does not, at the time of delivery to Company, include malicious or hidden mechanisms or code for the purpose of damaging or corrupting the Software.

8.2 **Disclaimer of Warranty.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE AND SERVICES PROVIDED BY ALFRESCO ARE PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. ALFRESCO DOES NOT GUARANTEE THAT THE USE OF THE SOFTWARE OR SERVICES WILL BE UNINTERRUPTED, COMPLY WITH REGULATORY REQUIREMENTS, BE ERROR FREE OR THAT ALFRESCO WILL CORRECT ALL SOFTWARE ERRORS. FOR THE BREACH OF THE WARRANTIES SET FORTH IN SECTION 8.1, COMPANY'S EXCLUSIVE REMEDY AND ALFRESCO'S ENTIRE LIABILITY WILL BE THE REPERFORMANCE OF DEFICIENT SERVICES, OR IF ALFRESCO CANNOT SUBSTANTIALLY CORRECT A BREACH IN A COMMERCIALLY REASONABLE MANNER, COMPANY MAY TERMINATE THE RELEVANT SERVICES AND RECEIVE A PRO RATA REFUND OF THE FEES PAID FOR THE DEFICIENT SERVICES AS OF THE EFFECTIVE DATE OF TERMINATION. Company agrees that it is solely responsible for the results obtained from the use of the Software and Services.

9. **LIMITATION OF LIABILITY AND DISCLAIMER OF DAMAGES**

9.1 **Disclaimer of Damages**. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR AN ORDER FORM, IN NO EVENT WILL ALFRESCO OR ITS AFFILIATES BE LIABLE TO COMPANY OR ITS AFFILIATES FOR DAMAGES OTHER THAN DIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION: ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER IN TORT, CONTRACT, OR OTHERWISE; OR ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, REGULATORY NON-COMPLIANCE, DELAYS, LOSS OF DATA, LOST PROFITS, LOST SAVINGS, INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF ALFRESCO OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LIABILITY FOR THESE DAMAGES WILL BE LIMITED AND EXCLUDED EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

9.2 **Limitation of Liability.** FOR ALL EVENTS AND CIRCUMSTANCES, ALFRESCO AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ALL ORDER FORMS INCLUDING WITHOUT LIMITATION ON ACCOUNT OF

PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE WILL BE LIMITED TO DIRECT DAMAGES AND WILL NOT EXCEED THE AMOUNTS RECEIVED BY ALFRESCO FROM COMPANY DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY, WITH RESPECT TO THE PARTICULAR ITEMS (WHETHER SOFTWARE, SERVICES OR OTHERWISE) GIVING RISE TO LIABILITY UNDER THE MOST APPLICABLE ORDERING DOCUMENT.

10. INDEMNIFICATION

10.1 **Defense**. If an unaffiliated third party initiates a legal action alleging that Company's use of the Software directly infringes the third party's patent, copyright, trademark or misappropriates the third party's trade secret rights ("**Third Party Rights**") (such action, a "**Claim**") and there is an active Subscription in effect at the time of the Claim, then Alfresco will (a) defend Company against the Claim and (b) pay costs, damages and/or attorneys fees that are included in a final judgment against Company (without right of appeal) or in a settlement approved by Alfresco that are attributable to Company's use of the Software; provided that Company (i) is current in the payment of all applicable Fees prior to a Claim or threatened Claim, (ii) notifies Alfresco in writing of the Claim promptly, but in no event later than ten (10) days after receipt of the Claim, (iii) provides Alfresco with the right to control and conduct the defense of the Claim with counsel of its choice and to settle such Claim at Alfresco's sole discretion, and (iv) cooperates with Alfresco in the defense of the Claim.

10.2 **Injunctive Relief**. If an injunction is sought or obtained against Company's use of the Software as a result of a third party infringement claim, Alfresco may, at its sole option and expense, (i) procure for Company the right to continue using the affected Software consistent with this Agreement, (ii) replace or modify the affected Software with functionally equivalent software so that it does not infringe, or, if either (i) or (ii) is not available on a basis that Alfresco finds commercially feasible, (iii) terminate the applicable licenses without further liability under this section and, if Company then returns the Software that is subject to the Claim, Alfresco will refund any prepaid Fees related to the affected Software.

10.3 **Exclusions**. Alfresco will have no liability for any Claim based upon (a) use of other than the then-current, unaltered version of the applicable Software, unless the infringing portion is also in the then current, unaltered version; (b) use, operation or combination of the applicable Software with non-Alfresco programs, data, equipment or documentation if such infringement would have been avoided but for such use, operation or combination; (c) Alfresco's compliance with any designs, specifications or instructions provided by Company; (d) facts or circumstances constituting a breach of any Order Form; (e) use by Company after notice by Alfresco to discontinue use of all or a portion of the Software; (f) Company's claim or lawsuit against a third party; or (g) any third party software. Alfresco will have no obligations under this section if, as of the Order Form Effective Date of an applicable Order Form, Company has received notice of allegations of infringement or is engaged in litigation concerning the subject matter of what would otherwise be a Claim under this Agreement or with respect to a product substantially similar to the Software. This section constitutes the entire liability of Alfresco, and Company's sole and exclusive remedy with respect to any third party claims of infringement of intellectual property rights and supersedes any other Alfresco obligation related to the subject matter of this section.

11. GENERAL

11.1 **Governing Law.** The validity, interpretation and enforcement of this Agreement will be governed by and construed in accordance with the laws of the United States and of the State of New York without giving effect to the conflicts of laws provisions thereof or the United Nations Convention on Contracts for the International Sale of Goods. All disputes arising out of or relating to this Agreement will be submitted to the exclusive jurisdiction of the state or federal courts of competent jurisdiction located in Atlanta, Georgia, and each party irrevocably consents to such personal jurisdiction and waives all objections to this venue. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal or state laws or regulations are enacted, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted.

11.2 **Notices.** Notices must be in English, in writing, and will be deemed given when delivered by hand or five (5) days after being sent using a method that provides for positive confirmation of delivery to the respective addresses or facsimile numbers indicated in an Order Form; provided that any notice from Company to Alfresco includes a copy sent to: Alfresco Software, Ltd., Attention: General Counsel, The Place, Bridge Avenue, Maidenhead, Berkshire SL6 1AF UK; Facsimile: +44 1628 875 501.

11.3 **Assignment.** This Agreement is binding on the parties to this Agreement, and other than the rights conferred on Business Partners in Sections 4.1 and 6.2.2, nothing in this Agreement or in any Order Form grants any other person or entity any right, benefit or remedy of any nature whatsoever, except for the parties' Affiliates as expressly provided in this Agreement. This Agreement is assignable by either party only with the other party's prior written consent, which will not be unreasonably withheld, conditioned or delayed; provided, however, either party may, upon written notice and without the prior approval of the other party, (a) assign this Agreement to an Affiliate as long as the Affiliate has sufficient credit to satisfy its obligations under this Agreement and the scope of Service is not affected; and (b) assign this Agreement pursuant to a merger or a sale of all or substantially all of such party's assets or stock.

11.4 **Independent Contractor.** Alfresco is an independent contractor and nothing in this Agreement or related to Alfresco's performance of any Order Form will be construed to create an employment or agency relationship between Company (or any Company personnel) and Alfresco (or any Alfresco personnel). Each party will be solely responsible for supervision, direction, control and payment of its personnel, including applicable taxes, deductions, other payments and benefits. Alfresco may subcontract Services under an Order Form to third parties or Affiliates without the approval of Company; provided, however, that (a) subcontractors agree to protect Company Confidential Information, and (b) Alfresco remains responsible to Company for performance of its obligations hereunder.

11.5 **Export and Privacy.** Company may not download or

otherwise export or re-export the Software or any underlying information or technology except in full compliance with all United States and other applicable laws and regulations. Alfresco may supply Company with technical data that is subject to export control restrictions. Company is responsible for compliance with applicable export obligations or requirements for this technical data and agrees to comply with all applicable export control restrictions. If Company breaches this Section 11.5 or any provision referencing this section, Alfresco may terminate this Agreement and/or the applicable Order Form without liability to Company. Company acknowledges and agrees that to provide the Services, it may be necessary for Company Information to be transferred between Alfresco, its Affiliates, Business Partners, and/or subcontractors, which may be located worldwide.

11.6 **Entire Agreement.** Each Order Form (a) is a separate agreement and is deemed to incorporate this Agreement and all attachments and exhibits, unless otherwise expressly provided in that Order Form; (b) constitutes the exclusive terms and conditions with respect to the subject matter of that Order Form, notwithstanding any different or additional terms that may be contained in the form of purchase order or other document used by Company to place orders or otherwise effect transactions under this Agreement; and (c) represents the final, complete and exclusive statement of the agreement between the parties with respect thereto, notwithstanding any prior written agreements or prior and contemporaneous oral agreements with respect to the subject matter of the Order Form. In the event of any conflict between this Agreement and any Order Form, this Agreement will take precedence unless otherwise expressly provided in the Order Form. Any claim relating to the provision of the Services by Alfresco, its Affiliates or their respective personnel will be made against Alfresco alone.

11.7 **Force Majeure.** Neither party will be liable for any delay or failure in performance due to causes beyond its reasonable control.

11.8 **Severability.** If any provision of this Agreement is held invalid or unenforceable for any reason but would be valid and enforceable if appropriately modified, then such provision will apply with the modification necessary to make it valid and enforceable. If such provision cannot be so modified, the parties agree that such invalidity will not affect the validity of the remaining provisions of the Agreement.

11.9 **Waiver**. The delay or failure of either party to exercise any rights under this Agreement will not constitute or be deemed a waiver or forfeiture of such rights. No waiver will be valid unless in writing and signed by an authorized representative of the party against whom such waiver is sought to be enforced.

11.10 **Dispute Resolution.** Each party agrees to give the other a written description of any problem(s) that may arise and to make a good faith effort to amicably resolve any such problem before commencing any proceeding. Notwithstanding the foregoing, either party may take any action reasonably required to protect such party's rights. No claim or action, regardless of form, arising out of this Agreement or an Order Form may be brought by either party more than one (1) year after the cause of action has accrued.

11.11 **Headings.** All headings contained in this Agreement are inserted for identification and convenience and will not be deemed part of this Agreement for purposes of interpretation.

11.12 **Amendment.** Neither this Agreement nor any Order Form may be amended or modified except in a writing signed by the parties, which writing makes specific reference to this Agreement or the applicable Order Form.

11.13 **Counterparts and Facsimile Signature.** In the event this Agreement is executed with signatures, this Agreement may be executed in counterparts, each of which will be deemed an original and all of which will constitute one and the same document. The parties may exchange signature pages by facsimile or email and such signatures will be effective to bind the parties to all the terms contained in this Agreement.

Attachment 1
Subscription Services

Subscriptions purchased from Alfresco or through one of Alfresco's authorized business partners are provided on the terms described in this Attachment. Capitalized terms used in this Attachment without definition have the meaning defined in the base agreement between the parties.

1.   Subscriptions. A Subscription entitles Company to receive access to (a) the Software and license via the Alfresco Support Portal, (b) the applicable Software updates, upgrades, corrections and bug fixes, when and if available, via the Alfresco Support Portal, and (c) the applicable level of support indicated on an Order Form and as defined in Section 2 below ("**Support**").   Subject to Company's compliance with the terms and conditions of this Agreement, including timely payment of the Fees for the initial term and any renewal terms, the license for the Software is perpetual, but the other benefits of the Subscriptions will expire if not renewed. Unless otherwise agreed in an Order Form, the Subscription(s) will begin on the date Company purchases the Subscription(s).

Company must purchase a Subscription for each Installed System. If Company does not renew its Subscriptions in a timely manner, a reinstatement fee may be applied. Subscriptions may only be used for Company's own internal use (including authorized Affiliates). Distributing any portion of a Subscription to a third party or using any of a Subscription for the benefit of a third party is a material breach of the Agreement. Subscriptions may be used under the terms of this Agreement by third parties acting on Company's behalf, such as contractors, subcontractors or outsourcing vendors, provided Company remains responsible for its obligations and the activities and omissions of these third parties. Any unauthorized use of the Subscriptions is a material breach of the Agreement, such as (a) only purchasing or renewing Subscriptions for some, but not all, of the CPUs on which Company installs, uses or executes the Software, or (b) using Subscriptions to maintain or support CPUs running Alfresco Community.

2.   Support Policies. Some customers purchase production support services for their Subscriptions from an Alfresco Business Partner, in which case the Business Partner provides the support to the customer rather than Alfresco. This Section applies to Company only if Company has purchased Subscriptions with Support provided by Alfresco. If Company has purchased Subscriptions with Support provided by a Business Partner, this Section does not apply to Company and Company must work with its Business Partner to obtain support services.

2.1   Scope of Support. Support consists of assistance and response with installation, usage, problem diagnosis and bug fixes for the Software in accordance with the type of Subscription purchased as outlined in Section 2.4. In order for Alfresco to provide Support, Company must: (a) make reasonable efforts to correct an issue after consulting with Alfresco; (b) provide Alfresco with sufficient information and resources to correct the issue, as well as access to the personnel, hardware, and any additional software involved in discovering the issue; (c) install and operate the Software on an Alfresco-supported stack, as identified at http://www.alfresco.com/services/support/stacks/; (d) promptly install all service packs provided by Alfresco; and (e) procure, install and maintain all equipment, telephone lines, communication interfaces and other hardware necessary to operate the Software.

Support does not include support for Alfresco Community, hardware, or third party software. Company is responsible for reading the release notes and any other available documentation before installing or upgrading the Software and for testing the Software before deploying it in a production environment. Company should also backup its production systems on a regular basis and have those backups available if needed for support purposes. Alfresco is not obligated to provide Support when: (a) the Software has been changed, modified or damaged; (b) the issue is caused by Company's negligence, hardware malfunction or other causes beyond the reasonable control of Alfresco; (c) the issue is caused by third party software not licensed through Alfresco or provided by Alfresco; or (d) Company has not paid the Fees when due.

2.2   Technical Support Contacts. Alfresco customer support will provide Support to the designated contacts, as identified in an Order Form ("**Technical Support Contacts**"). The Technical Support Contacts should have "read, write and execute" access to the necessary files, English language communication skills and relevant technical knowledge. Company may modify its designated Technical Support Contacts at any time during the term of a Subscription by notifying Alfresco in writing and giving Alfresco five (5) business days to process the change. Technical Support Contacts will be the only interface to the Alfresco customer support center. It is recommended that the Technical Support Contacts be Alfresco certified by attending the required Alfresco training courses. In an emergency, an Alfresco customer support engineer will respond to an issue for an unauthorized contact on an exception basis subject to later verification and involvement of a named Technical Support Contact.

2.3   Support Life Cycle. The details of the support life cycle are set forth at http://www.alfresco.com/services/subscription/technical-support/lifecycle/.

2.4   Production Support Service Level Guidelines. Alfresco will use commercially reasonable efforts to provide Support in accordance with the guidelines shown in the table below. Alfresco's Standard Business Hours are located at http://www.alfresco.com/services/subscription/technical-support/hours/. Standard Business Hours are determined by the location of the Primary Support Center designated on the Order Form.

	Alfresco Standard	Alfresco Enterprise
Hours of Coverage	Standard Business Hours	7x24 for Severity 1 issues; Standard Business Hours for all other issues
Support Channel	Web and Phone	Web and Phone
Number of Cases	Unlimited	Unlimited
Access to Downloads	Alfresco Support Portal	Alfresco Support Portal
Technical Support Contacts	2	3
Scope of Support		
Alfresco Index Server (if purchased on Order Form)		✓
Alfresco XAM Support (if purchased on Order Form)		✓
High Availability (Clustering)		✓
Initial Response Guidelines		
Severity 1: A Severity One Production Issue means the (i) production system is severely impacted or completely shut down, or (ii) system operations or mission-critical applications are down. A Severity One Development Issue means (iii) an application is in final testing, facing a critical time frame of going into production use and is severely impacted or (iv) entire development efforts are blocked. Severity 1 issues must be reported by telephone and Company must have technical contacts available for the duration of the Severity 1 issue. If neither of these is the case, Alfresco reserves the right to designate the issue as Severity 2.	2 Business Hours	2 Hours
Severity 2: A Severity Two Production Issue means (i) the production system is functioning with limited capabilities, or (ii) is unstable with periodic interruptions, or (iii) mission critical applications, while not being affected, have experienced material system interruptions. A Severity Two Development Issue means (iv) there is a time sensitive question impacting performance or deliverables, or (v) a major subsystem under development is blocked. Alfresco assigns a specialist to address the issue, and provides additional, escalated procedures as reasonably determined necessary by Alfresco.	4 Business Hours	2 Business Hours
Severity 3: A Severity Three Production Issue means there (i) are issues in fully operational production systems, (ii) is a need to clarify procedures or information in documentation, or (iii) is a request for a product enhancement. A Severity Three Development Issue means (iv) there are errors in system development that may impact performance deliverables, (v) a need to clarify procedures or information in documentation, or (vi) a request for product enhancement.	1 Business Day	6 Business Hours

2.5   Premier Services. If purchased on an Order Form, Premier Services are overlay services provided in addition to the Support provided with Alfresco Enterprise Subscriptions only. There are two levels of Premier Services, and they include the following:

Services	Premier	Premier Advantage
Technical Account Manager (TAM) – Single point of contact at Alfresco for support issues	✓	✓
Total number of Technical Support Contacts	5	10
24x7 Severity 1 Support	✓	✓
Access to senior support consultants	✓	✓
Proactive support information (newsletters, planning assistance)	✓	✓
On-site kickoff meeting	✓	✓
2 on-site technical review meetings per year	✓	✓
Weekly review calls	✓	✓
Expedited issue resolutions	✓	✓
Release upgrade assistance	✓	✓
VPN system access (at Company's option)	✓	✓
Chat support		✓
System mock-up		✓
Customer Advisory Board (CAB) eligibility		✓
Architecture design consulting package (will be detailed on a separate SOW)		✓

Services	Premier	Premier Advantage
Performance and configuration tuning consulting package (will be detailed on a separate SOW)		✓
Go-live readiness assessment (will be detailed on a separate SOW)		✓
System Administration Training Class (1 seat)		✓
Developer Intensive Training Class (2 seats)		✓