

**(CLOUDERA - CARHASOFT 3-8-2012 FINAL)**

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

- 1. Scope.** This Carahsoft Rider and the Cloudera ('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 Manufacturer EULA ([www. /us.html](#)) are 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) 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.

## **CLOUDERA, INC. ENTERPRISE SUBSCRIPTION AGREEMENT**

This Subscription Agreement (this “Agreement”) is made and entered into as of \_\_\_\_\_, 2011 (the “Effective Date”) by and between Cloudera, Inc. (“Cloudera”), a Delaware company located at 210 Portage Ave, Palo Alto, CA 94306, and \_\_\_\_\_ (“Customer”) a \_\_\_\_\_ company located at \_\_\_\_\_.

1. Definitions. For the purposes of this Agreement, including exhibits hereto, the following terms will have the following meanings:

1.1 “Cloudera Open Source Distribution” means the open source code listed in Exhibit A.

1.2 “Cloudera Products” means the Cloudera Open Source Distribution and the Cloudera Software.

1.3 “Cloudera Software” means the software set forth in Exhibit A.

1.4 “Intellectual Property Rights” means all patents, copyrights, moral rights, trademarks, trade secrets and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing.

1.5 “Node” means any computer apparatus running no more than one each of a NameNode, DataNode, RegionServer, ZooKeeper, JobTracker, TaskTracker, HMaster, Collector or Processor daemon and addressable by a unique network identifier such as a Media Access Control (“MAC”).

1.6 “Subscription Period” means a one year period. The initial Subscription Period commences upon on the Effective Date.

1.7 “Third Party Software” means the copyrighted, patented and/or otherwise legally protected software of third parties that may be incorporated in the Cloudera Products as set forth at <https://ccp.cloudera.com/display/DOC/Third-Party+Licenses>.

2. Grants, Restrictions and Ownership.

2.1 Grants

(i) Cloudera Software. Subject to the terms and conditions of this Agreement, Cloudera grants to Customer a non-exclusive, non-transferable, non-sublicensable, revocable and limited license to access, use and reproduce the Cloudera Software solely for Customer's internal purposes.

(ii) Cloudera Open Source Distribution. Cloudera grants Customer the right to access, use, and reproduce the Cloudera Open Source Distribution solely for Customer's internal purposes.

2.2 Restrictions. Except as otherwise expressly set forth in this Agreement, Customer may not: (i) modify, disclose, alter, translate or create derivative works of the Cloudera Products; (ii) license, sublicense, resell, distribute, lease, rent, lend, transfer, assign or otherwise dispose of the Cloudera Products; (iii) use the Cloudera Products, or allow the transfer, transmission, export or re-export of the Cloudera Products or any portion thereof in violation of any export control laws or regulations administered by the U.S. Commerce Department, OFAC, or any other government agency; or (iv) cause or permit any other party to do any of the foregoing. In addition, Customer will not remove, alter or obscure any proprietary notices in the Cloudera Products including copyright notices, or permit any other party to do so.

2.3 Ownership and Reservation of Rights. As between the parties and subject to Section 2.1, Cloudera will own all right, title and interest in and to (i) the Cloudera Software, (ii) the Cloudera Open Source Distribution, (iii) all modifications to and derivative works of the Cloudera Software, the Cloudera Open Source Distribution made by Cloudera; and (iv) any and all Intellectual Property Rights embodied in the foregoing. Cloudera reserves all rights not expressly granted in this Agreement, and no licenses are granted by Cloudera to Customer under this Agreement, whether by implication, estoppel or otherwise, except as expressly set forth in this Agreement.

### 3. Delivery and Support Services

3.1 Delivery. Upon Cloudera's receipt of the Subscription Fee, as defined below, Cloudera will, at its expense, make the Cloudera Products available for download. The Cloudera Products will be deemed delivered when the electronic download is available.

3.2 Support. Cloudera will use commercially reasonable efforts to provide the support and maintenance services as set forth in Exhibit B with respect to the Cloudera Products (the "Support Services").

(i) Performance. Cloudera will perform the Support Services in a timely and professional manner using qualified and experienced personnel.

(ii) Cooperation. Customer will cooperate in good faith with Cloudera in the performance of the Support Services including, but not limited to, providing Cloudera with: (a) access to the Cloudera Products (and related systems); and (b) reasonably requested assistance and information.

(iii) Support Contacts. Customer will ensure that its personnel who contact Cloudera are: (a) knowledgeable about the operation of the Cloudera Products and the hardware on which the Cloudera Products are installed; and (b) qualified and trained with respect to the Cloudera Products.

(iv) Supported Versions. Cloudera will not be obligated to provide the Support Services for any version of the Cloudera Products more than one year after a subsequent version thereto has been released and made available to Customer.

(v) Exclusions. The Support Services do not include: (a) the installation or removal of the Cloudera Products; (b) visits to Customer's site; or (c) training. Cloudera has no obligation to correct any problems with the Cloudera Products or any issues resulting from: (w) use of the Cloudera Products not in accordance with the license agreement or the user documentation applicable thereto; (x) defects or errors in any program or program version not specified by Cloudera as Cloudera Products; (y) defects or errors in any hardware; or (z) any acts or omissions of Customer and/or any third party.

#### 4. Financial Considerations.

4.1 Payments. In exchange for the Cloudera Products and the Support Services, Customer will pay to Cloudera the total fees set forth in an ordering document per Subscription Period (the "Subscription Fees"). The Subscription Fees do not include taxes. Cloudera will invoice Customer on an annual basis, in advance, and within 30 days of the date of the invoice, Customer will pay the invoiced amount; provided, however, that the first payment will be due upon the Effective Date. Notwithstanding any terms to the contrary in this Agreement: (i) Cloudera, at its sole discretion, may modify its pricing during any Subscription Period and such pricing changes will be effective as of the directly subsequent Subscription Period; and (ii) Cloudera will not be obligated to issue any refunds for Subscription Fees paid (except as provided in Section 7.1).

4.2 Interest and Payment Terms. All payments due under this Agreement will be made: (i) by bank wire transfer, electronic ACH deposit or company check in immediately available funds to an account designated by Cloudera; and (ii) in U.S. Dollars. Customer will pay any and all sales, use, excise, import, export, value added or similar taxes and all government permit or license fees, and all customs, duty, tariff and similar fees levied upon the Cloudera Products and the provision of the Support Services under this Agreement, and any costs associated with the collection or withholding thereof, including penalties and interest.

4.3 Other Services. If Cloudera performs any services excluded from Support Services or otherwise outside the scope of this Agreement, then, unless otherwise agreed by the parties, Customer will pay Cloudera at Cloudera's then-current daily rates for such services and reimburse all out-of-pocket expenses actually incurred by Cloudera in the performance of such services. Cloudera will notify Customer in writing prior to performing any such additional services and will not commence such performance until Customer confirms in writing Customer's willingness to pay.

#### 5. Confidentiality and Publicity.

5.1 Confidentiality. "Confidential Information" means all information disclosed (whether in oral, written, or other tangible or intangible form) by one party (the "Disclosing Party") to the other party (the "Receiving Party") concerning or related to this Agreement or the Disclosing Party (whether before, on or after the Effective Date) that is clearly identified as Confidential Information at time of disclosure. The Receiving Party will, during the term of this Agreement and for three years thereafter, maintain in confidence the Confidential Information of the Disclosing Party and will not use such Confidential Information except as expressly permitted herein. The Receiving Party will use the same degree of care in protecting the Disclosing Party's Confidential Information as the Receiving Party uses to protect its own Confidential Information from unauthorized use or disclosure, but in no event less than reasonable care. Any Confidential Information of the Disclosing Party will be used by the Receiving Party solely for the purpose of carrying out the Receiving Party's obligations under this Agreement. In addition, the

Receiving Party: (i) will not reproduce Confidential Information disclosed by the Disclosing Party, in any form, except as required to accomplish the Receiving Party's obligations under this Agreement; and (ii) will only disclose Confidential Information disclosed by the Disclosing Party to its directors, officers, employees and/or contractors who have a need to know such Confidential Information in order to perform their duties under this Agreement and if such directors, officers, employees and/or consultants have executed a non-disclosure agreement with the Receiving Party with terms no less restrictive than the non-disclosure obligations contained in this Section 5. Confidential Information will not include information that: (a) is in or enters the public domain without breach of this Agreement through no fault of the Receiving Party; (b) the Receiving Party can reasonably demonstrate was in its possession prior to first receiving it from the Disclosing Party; (c) the Receiving Party can demonstrate was developed by the Receiving Party independently and without use of or reference to the Disclosing Party's Confidential Information; or (d) the Receiving Party receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation.

5.2 Publicity. Customer consents to Cloudera's use of Customer's name and logo on Cloudera's Web site and publicly-available printed materials, identifying Customer as a customer of Cloudera and describing Customer's use of the Cloudera Software.

## 6. Representations and Warranties; Disclaimer.

6.1 General Representations and Warranties. Each party represents and warrants that: (i) it is validly existing and in good standing under the laws of the place of its establishment or incorporation; (ii) it has full corporate power and authority to execute, deliver and perform its obligations under this Agreement; (iii) the person signing this Agreement on its behalf has been duly authorized and empowered to enter into this Agreement; and (iv) this Agreement is valid, binding and enforceable against it in accordance with its terms.

6.2 Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 6.1 CLOUDERA AND ITS SUPPLIERS DISCLAIM ANY AND ALL OTHER WARRANTIES AND REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE CLOUDERA PRODUCTS, THE THIRD PARTY SOFTWARE, AND/OR THE SUPPORT SERVICES, WHETHER ALLEGED TO ARISE BY OPERATION OF LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING OR OTHERWISE, INCLUDING ANY AND ALL: (I) WARRANTIES OF MERCHANTABILITY; (II) WARRANTIES OF FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT CLOUDERA KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE AWARE OF ANY SUCH PURPOSE); AND (III) WARRANTIES OF NONINFRINGEMENT OR CONDITION OF TITLE. CLOUDERA AND ITS SUPPLIERS MAKE NO WARRANTIES WITH RESPECT TO THE CLOUDERA PRODUCTS AND THE THIRD PARTY SOFTWARE BEING FREE FROM BUGS, ERRORS, OR OMISSIONS. THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF THE EXPRESS WARRANTY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

## 7. Indemnification Obligations.

7.1 Cloudera Indemnification Obligations. Cloudera, at its sole expense, will defend and indemnify Customer from and against any damages, settlements, liabilities, costs and expenses (including, but not limited to, reasonable attorney fees) awarded by the court ("Claim") as a result of the use of the Cloudera Products (in the form delivered to Customer by Cloudera) infringing any Intellectual

Property Rights of any third party, provided that Customer: (i) gives prompt notice of the Claim to Cloudera; (ii) grants sole control of the defense and settlement of the Claim to Cloudera (except that Customer's prior written approval will be required for any settlement that reasonably can be expected to require an affirmative obligation of or result in any ongoing liability to Customer); and (iii) provides reasonable cooperation to Cloudera and, at Cloudera's request and expense, assistance in the defense or settlement of the Claim. In the event of a Claim pursuant to this Section 7.1, Cloudera may, at Cloudera's option and at Cloudera's expense: (a) obtain for Customer the right to continue to exercise the license granted to Customer under this Agreement; (b) substitute an equivalent non-infringing product; (c) modify the Cloudera Product(s) to make it non-infringing; or (d) terminate this Agreement. Upon a termination of this Agreement pursuant to this Section 7.1, Customer must return the Cloudera Products and, within 30 days of Cloudera's receipt of all of the Cloudera Products, Cloudera will refund the amount Customer paid to Cloudera for the Cloudera Products and the Support Services adjusted pro-rata for any period during the applicable Subscription Period when any of the Cloudera Products and/or the Support Services were provided to Customer. Cloudera's indemnification obligations do not extend to Claims arising from or relating to: (w) any use of the Cloudera Product(s) in combination with any equipment, software, data or any other materials where the infringement would not have occurred but for such combination; (x) any modification to the Cloudera Product(s) where the infringement would not have occurred but for such modification; (y) the use of the Cloudera Product(s) by Customer (or any third party) in a manner contrary to the terms of this Agreement (or any other agreement) where the infringement would not have occurred but for such use; or (z) the continued use of the Cloudera Product(s) after Cloudera has provided substantially equivalent non-infringing software.

NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, THE PROVISIONS OF THIS SECTION 7.1 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF CLOUDERA AND THE EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO ANY ACTUAL OR ALLEGED MISAPPROPRIATION, VIOLATION AND/OR INFRINGEMENT OF ANY PROPRIETARY AND/OR INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7.1, CLOUDERA EXPRESSLY DISCLAIMS ANY OBLIGATION TO INDEMNIFY OR DEFEND CUSTOMER AND/OR ANY OTHER PARTY FROM ANY CLAIM, DEMAND, ACTION OR THREATENED ACTION.

#### 8. Limitation of Liability.

8.1 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, ANY INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OR IS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO CLOUDERA UNDER THIS AGREEMENT IN THE 12 MONTHS IMMEDIATELY PRIOR TO THE ACCRUAL OF THE FIRST CLAIM.



8.2 THE LIMITATIONS OF LIABILITY IN SECTION 8.1 WILL NOT APPLY WITH RESPECT TO (I) ANY ACTS OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (II) BREACHES OF SECTIONS 2.1 OR 2.2 OR (III) EACH PARTY'S INDEMNIFICATION OBLIGATIONS; PROVIDED, HOWEVER, THAT, NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, CLOUDERA'S LIABILITY WITH RESPECT TO ITS INDEMNIFICATION OBLIGATIONS WILL NOT EXCEED TWO TIMES THE AMOUNT PAID BY CUSTOMER TO CLOUDERA IN THE 24 MONTHS IMMEDIATELY PRIOR TO THE ACCRUAL OF THE FIRST CLAIM. SECTION 8 WILL BE GIVEN FULL EFFECT EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

## 9. Term and Termination.

9.1 Term and Termination. Unless terminated as provided in this Agreement, the term of this Agreement will commence on the Effective Date and continue for the first Subscription Period. Thereafter, this Agreement may be renewed and the term extended for an one or more additional Subscription Periods unless a party provides the other party with a notice to terminate this Agreement no less than **30** days prior to the close of the then-current Subscription Period. Either party may terminate this Agreement for cause: (i) if the other party breaches this Agreement and does not remedy such failure within 30 days after its receipt of written notice of such breach; or (ii) if the other party terminates its business activities or becomes insolvent, admits in writing to inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority

9.2 Effect of Termination. Upon any expiration or termination of this Agreement: (i) all rights and licenses granted to Customer under this Agreement will immediately terminate; and (ii) Customer will promptly return to Cloudera all Confidential Information then in its possession or destroy all copies of Confidential Information, at Cloudera's sole discretion and direction. Customer shall immediately confirm in writing that it has complied with Section 9.2(ii) at Cloudera's request. The following Sections will survive any expiration or termination of this Agreement: 1, 2.2, 2.3, 4, 5, 6.2, 7 (solely for the 12 month period commencing upon the effective date of termination of this Agreement), 8, 9.2 and 10. Notwithstanding any terms to the contrary in any agreement by and between you and Cloudera, if Cloudera terminates an agreement (pursuant to the terms of such agreement), such termination (unless otherwise specified by Cloudera) will constitute a termination of all other agreements by and between you and Cloudera.

## 10. General Provisions.

10.1 Entire Agreement and Conflicts. This Agreement, all exhibits to this Agreement, the agreement cover page and the agreements marked as being effective on the agreement cover page, all of which are incorporated herein by reference, sets forth the entire agreement and understanding of the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous agreements, proposals, negotiations, conversations, discussions and understandings, written or oral, including any Customer purchase order or ordering document, with respect to such subject matter and all past dealing or industry custom. In the event of a conflict between the terms and conditions of the Subscription Agreement, any Professional Services Agreement and any Training Agreement: (i) the terms and conditions of the Subscription Agreement will govern the terms and conditions of the Professional Services Agreement and the terms and conditions of the Training Agreement; and (ii) the terms and

conditions of the Professional Services Agreement Licensing Terms will govern the terms and conditions of the Training Agreement.

10.2 Independent Contractors. Neither party will, for any purpose, be deemed to be an agent, franchisor, franchise, employee, representative, owner or partner of the other party, and the relationship between the parties will only be that of independent contractors. Neither party will have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other party, whether express or implied, or to bind the other party in any respect whatsoever.

10.3 Assignment. Neither this Agreement nor any right or duty under this Agreement may be transferred, assigned or delegated by Customer, by operation of law or otherwise, without the prior written consent of Cloudera, and any attempted transfer, assignment or delegation without such consent will be void and without effect. Cloudera may freely transfer, assign or delegate this Agreement or its rights and duties under this Agreement. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective representatives, heirs, administrators, successors and permitted assigns.

10.4 Third Party Software. Notwithstanding any terms to the contrary in this Agreement, Customer acknowledges and agrees that: (i) the Cloudera Products contain Third Party Software; and (ii) Customer agrees to comply with the third party licenses applicable to the Third Party Software. Further, Customer hereby acknowledges that such third party suppliers disclaim and make no representation or warranty with respect to such Third Party Software or any portion thereof, and assume no liability for any claim that may arise with respect to such Third Party Software or Customer's use or inability to use the same.

10.5 Amendments and Waivers. No modification, addition or deletion or waiver of any rights under this Agreement will be binding on a party unless made in writing, clearly understood by the parties to be a modification or waiver and signed by a duly authorized representative of each party. No failure or delay (in whole or in part) on the part of a party to exercise any right or remedy hereunder will operate as a waiver thereof or effect any other right or remedy. All rights and remedies hereunder are cumulative and are not exclusive of any other rights or remedies provided hereunder or by law. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default.

10.6 Notices. Any notice or communication required or permitted to be given hereunder must be in writing signed or authorized by the party giving notice, and may be delivered by hand, deposited with an overnight courier, sent by confirmed email, confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party as identified on this Agreement or at such other address as may hereafter be furnished in writing by either party to the other party. Such notice will be deemed to have been given as of the date it is delivered.

10.7 Force Majeure. Except for payments, neither party will be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control, including but not limited to Acts of God, government actions, war, civil disturbance, insurrection, sabotage, labor shortages or disputes, subcontractors, transportation difficulties or shortage of energy, raw materials or equipment. In the event of any such delay the date of delivery will be deferred for a period equal to the time lost by reason of the delay.

10.8 Section Headings. The section headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement.

10.9 Governing Law; Venue. This Agreement is made and will be governed by and construed in accordance with the laws of the State of California, excluding its choice of law principles to the contrary. The parties agree that the venue for any dispute, obligation or action of any kind arising under this Agreement will be in the state or federal courts located in the County of Santa Clara, California, and the parties irrevocably consent to the exclusive jurisdiction of the state and federal courts of the state of California for any dispute, obligation or action hereunder and agree not to commence or prosecute any suit, proceeding or claim hereunder, except in such courts.

10.10 If Customer is a unit or agency of the United States Government, the following applies: The Cloudera Software is provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions as set forth in Subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 52.227-19 when applicable, or in Subparagraph 252.227-7013 (c)(1)(ii) of the Rights in Technical Data and Computer Software at DFARS, and in similar clauses in the NASA FAR Supplement.

10.11 Severability. If any provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other provisions of this Agreement will nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner adverse to any party. Upon such determination that any provision is invalid, illegal, or incapable of being enforced, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled.

10.12 Counterparts. This Agreement may be executed: (i) in two or more counterparts, each of which will be deemed an original and all of which will together constitute the same instrument; and (ii) by the parties by exchange of signature pages by telecopier, facsimile or email.

*[Signature Page to Follow]*

In Witness Whereof, the parties authorized representatives have executed this Master Agreement as of the Effective Date.

**CLOUDERA**

**Cloudera, Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_ 210 Portage Ave.

\_\_\_\_\_ Palo Alto, CA 94306

Facsimile No.: \_\_\_\_\_ 1-888-789-1488

Email No.: \_\_\_\_\_ ap@cloudera.com

**CUSTOMER**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Facsimile No.: \_\_\_\_\_

Email No.: \_\_\_\_\_

**EXHIBIT A**  
**CLOUDERA PRODUCTS AND DOCUMENTATION**

**Cloudera Open Source Distribution**

Cloudera's Distribution including Apache Hadoop (CDH)

- <http://archive.cloudera.com/docs/cdh.html>

**Cloudera Software**

Cloudera Management Suite

- Activity Monitor
- Service & Configuration Manager
- Service Monitor
- Resource Manager
- Authorization Manager

**Cloudera Connectors**

- Cloudera Connector for Netezza
- Quest Data Connector for Oracle and Hadoop

**EXHIBIT B**  
**SERVICES AND SUPPORT**

1. **Definitions**

**“Business Day”** means Monday through Friday, excluding holidays observed by Cloudera.

**“Business Hours”** means 9:00 a.m. to 5:00 p.m. (California time) on Business Days..

**“Support Contact”** mean designated Customer personnel with Cloudera Support Portal accounts and relevant Cloudera Certification.

**“Supported Cluster”** means clusters running Cloudera Products subject to this Agreement.

2. **Support**

**Technical Support.** Support Contact(s) may contact Cloudera technical support by email during Business Hours to request information regarding the use, configuration or operation of the Cloudera Software running on any Supported Cluster. Technical support services include access to Cloudera Support Portal and Knowledge base and response to questions pertaining to:

- Best practices for setting up and configuring a cluster suitable for running Hadoop, including:
  - Choice of hardware and operating system.
  - Configuration of storage in the cluster.
  - Installation, deployment and upgrading.
- Operational support for a cluster running the Cloudera Products, including:
  - Best practices for loading data into the cluster.
  - Identifying, diagnosing and fixing errors in Hadoop.
  - Tools and techniques for monitoring a running Hadoop cluster.
  - Preventing and recovering from failures and troubleshooting.
- Problem diagnosis and resolution, including:
  - Problem isolation and diagnosis of errors in the Cloudera Products
  - Patches and workarounds to fix bugs in the Cloudera Products

**Problem Resolution.** If a problem or issue occurs, Support Contact will contact Cloudera technical support by email, with follow-up at Customer’s option by telephone in case of a Level 1 issue. When reporting a problems or issue, Support Contact must provide the following information: (a) a description of the problem; (b) the step-by-step process to reproduce the problem; (c) the error messages associated with the problem; (d) any additional data available or required as determined by Cloudera, including, but not limited to stack traces, configuration settings and related information; and (e) information necessary to classify the severity of the problem. Support Contacts must have completed and passed relevant Cloudera Certification exams on the applicable version of Cloudera Software running on the Supported Cluster. Cloudera will classify all problems in good faith according to the following severity levels:

- Level 1:** A problem exists that renders the Cloudera Products inoperable or a function is not working as a result of a problem and the use of the function is immediately critical to Customer's operations.
- Level 2:** A problem exists or a function is not working as a result of a problem; however, the function is not immediately critical to Customer's operations.
- Level 3:** A problem exists or a function is not working as a result of a problem; however, the problem has a minor impact or has no impact to Customer's operations.

Cloudera will use commercially reasonable efforts to meet the following response and Resolution times:

| Severity Level | Target Response  | Target Resolution                                     |
|----------------|------------------|---|
| Level 1        | 4 Business Hours | 1 Business Day  |
|                | 4 Hours for 24x7 | 8 Hours for 24x7                                      |
| Level 2        | 8 Business Hours | 5 Business Days                                       |
| Level 3        | 1 Business Day   | Next version or 90 Business Days, whichever is longer |

If Cloudera provides a work-around that is not reasonably acceptable to Customer but corrects the problem, the severity level of the Problem will be reduced to Level 3.

Cloudera does not guarantee that the foregoing response and resolution times will always be met.

If Support Contact experiences difficulties contacting Cloudera technical support, is not receiving the level of support that is expected or desires to escalate a Problem beyond its current level, Support Contact may escalate the support incident after the Target Resolution time has passed. Support Contact may further escalate the issue to the Senior Director, Support after one additional business day.

Cloudera will not be obligated to provide Support for any version of the Cloudera Products more than one year after a subsequent version thereto has been released and made available to Customer.

## CLOUDERA, INC. TRAINING AGREEMENT

This Training Agreement (this “Agreement”) is made by and between Cloudera, Inc., a Delaware corporation (“Cloudera”), and \_\_\_\_\_ (“Customer”), effective as of \_\_\_\_\_, 2011 (“Effective Date”).

In consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**1. Scope:** Cloudera agrees to perform the services (“Services”) described on Exhibit A. The parties may from time to time make changes in the Services to be performed under this Agreement by mutual written consent.

**2. Term/Termination:** This Agreement is effective on the Effective Date and continues unless terminated in accordance with the terms hereinafter set forth. Either party is free to terminate this Agreement, with or without cause, upon 30 days prior written (including via email) notice to the other party. A cancellation fee may apply in case of such termination as specified in Exhibit A. The following will survive any termination or expiration of this Agreement: (a) all definitions set forth in this Agreement; and (b) Sections 2-5, 6(a) and 7-15. Notwithstanding any terms to the contrary in any agreement by and between Customer and Cloudera, if Cloudera terminates an agreement (pursuant to the terms of such agreement), such termination (unless otherwise specified by Cloudera) will constitute a termination of all other agreements by and between Customer and Cloudera

**3. Compensation; Taxes:** As consideration for the performance of the Services, Customer will pay Cloudera the fees outlined in Exhibit A, and such amount will be due and payable in U.S. Dollars within 30 days of the Effective Date. The fees outlined in Exhibit A under this Agreement do not include any taxes or other amounts imposed by any governmental authority other than taxes on Cloudera’s net income. Customer will pay or reimburse Cloudera for all such amounts upon demand or provide certificates or other evidence of tax exemption.

**4. Confidential Information:**

Confidentiality. “Confidential Information” means all information disclosed (whether in oral, written, or other tangible or intangible form) by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) concerning or related to this Agreement or the Disclosing Party (whether before, on or after the Effective Date) that is clearly identified as Confidential Information at time of disclosure. The Receiving Party will, during the term of this Agreement and for three years thereafter, maintain in confidence the Confidential Information of the Disclosing Party and will not use such Confidential Information except as expressly permitted herein. The Receiving Party will use the same degree of care in protecting the Disclosing Party’s Confidential Information as the Receiving Party uses to

protect its own Confidential Information from unauthorized use or disclosure, but in no event less than reasonable care. Any Confidential Information of the Disclosing Party will be used by the Receiving Party solely for the purpose of carrying out the Receiving Party’s obligations under this Agreement. In addition, the Receiving Party: (i) will not reproduce Confidential Information disclosed by the Disclosing Party, in any form, except as required to accomplish the Receiving Party’s obligations under this Agreement; and (ii) will only disclose Confidential Information disclosed by the Disclosing Party to its directors, officers, employees and/or contractors who have a need to know such Confidential Information in order to perform their duties under this Agreement and if such directors, officers, employees and/or consultants have executed a non-disclosure agreement with the Receiving Party with terms no less restrictive than the non-disclosure obligations contained in this Section . Confidential Information will not include information that: (a) is in or enters the public domain without breach of this Agreement through no fault of the Receiving Party; (b) the Receiving Party can reasonably demonstrate was in its possession prior to first receiving it from the Disclosing Party; (c) the Receiving Party can demonstrate was developed by the Receiving Party independently and without use of or reference to the Disclosing Party’s Confidential Information; or (d) the Receiving Party receives from a third-party without restriction on disclosure and without breach of a nondisclosure obligation.

Injunctive Relief. The parties agree that any breach by either party or any of its officers, directors, or employees, of any provision of this Section 4 may cause immediate and irreparable injury to the other party and that, in the event of such breach, the injured party will be entitled to seek injunctive relief as well as any and all other remedies available at law or in equity.

**5. Proprietary Rights:** All works of authorship, inventions, improvements, methods, processes, formulas, designs, techniques, and information conceived, discovered, developed or otherwise made (as necessary to establish authorship, inventorship, or ownership) by Cloudera, solely or in collaboration with others, in the course of performing the Services will be the sole property of Cloudera. No title to or ownership of any property or any associated intellectual property rights are transferred to Customer under this Agreement. Customer may not make



recordings of any kind of the Services provided under this Agreement,

**6. Warranty; Disclaimer:**

(a) Warranty. Cloudera represents, warrants and covenants that it will perform the Services in a timely and professional manner and consistent with industry standards.

(b) Disclaimer. EXCEPT AS PROVIDED IN THE FOREGOING 5(a), CLOUDERA AND ITS SUPPLIERS DISCLAIM ANY AND ALL OTHER WARRANTIES AND REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE SERVICES, WHETHER ALLEGED TO ARISE BY OPERATION OF LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING OR OTHERWISE, INCLUDING ANY AND ALL: (I) WARRANTIES OF MERCHANTABILITY; (II) WARRANTIES OF FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT CLOUDERA KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE AWARE OF ANY SUCH PURPOSE); AND (III) WARRANTIES OF NONINFRINGEMENT OR CONDITION OF TITLE. CLOUDERA AND ITS SUPPLIERS MAKE THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF THE EXPRESS WARRANTY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

**7. Limitation of Liability:** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, ANY INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OR IS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO CLOUDERA UNDER THIS AGREEMENT

**8. Independent Contractor:** Neither party will, for any purpose, be deemed to be an agent, franchisor, franchise, employee, representative, owner or partner of the other party, and the relationship between the parties will only be that of independent contractors. Neither party will have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other party, whether express or implied, or to bind the other party in any respect whatsoever.

**9. Assignment:** Neither this Agreement nor any right or duty under this Agreement may be transferred, assigned or

delegated by Customer, by operation of law or otherwise, without the prior written consent of Cloudera (which shall not be unreasonably withheld). Cloudera may freely transfer, assign or delegate this Agreement or its rights and duties under this Agreement.

**10. Notices:** Any notice required or permitted by this Agreement will be in writing and will be deemed sufficient upon receipt, when delivered personally or by courier, overnight delivery service or confirmed facsimile if such notice is addressed to the other party at such party's address or facsimile number as set forth below, or as subsequently modified by written notice in accordance with the terms in this Section.

**11. Governing Law; Venue:** This Agreement is made and will be governed by and construed in accordance with the laws of the State of California, excluding its choice of law principles. Exclusive jurisdiction and venue of any actions connected with this Agreement will be in the state and federal courts located in Santa Clara, California.

**12. Force Majeure.** Except for payments due under this Agreement, neither party will be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control, including but not limited to Acts of God, government actions, war, civil disturbance, insurrection, sabotage, labor shortages or disputes, failure or delay in delivery by a party's suppliers or subcontractors, transportation difficulties or shortage of energy, raw materials or equipment. In the event of any such delay the date of delivery will be deferred for a period equal to the time lost by reason of the delay.

**13. Amendments and Waivers.** No modification, addition or deletion or waiver of any rights under this Agreement will be binding on a party unless made in writing, clearly understood by the parties to be a modification or waiver and signed by a duly authorized representative of each party. No failure or delay (in whole or in part) on the part of a party to exercise any right or remedy hereunder will operate as a waiver thereof or effect any other right or remedy. All rights and remedies hereunder are cumulative and are not exclusive of any other rights or remedies provided hereunder or by law. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default.

**14. Severability.** If any provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other provisions of this Agreement will nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner adverse to any party. Upon such determination that any provision is invalid, illegal, or incapable of being enforced, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an

acceptable manner to the end that the transactions contemplated hereby are fulfilled..

**15. Entire Agreement and Conflicts:** This Agreement, all exhibits to this Agreement, the agreement cover page and the agreements marked as being effective on the agreement cover page, all of which are incorporated herein by reference, sets forth the entire agreement and understanding of the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous agreements, proposals, negotiations, conversations, discussions and understandings, written or oral, including any Customer purchase order or ordering document, with ~~respect to such subject matter and all past dealing or~~ industry custom. In the event of a conflict between the terms and conditions of the Subscription Agreement, the Professional Services Agreement and the Training Agreement: (i) the terms and conditions of the Subscription Agreement will govern the terms and conditions of the Professional Services Agreement and the terms and conditions of the Training Agreement; and (ii) the terms and conditions of the Professional Services Agreement Licensing Terms will govern the terms and conditions of the Training Agreement.

The parties, intending to be legally bound, have caused this Agreement to be executed by their authorized representatives on the dates set forth below.

**Customer:**

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Print or Type Name of Signatory)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Execution Date)

**Address for Purposes of Notices:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Cloudera:**

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Print or Type Name of Signatory)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Execution Date)

**Address for Purposes of Notices:**

\_\_\_\_\_  
210 Portage Ave  
Palo Alto, CA 94306  
\_\_\_\_\_

---

## Exhibit A

### Description of Services

The following training sessions will be delivered to up to 20 members of Customer's staff at the following location

(Please insert delivery address):

#### **1. Cloudera's Developer Training for Apache Hadoop + Certification exam : \$36,000**

Cloudera's three-Day Developer Training is designed to teach developers new to Hadoop about the fundamental concepts of managing and processing large volumes of data using the Hadoop platform. Specific topics include HDFS, MapReduce, Hive and Pig, as well as basic training about Hadoop deployment and debugging. Participants will use a pre-configured virtual machine to ensure their environment is setup properly, and will be able to take a certification exam after the course to document their experience.

#### **2. Cloudera's Administrator Training for Apache Hadoop + Certification exam : \$24,000**

Cloudera's two-Day Administrator Training is designed to teach administrators and operations teams how to operate, deploy and manage Hadoop clusters for their organization. The course includes a review of Hadoop's architecture and covers the management and monitoring tools most commonly used to oversee Hadoop. The course also provides valuable advice on setting up, maintaining and troubleshooting Hadoop for development and production systems. Participants will be able to take a certification exam after the course to document their experience.

#### **3. Cloudera's Training for Apache HBase : \$12,000**

Cloudera's one-day HBase training course teaches developers how to use HBase as a distributed, scalable, low-latency data store. This course discusses the basic architecture of HBase and its use cases, as well as providing details about the Java API and advanced features.

#### **4. Cloudera's Training for Apache Hive and Pig : \$24,000**

This two-day course will teach you how to leverage Hadoop to analyze and transform data by using Hive and Pig. Apache Hive and Apache Pig are high-level languages on top of Apache Hadoop's MapReduce paradigm. Hive makes Hadoop accessible to users who already know SQL; Pig is similar to popular scripting languages.

#### **5. Cloudera's Manager Essentials for Apache Hadoop : \$12,000**

This one-day course teaches decision-makers key information about Hadoop, such as when Hadoop is appropriate and what resources are required for a successful Hadoop deployment.

### Training Course Policies

Minimum duration for on-site courses is two days. All one-day courses must be ordered in combination with other training.

Attendee lists must be provided in advance. Course participation limited to 20 attendees maximum.

Each attendee over the 20-person maximum will incur an additional \$5,000 participation fee.

Attendance is limited to Customer employees and full-time contractors. Attendees who are not customer employees or full time contractors will incur an additional \$5,000 participation fee.

For sessions cancelled 30 or more days in advance, the cancellation fee is 10%.

For sessions cancelled more than 15 days in advance, but fewer than 30 days, the cancellation fee is 50%.

For sessions cancelled 15 or fewer days in advance, the cancellation fee is 100%.

For sessions rescheduled 15 or fewer days in advance, Customer will be liable for reimbursement of non-refundable travel expenses

## CLOUDERA, INC PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this “Agreement”) is made and entered into as of \_\_\_\_\_, 2011 (the “Effective Date”) by and between Cloudera, Inc. (“Cloudera”) and \_\_\_\_\_ (“Customer”).

3. Definitions: For the purposes of this Agreement, including exhibits hereto, the following terms will have the following meanings

3.1 “Cloudera Open Source Distribution” means the open source code listed in Exhibit A.

3.2 “Cloudera Products” means the Cloudera Open Source Distribution and the Cloudera Software.

3.3 “Cloudera Software” means the software set forth in Exhibit A.

3.4 “Intellectual Property Rights” means all patents, copyrights, moral rights, trademarks, trade secrets and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing.

3.5 “Pre-Existing Property” means any and all intellectual property, including all patents, copyrights, moral rights, trademarks, trade secrets and any other form of intellectual property rights recognized in any jurisdiction, including applications and registrations for any of the foregoing owned or controlled by Cloudera prior to Effective Date including but not limited to the Cloudera Products.

3.6 “Professional Services” means the design, development, operational and other professional services performed or to be performed by Cloudera under this Agreement, in accordance with an applicable statement of work (“Statement of Work” or “SOW”) attached to this Agreement as Exhibit B.

3.7 “Work Product” means all materials (including but not limited to software, prototypes, drawings and documentation) and any ideas, designs, techniques, inventions, discoveries, improvements, information, creative works and any other works discovered, prepared or developed by Cloudera in the course of Cloudera’s performance of the Professional Services that is: (i) prepared or developed specifically for Customer; and/or (ii) contains Confidential Information of Customer

4. Grants, Restrictions and Ownership

2.1 Ownership of Pre-Existing Property. As between the parties, Cloudera owns all right, title and interest in and to the Pre-Existing Property (including, all Intellectual Property Rights embodied therein). In the event that any Work Product depends on the Cloudera Software, Customer’s rights with respect to the use of such Cloudera Software will be specified in a separate agreement between the parties. The Cloudera Open Source Distribution is available for use under an open source license.

4.2 Ownership of Work Product. In the event that the performance of the Professional Services results in Work Product, all right, title and interest in the Work Product (excluding the Pre-Existing Property) vests in Customer and is deemed to be a work made for hire, and to the extent it may not be considered a work made for hire, Cloudera assigns to Customer all right, title and interest in and to the Work Product (excluding the Pre-Existing Property) and any and all Intellectual Property Rights embodied therein. Notwithstanding any

terms to the contrary in this Agreement, Cloudera owns all right, title and interest in and to any and all bug-fixes, extensions, improvements or enhancements to the Cloudera Open Source Distribution or the Cloudera Software (including all Intellectual Property Rights embodied therein).

4.3 Statement of Work (SOW). In order for Cloudera to perform any Professional Services for Customer, the parties must each sign a Statement of Work. One or more Statements of Work may be added to this Agreement by mutual written consent of the parties during the term of this Agreement. Any such Statement of Work will incorporate the terms of this Agreement. To the extent that a conflict arises between the terms of any Statement of Work and the terms of this Agreement, the terms and conditions of this Agreement will govern. Any Statement of Work will include: (i) a description of the Professional Services; and (ii) the schedule for the performance of the Professional Services. All Statements of Work are attached to this Agreement as Exhibit B.

## 5. Payment

3.1 Professional Services Fees. The fees associated with the performance of the Professional Services will be as set forth in the Statement of Work applicable to such Professional Services. Customer may be responsible for reasonable travel and related expenses incurred as a result of delivering the Professional Services as indicated in any applicable Statement of Work. Payment of fees and expenses will be due 30 days from date of invoice.

3.2 Payment Terms. All payments due under this Agreement will be made: (i) by bank wire transfer or electronically by ACH deposit or by company check in immediately available funds to an account designated by Cloudera; and (ii) in U.S. Dollars. Customer will pay any and all sales, use, excise, import, export, value added or similar taxes and all government permit or license fees, and all customs, duty, tariff and similar fees levied upon the Work Product, Cloudera Products and the provision of the Professional Services under this Agreement, and any costs associated with the collection or withholding thereof, including penalties and interest.

## 4. Confidentiality

“Confidential Information” means all information disclosed (whether in oral, written, or other tangible or intangible form) by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) concerning or related to this Agreement or the Disclosing Party (whether before, on or after the Effective Date) that is clearly identified as Confidential Information at time of disclosure. The Receiving Party will, during the term of this Agreement, and for three years thereafter maintain in confidence the Confidential Information of the Disclosing Party and will not use such Confidential Information except as expressly permitted herein. The Receiving Party will use the same degree of care in protecting the Disclosing Party’s Confidential Information as the Receiving Party uses to protect its own Confidential Information from unauthorized use or disclosure, but in no event less than reasonable care. Any Confidential Information of the Disclosing Party will be used by the Receiving Party solely for the purpose of carrying out the Receiving Party’s obligations under this Agreement. In addition, the Receiving Party: (i) will not reproduce Confidential Information disclosed by the Disclosing Party, in any form, except as required to accomplish the Receiving Party’s obligations under this Agreement; and (ii) will only disclose Confidential Information disclosed by the Disclosing Party to its directors, officers, employees and/or contractors who have a need to know such Confidential Information in order to perform their duties under this Agreement and if such directors, officers, employees and/or consultants

have executed a non-disclosure agreement with the Receiving Party with terms no less restrictive than the non-disclosure obligations contained in this Section 5. Confidential Information will not include information that: (a) is in or enters the public domain without breach of this Agreement through no fault of the Receiving Party; (b) the Receiving Party can reasonably demonstrate was in its possession prior to first receiving it from the Disclosing Party; (c) the Receiving Party can demonstrate was developed by the Receiving Party independently and without use of or reference to the Disclosing Party's Confidential Information; or (d) the Receiving Party receives from a third-party without restriction on disclosure and without breach of a nondisclosure obligation.

## 5. Warranty; Disclaimer:

5.1 General Representations and Warranties. Each party represents and warrants that: (i) it is validly existing and in good standing under the laws of the place of its establishment or incorporation; (ii) it has full corporate power and authority to execute, deliver and perform its obligations under this Agreement; (iii) the person signing this Agreement on its behalf has been duly authorized and empowered to enter into this Agreement; and (iv) this Agreement is valid, binding and enforceable against it in accordance with its terms.

5.2 Services Warranty. Cloudera represents and warrants that it will perform the Services in a timely and professional manner and consistent with industry standards.

5.3 Disclaimer. EXCEPT AS PROVIDED IN THE FOREGOING, CLOUDERA MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOR ANY OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, IN CONNECTION WITH THIS AGREEMENT AND THE SERVICES PROVIDED HEREUNDER.

6. Indemnification Obligations. Cloudera, at its sole expense, will defend Customer against a claim and indemnify Customer from and against any, damages, settlements, liabilities, costs and expenses (including, but not limited to, reasonable attorney fees) awarded by the court ("Claim") as a result of the Work Product (in the form delivered to Customer by Cloudera) infringing any Intellectual Property Rights of any third party provided that Customer: (i) gives prompt notice of the Claim to Cloudera; (ii) grants sole control of the defense and settlement of the Claim to Cloudera (except that Customer's prior written approval will be required for any settlement that reasonably can be expected to require an affirmative obligation of or result in any ongoing liability to Customer); and (iii) provides reasonable cooperation to Cloudera and, at Cloudera's request and expense, assistance in the defense or settlement of the Claim. In the event of a Claim pursuant to this Section, Cloudera may, at Cloudera's option and at Cloudera's expense: (a) obtain for Customer the right to continue to exercise the license granted to Customer under this Agreement; (b) substitute an equivalent non-infringing product; (c) modify the Work Product to make it non-infringing; or (d) refund all fees paid under the Statement of Work under which such infringement occurred, and terminate this Agreement. Upon a termination of this Agreement pursuant to this Section, Customer must, at Cloudera's option, return or destroy the Work Product and any and all Pre-Existing property, and Cloudera will refund the amount Customer paid to Cloudera. Cloudera's indemnification obligations do not extend to Claims arising from or relating to: (w) any use of the Work Product in combination with any equipment, software, data or any other materials where the infringement would not have occurred but for such combination; (x) any modification to the Work Product by any party other than Cloudera, where the infringement would not have occurred but for such modification; (y) the use of the Work Product in a manner inconsistent with the terms of this Agreement where the infringement would not have occurred but for such use; or (z) the continued use of the Work Product after Cloudera has

provided substantially equivalent non-infringing software. NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, THE PROVISIONS OF THIS SECTION STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF CLOUDERA AND THE EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO ANY ACTUAL OR ALLEGED MISAPPROPRIATION, VIOLATION AND/OR INFRINGEMENT OF ANY PROPRIETARY AND/OR INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, CLOUDERA EXPRESSLY DISCLAIMS ANY OBLIGATION TO INDEMNIFY OR DEFEND CUSTOMER AND/OR ANY OTHER PARTY FROM ANY CLAIM, DEMAND, ACTION OR THREATENED ACTION.

## 7. Limitation of Liability.

7.1 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, ANY INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OR IS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, IN NO EVENT WILL EITHER PARTY'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO CLOUDERA UNDER THIS AGREEMENT IN THE 12 MONTHS IMMEDIATELY PRIOR TO THE ACCRUAL OF THE FIRST CLAIM

7.2 THE LIMITATIONS OF LIABILITY IN SECTION 7.1 WILL NOT APPLY WITH RESPECT TO (I) ANY ACTS OF FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (II) BREACHES OF SECTIONS 2.1 OR 2.2 OR (III) EACH PARTY'S INDEMNIFICATION OBLIGATIONS; PROVIDED, HOWEVER, THAT, NOTWITHSTANDING ANY TERMS TO THE CONTRARY IN THIS AGREEMENT, CLOUDERA'S LIABILITY WITH RESPECT TO ITS INDEMNIFICATION OBLIGATIONS WILL NOT EXCEED TWO TIMES THE AMOUNT PAID BY CUSTOMER TO CLOUDERA IN THE 24 MONTHS IMMEDIATELY PRIOR TO THE ACCRUAL OF THE FIRST CLAIM. SECTION 7 WILL BE GIVEN FULL EFFECT EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

## 8. TERM AND TERMINATION

8.1 Term and Termination. Unless terminated as provided in this Agreement, the term of this Agreement will commence on the Effective Date and continue for one year. Thereafter, this Agreement may be renewed and the term extended for one or more additional years unless a party provides the other party with a notice to terminate this Agreement no less than **30** days prior to the close of the then-current term. Either party may terminate this Agreement for cause: (i) if the other party breaches this Agreement and does not remedy such failure within thirty (30) days after its receipt of written notice of such breach; or (ii) if the other party terminates its business activities or becomes insolvent, admits in writing to inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority.

8.2 Effect of Termination. Upon any expiration or termination of this Agreement: (i) all rights and licenses granted to Customer under this Agreement will immediately terminate; and (ii) Customer will promptly return to Cloudera all Confidential Information then in its possession or destroy all copies of Confidential Information, at Cloudera's sole discretion and direction. Customer shall immediately

confirm its compliance with Section 8.2(ii) in writing, at Cloudera's request. The following Sections will survive any expiration or termination of this Agreement: 1, 2.1, 4, 5.3, 6 (solely for the 12 month period commencing upon the effective date of termination of this Agreement), 7, 8.2 and 9. Notwithstanding any terms to the contrary in any agreement by and between Customer and Cloudera, if Cloudera terminates an agreement (pursuant to the terms of such agreement), such termination (unless otherwise specified by Cloudera) will constitute a termination of all other agreements by and between Customer and Cloudera.

## 9. General Provisions.

9.1 Entire Agreement and Conflicts. This Agreement, all exhibits to this Agreement, the agreement cover page and the agreements marked as being effective on the agreement cover page, all of which are incorporated herein by reference, sets forth the entire agreement and understanding of the parties relating to the subject matter hereof, and supersedes all prior or contemporaneous agreements, proposals, negotiations, conversations, discussions and understandings, written or oral, including any Customer purchase order or ordering document, with respect to such subject matter and all past dealing or industry custom. In the event of a conflict between the terms and conditions of the Subscription Agreement, the Professional Services Agreement and the Training Agreement: (i) the terms and conditions of the Subscription Agreement will govern the terms and conditions of the Professional Services Agreement and the terms and conditions of the Training Agreement; and (ii) the terms and conditions of the Professional Services Agreement Licensing Terms will govern the terms and conditions of the Training Agreement..

9.2 Independent Contractors. Neither party will, for any purpose, be deemed to be an agent, franchisor, franchise, employee, representative, owner or partner of the other party, and the relationship between the parties will only be that of independent contractors. Neither party will have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other party, whether express or implied, or to bind the other party in any respect whatsoever.

9.3 Assignment. Neither this Agreement nor any right or duty under this Agreement may be transferred, assigned or delegated by Customer, by operation of law or otherwise, without the prior written consent of Cloudera, and any attempted transfer, assignment or delegation without such consent will be void and without effect. Cloudera may freely transfer, assign or delegate this Agreement or its rights and duties under this Agreement. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective representatives, heirs, administrators, successors and permitted assigns.

9.4 Third Party Software. Notwithstanding any terms to the contrary in this Agreement, Customer acknowledges and agrees that: (i) the Cloudera Products contain Third Party Software; and (ii) Customer must comply with the third party licenses applicable to the Third Party Software. Cloudera makes no warranties or representations of any kind to Customer regarding such Third Party Software, or that such terms or conditions may not change or be altered by such third parties at any time. Further, Customer hereby acknowledges that such third party suppliers disclaim and make no representation or warranty with respect to such Third Party Software or any portion thereof, and assume no liability for any claim that may arise with respect to such Third Party Software or Customer's use or inability to use the same.

9.5 Amendments and Waivers. No modification, addition or deletion or waiver of any rights under this Agreement will be binding on a party unless made in writing, clearly understood by the parties to be a modification or waiver and signed by a duly authorized representative of each party. No failure or delay (in whole or in part) on the part of a party to exercise any right or remedy hereunder will operate as a waiver thereof or effect any other right or remedy. All rights and remedies hereunder are cumulative and are not



exclusive of any other rights or remedies provided hereunder or by law. The waiver of one breach or default or any delay in exercising any rights will not constitute a waiver of any subsequent breach or default.

9.6        Notices. Any notice or communication required or permitted to be given hereunder must be in writing signed or authorized by the party giving notice, and may be delivered by hand, deposited with an overnight courier, sent by confirmed email, confirmed facsimile, or mailed by registered or certified mail, return receipt requested, postage prepaid, in each case to the address of the receiving party as identified on this Agreement or at such other address as may hereafter be furnished in writing by either party to the other party. Such notice will be deemed to have been given as of the date it is delivered.

9.7        Force Majeure. Except for payments, neither party will be responsible for any failure to perform or delay attributable in whole or in part to any cause beyond its reasonable control, including but not limited to Acts of God, government actions, war, civil disturbance, insurrection, sabotage, labor shortages or disputes, transportation difficulties or shortage of energy, raw materials or equipment. In the event of any such delay the date of delivery will be deferred for a period equal to the time lost by reason of the delay.

9.8        Section Headings. The section headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement.

9.9        Governing Law; Venue. This Agreement is made and will be governed by and construed in accordance with the laws of the State of California, excluding its choice of law principles to the contrary. The parties agree that the venue for any dispute, obligation or action of any kind arising under this Agreement will be in the state or federal courts located in the County of Santa Clara, California, and the parties irrevocably consent to the exclusive jurisdiction of the state and federal courts of the state of California for any dispute, obligation or action hereunder and agree not to commence or prosecute any suit, proceeding or claim hereunder, except in such courts.

9.10       Severability. If any provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other provisions of this Agreement will nonetheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated by this Agreement is not affected in any manner adverse to any party. Upon such determination that any provision is invalid, illegal, or incapable of being enforced, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled.

9.11       Counterparts. This Agreement may be executed: (i) in two or more counterparts, each of which will be deemed an original and all of which will together constitute the same instrument; and (ii) by the parties by exchange of signature pages by telecopier, facsimile or email.

*[Signature Page to Follow]*

In Witness Whereof, the parties authorized representatives have executed this Master Agreement as of the Effective Date.

**CLOUDERA**

**CUSTOMER**

**Cloudera, Inc.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address: 210 Portage Ave.

Address: \_\_\_\_\_

Palo Alto, CA  
94306

\_\_\_\_\_

Facsimile No.: 1-888-789-1488

Facsimile No.: \_\_\_\_\_

Email No.: ap@cloudera.com

Email No.: \_\_\_\_\_

**EXHIBIT A**  
**CLOUDERA PRODUCTS AND DOCUMENTATION**

**Cloudera Open Source Distribution**

Cloudera's Distribution Including Apache Hadoop

- <http://archive.cloudera.com/docs/cdh.html>

**Cloudera Software**

Cloudera Management Suite

- Activity Monitor
- Service & Configuration Manager
- Service Monitor
- Resource Manager
- Authorization Manager