



ALFRESCO PARTNER AGREEMENT

updated 12/07/2021

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE ENTERING INTO THIS PARTNER AGREEMENT WITH HYLAND. PARTNER ACCEPTS 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 PARTNER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MAY NOT ENTER THE ALFRESCO PARTNER PROGRAM OR REPRESENT ITSELF AS AN ALFRESCO PARTNER.

This Alfresco Partner Agreement (the "**Agreement**") is between the Hyland entity ("Hyland") and the Partner entity ("Partner"), each of whom have agreed to the terms of this Agreement in an Addendum, Order Form, or other Partner enrollment document. This Agreement relates to the business relationship between Hyland and Partner with respect to the Alfresco Products (defined below). In consideration of the mutual covenants set forth in this Agreement, the parties agree as follows:

1. **Program.** Partner hereby enrolls in the Systems Integrator partner program in the territory ("**Territory**") and at the level specified in the Program Details Addendum signed by both parties ("**Addendum**"). Subject to the terms of this Agreement, Partner will use reasonable efforts in the Territory to (i) actively market, promote and sell the Alfresco Products to End Users; (ii) make demonstrations that showcase the features of the Alfresco Products; (iii) establish and maintain appropriate personnel to create and meet the demand for Alfresco Products and provide support where applicable; and (iv) carry out the promotional and other activities set forth in the Addendum. Partner will represent the Alfresco Products accurately and fairly and at all times avoid misleading, illegal, or unethical business practices. Partner will make no claim or representation relating to the performance or functionality of the Alfresco Products other than as expressly set forth by Hyland in the documentation provided by Hyland. Partner and Hyland will confer regularly on matters relating to market conditions, sales forecasting, product planning and promotional marketing strategies.

"**Alfresco Products**" means the Alfresco branded Software subscriptions and services Hyland makes generally available for purchase through third parties. For purposes of this Agreement, Community Versions are not Alfresco Products.

"**Community Versions**" means the free, open-source community versions of Alfresco branded software that Hyland makes available at no charge, including *without limitation* Alfresco, Activiti and Records Management software.

"**Software**" means the Alfresco branded software programs provided by Hyland and/or its Affiliates and any enhancements, additions, corrections, modifications, updates or upgrades to the software provided by Hyland. Software does not include third party software which may be provided therewith.

"**Services**" means Alfresco maintenance and support, training and professional services.

"**End User**" means a customer of Partner who employs the Alfresco Products for its own internal use.

"**Subscription**" means access to the Software and support services for a defined period of time (the "**Subscription Period**"), as set forth in an Order Form.

2. **License Grant.** Subject to the terms and conditions of this Agreement, Hyland grants to Partner, and Partner hereby accepts, the following licenses:

2.1 **Reseller License.** Subject to the terms and conditions of this Agreement, Hyland grants Partner a non-exclusive, non-transferable, non-sublicenseable right during the Term to (a) market and sell the Alfresco Products to End Users in the Territory; (b) use the Alfresco Products for purposes of demonstrating the Alfresco Products and their capabilities to End Users and prospective End Users; and (c) use the Alfresco Products for internal development and testing use on non-production systems solely in connection with the demonstration uses authorized above. Any other use, including without limitation use relating to any development or modification of any Partner products or services, requires a separate license.

Partner expressly agrees that it will not, directly or indirectly distribute, install, ship or provide services related to the Alfresco Products outside the Territory. If Partner receives any order or request for information about the Alfresco Products from outside the Territory, Partner will promptly refer such order or request to Hyland. If at any time Hyland reasonably determines the laws of any country may adversely impact Hyland's ability to distribute Alfresco Products in that country, Hyland reserves the right to suspend Partner's right to distribute the Alfresco Products or Promotional Materials in that country upon thirty (30) days' prior notice. Partner's rights with respect to the affected country may be reinstated upon written notification from Hyland.

2.2 **End User Agreement.** Partner will require each End User to sign or otherwise agree to (in a legally binding manner acceptable to Hyland) to the end user agreement set forth at www.alfresco.com/EULA/, as updated by Hyland from time to time ("**End User Agreement**"). Failure to obtain express End User agreement to the End User Agreement will constitute a material breach of this Agreement. Partner will not amend or grant any additional right, waiver or warranty under the End User Agreement without Hyland's prior written consent. Furthermore, if any additional terms applicable to the End User are specified in an Order Form, Partner will obtain agreement to such additional terms in the same manner as described above. If Partner becomes aware of any violation of the End User Agreement, Partner will notify Hyland promptly and assist Hyland in enforcing the terms of the End User Agreement.

2.3 **Restrictions.** Except as expressly permitted in this Agreement, Partner will not: (a) modify the Alfresco Products in any unapproved manner; (b) integrate, sell support for, bundle, or provide any other services for Community Versions; (c) support an End User without a current subscription for the Alfresco Products; (d) offer or provide training services related to the Alfresco Products without prior written consent of Hyland; (e) use the



Alfresco Products in any manner or for any purpose not permitted by this Agreement, including, without limitation, for partner's own internal or production use; or (f) grant any rights to any End User that conflict with the Alfresco End User Agreement, including, without limitation, granting any form of perpetual license rights to the Software. Should Partner desire to use the Alfresco Products for Partner's own internal or production use, Partner shall enter into a separate End User Agreement and pay the applicable subscription fee for all periods of use. This is not an exclusive distribution or exclusive commercial agency agreement. Partner is not authorized to register this Agreement with any local authority pursuant to any laws or regulations pertaining to such agreements or to otherwise represent itself as Hyland's exclusive commercial agent in the Territory.

2.4 Partner Support. With respect to the Partner's use of the Software as licensed in Section 2.1(c), Hyland will provide Standard Product Technical Support to Partner. If Partner requires support beyond the scope of Standard Product Technical Support, Partner may purchase Developer Support separately. "**Standard Product Technical Support**" means support for non-Customer related technical issues through the Alfresco partner support portal, and specifically excludes Developer Support. This support will be provided for up to 3 named support contacts at the Partner. A detailed description of this support program is set forth at: <http://www.alfresco.com/support/guidelines>. "**Developer Support**" means the services specified at the following website: <https://www.alfresco.com/services/subscription/technical-support/alfresco-developer-support>.

2.5 Promotional Materials. Subject to the terms and conditions below, Hyland grants to Partner, and Partner accepts, a non-exclusive, non-transferable right during the Term to reproduce or copy the Promotional Materials as reasonably necessary for Partner to fulfill its obligations under this Agreement; provided, however, that such right does not include the right to copy or distribute any third-party copyrighted materials separate from the Promotional Materials. "**Promotional Materials**" means any marketing collateral associated with the Alfresco Products that is provided by Hyland to Partner for distribution to prospective End Users, including any translations of those materials approved by Hyland in writing. All Promotional Materials and modifications to such materials will remain or become the property of Hyland. Partner agrees not to modify or use the Promotional Materials except as permitted by this Agreement.

2.6 End User Engagement. The parties agree to cooperate in good faith in engaging with End Users. Partner agrees to provide (and maintain) updated contact information for the primary contacts for a given End User in connection with ensuring continued compliance with the terms of the Agreement and engaging for purposes of renewal of any Subscriptions purchased.

3. Purchase and Payment

3.1 Fees and Invoices. Pricing, billing and invoice terms for the Alfresco Products and applicable program fees are set forth in the Addendum (collectively, "**Fees**"). Partner shall pay all Fees to Hyland in accordance with the payment terms without regard for when and whether Partner collects payment from an End User.

3.2 Fulfillment. Upon Hyland's acceptance of an order form from Partner (the form of which will be provided by Hyland) ("**Order Form**"), Hyland will (a) establish an account for the End User and provide instructions to the End User for accessing the Alfresco Products, and (b) invoice Partner for the Fees for the applicable fees.

All Alfresco Products are sold without return privileges.

3.3 Expenses. All expenses, costs and charges incurred by Partner in the performance of its obligations under this Agreement will be borne by and paid by Partner unless Hyland has expressly agreed beforehand in writing to pay such expenses, costs or charges.

3.4 Taxes. All fees are exclusive of Taxes. "**Taxes**" means any form of sales, use, value added or other form of taxation, but excluding any taxes based on the net income of Hyland.

Should Partner be legally required to withhold or deduct any portion of the payments due to Hyland, then the payment to Hyland will be increased by the amount necessary to yield to Hyland an amount equal to the sum it would have received without withholdings or deductions.

3.5 Late Payment. Hyland may charge interest on any overdue Fees at the rate of twelve percent (12%) per annum, without prejudice to any other right or remedy of Hyland.

3.6 Records and Audit. During the Term and for three (3) years thereafter, Partner will maintain written records and accounts regarding Partner's distribution of the Alfresco Products to End Users and compliance with this Agreement. Hyland may request and receive copies of any such records within thirty days of the notice date. Upon thirty days' written notice to Partner, Hyland may engage its independent accountants to conduct an inspection and audit of all relevant facilities and records of Partner. The inspection will be conducted at Hyland's expense; provided, however, that if the inspection and audit reveals Partner has failed to comply in any material respect with this Agreement, Partner will pay all reasonable costs and expenses incurred by Hyland in conducting the audit.

3.7 Partner Program Changes. Hyland reserves the right to make programmatic changes to its partner programs and compensation practices, including partner discounts or referral fees, upon ninety (90) days' prior written notice to Partner ("**Programmatic Change**"). Programmatic Changes shall apply to Alfresco partner programs generally rather than to Partner alone. In the event Partner finds a Programmatic Change unacceptable, Partner may immediately terminate this Agreement upon written notice to Hyland and receive a pro-rata refund of any prepaid Fees for the unused portion of the Agreement Term.

4. Intellectual Property

4.1 Hyland Ownership. Partner's rights in the Alfresco Products are limited to those license rights expressly granted under this Agreement, and Hyland retains all rights not expressly granted (including all rights under trademarks, copyrights, patents, and/or other Hyland intellectual property). Except with Hyland's prior written consent, Partner will not: (a) distribute modified Alfresco Products under Hyland's trademarks; (b) remove any copyright, proprietary notice, or license information from any Alfresco Products or documentation; or (c) use the Services in any manner or for any purpose not specifically permitted by this Agreement. Hyland owns and retains all right, title, and interest in the Alfresco Products and all intellectual property rights inherent therein, including, without limitation, all changes incorporated into the Software by Hyland, even if originally requested or suggested by Partner and/or its End Users. Partner agrees it will use Alfresco Services only for purposes authorized under this Agreement. Should Partner use the Services for any other purpose (including Partner's internal or production



use), Partner shall report such use to Hyland, pay the applicable fee (on a pro-rata basis) for any past use, and purchase a subscription for the Alfresco Services. Any unauthorized use of the Services will constitute a material breach of this Agreement.

4.2 Trademarks

4.2.1 License Grant. As used in this Agreement, the term “**Hyland Marks**” means the Hyland marks, logos and trademarks Hyland authorizes for use as part of the applicable Alfresco partner program level, as published by Hyland in its Additional Partner Program Benefits Guide or similar such document (“**Additional Benefits Guide**”), as may be modified by Hyland from time to time. During the Term of the Agreement, Hyland grants Partner a non-exclusive, non-transferable, worldwide, royalty-free, revocable license, with no right to sublicense, to use the Hyland Marks in the Territory solely in connection with the marketing and distribution of the Alfresco Products. This license is granted solely to Partner and does not extend to Partner's affiliated and/or subsidiary companies. All other use of the Hyland Marks is prohibited. Partner agrees to follow the Alfresco trademark usage guidelines located at [www.alfresco.com/legal/licensing/Alfresco Trademark Policy.doc](http://www.alfresco.com/legal/licensing/Alfresco%20Trademark%20Policy.doc). Partner will not use the Hyland Marks in combination with any other trade name, trademark or service mark, except as stated in this Agreement, without Hyland's prior written approval. Hyland reserves the right to terminate this Agreement upon Partner's misuse of any Hyland Mark. Partner also agrees to promptly cease or modify any use of the Hyland Marks, as applicable, if there is any change in the scope or rights granted under the Additional Benefits Guide.

4.2.2 Reservation of Rights. All uses of the Hyland Marks by Partner, including the goodwill therein, inure to the benefit of Hyland. Partner acquires no right, title or interest in the Hyland Marks or associated goodwill, other than the right to use the Hyland Marks according to this Agreement. As between Partner and Hyland, Hyland owns all Hyland Marks and Partner agrees not to apply to register any marks which include a Hyland Mark or any trademark, service mark, trade name or derivation confusingly similar to a Hyland Mark, or to register any domain name containing any Hyland Mark or a derivative or abbreviation thereof in any country or territory during the term of this Agreement. At Hyland's reasonable request, Partner will execute any papers or documents reasonably necessary to protect the rights of Hyland in the Hyland Marks. Partner will cease using the Hyland Marks immediately upon termination of this Agreement.

5. Term and Termination

5.1 Term. This Agreement will begin on the Effective Date and continue for the term set forth in the Addendum (“**Term**”) unless terminated earlier in accordance with this Agreement. In the event of termination or expiration of this Agreement: (a) agreements with End Users that were entered during the Term of this Agreement will continue in accordance with their terms, for the duration of the applicable Subscription Period(s), as long as such End Users comply with the terms of such agreements; and (b) Hyland will provide information to End Users about how to renew their subscriptions going forward, which may include directing End Users to work with Hyland directly or with other authorized partners.

5.2 Termination. Either party may (without prejudice to any other right or remedy) terminate this Agreement upon written notice if the other party materially breaches the terms of this Agreement, including the failure of timely payment, and fails to cure the breach within fifteen (15) days of being requested in writing to do so;

provided, however, that no cure period will be required for a breach of Section 8.2 or other breach that cannot be reasonably cured.

5.3 Modification of Partner Program Participation. Hyland reserves the right to terminate or modify Partner's participation in the applicable Alfresco Partner program (or level) in the event Hyland believes in good faith Partner is unwilling or unable to execute its obligations in accordance with the applicable Alfresco partner program expectations set forth in the Addendum (and this Agreement) and Hyland's generally released partner program documentation related to Alfresco Products. In the event Hyland poses a modification rather than termination and Partner finds that change unacceptable, Partner may immediately terminate this Agreement upon written notice to Hyland. Hyland will describe the basis.

5.3 Effect of Termination of Agreement. If this Agreement is terminated for any reason or expires by its terms:

5.3.1 All rights and obligations of the parties will terminate immediately, except that the obligations of the parties under Sections 3, 4.1, 4.2.2, 6.2, 6.3, 6.4, 8.2, 8.3, 8.4, and 9 will survive such termination or expiration; and

5.3.2 Partner will immediately (i) cease all promotion, demonstration, sale and distribution of the Alfresco Products, (ii) cease all use of Hyland Marks, and (iii) return or destroy, at Hyland's option, all printed materials containing such marks.

6. Warranties, Limitation of Liability, and Disclaimers

6.1 General Representations and Warranties. Hyland represents and warrants to Partner that: (a) it will use reasonable skill and care in providing the Services, which shall be performed in a professional and workmanlike manner by qualified personnel; (b) it has the authority to enter into this Agreement with Partner; and (c) to Hyland's knowledge, the Alfresco Products do not, at the time of delivery to Partner, include malicious or hidden mechanisms or code for the purpose of damaging or corrupting the Alfresco Products.

Partner represents and warrants to Hyland that: (a) it will use reasonable skill and care in performing under this Agreement and providing services to End Users, and will perform any services it provides to End Users in a professional and workmanlike manner by qualified personnel; (b) it has the authority to enter into this Agreement with Hyland; and (c) Partner will comply with all applicable laws in the sale, distribution, and servicing of the Alfresco Products.

6.2 Disclaimer of Warranty. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6.1, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY EITHER PARTY OR ITS AFFILIATES, DEALERS, PARTNERS, AGENTS OR EMPLOYEES WILL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN. HYLAND DOES NOT GUARANTEE OR WARRANT THAT THE USE OF THE ALFRESCO PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE. Partner will make no representations or warranties on behalf of Hyland regarding the Alfresco Products in connection with the distribution of the Alfresco Products or otherwise.

6.3 Disclaimer of Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR AN ORDER FORM, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR DAMAGES OTHER THAN DIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION: ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE; OR ANY DAMAGES ARISING FROM ANY MALFUNCTIONS, REGULATORY NON-COMPLIANCE, DELAYS, LOSS OF DATA, LOST PROFITS, LOST SAVINGS, INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF A PARTY OR ITS AFFILIATES HAS 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.

6.4 Limitation of Liability. FOR ALL EVENTS AND CIRCUMSTANCES, NEITHER PARTY'S (OR ITS AFFILIATES') AGGREGATE AND CUMULATIVE LIABILITY ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, STATUTE OR OTHERWISE WILL EXCEED THE AMOUNTS PAID OR OWED TO HYLAND BY PARTNER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY. NOTHING IN THIS AGREEMENT IS INTENDED TO EXCLUDE OR LIMIT EITHER PARTY'S LIABILITY FOR ILLEGAL ACTS, DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE CAUSED BY NEGLIGENCE, OR FOR FRAUD. NOTHING IN THIS SECTION WILL LIMIT THE FEES OWED BY PARTNER UNDER THIS AGREEMENT, BREACH OF SECTION 8.5 OR FOR EXCEEDING THE SCOPE OF THE LICENSES GRANTED OR OTHERWISE VIOLATING THE REQUIREMENTS IN SECTION 2 OR 4.2.

6.5 Insurance. Partner will at all times during the Term maintain sufficient business insurance coverage to cover its activities under this Agreement, including without limitation general commercial liability coverage of at least two million dollars.

7. Indemnification

7.1 Defense. If a third party initiates a legal action alleging the Alfresco Products directly infringe the third party's patent, copyright, trademark or misappropriates the third party's trade secret rights ("**Third Party Rights**") (such action, a "**Claim**"), and provided Partner is not in material breach of this Agreement, then Hyland will (a) promptly assume the defense of the Claim and (b) pay costs, damages and/or reasonable attorneys' fees that are included in a final judgment against Partner (without right of appeal) or in a settlement approved by Hyland that are attributable to Partner's distribution of the Alfresco Products; provided that Partner (i) is current in the payment of all applicable fees, or becomes current prior to requesting indemnification, (ii) notifies Hyland in writing of the Claim promptly after receipt of the Claim, (iii) provides Hyland with the right to control the defense of the Claim with counsel of its choice, and to settle such Claim at Hyland's sole discretion (unless the settlement requires payment by Partner or requires Partner to admit liability), and (iv) cooperates with Hyland in the defense of the Claim.

7.2 Injunctive Relief. If an injunction is sought or obtained against Partner's use of the Alfresco Products as a result of a third

party infringement claim, Hyland may, at its sole option and expense, (i) procure for Partner the right to continue using the affected Alfresco Products consistent with this Agreement, (ii) replace or modify the affected Alfresco Products with functionally equivalent software so that it does not infringe, or, if either (i) or (ii) is not available on a basis that Hyland finds commercially feasible, (iii) terminate the applicable licenses without further liability under this section and, if Partner returns the Alfresco Products that are subject to the Claim, refund any prepaid and unused Fees for the affected Alfresco Products.

7.3 Exclusions. Hyland will have no liability for any Claim based upon (a) use of non-current versions of the Software when Hyland has made newer versions available that do not infringe; (b) altered versions of the Software (unless the specific alteration was made by or for Hyland); (c) 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; (d) Hyland's compliance with designs, specifications or instructions provided by Partner or its End User where those designs, specifications or instructions cause the infringement; (e) use by Partner or its End Users after notice by Hyland to discontinue use of all or a portion of the Software; or (f) third party software. This section constitutes Hyland's entire liability, and Partner's sole and exclusive remedy, with respect to any third party claims of infringement or misappropriation of intellectual property rights.

7.4 Partner Indemnity. Partner agrees to indemnify, defend and hold Hyland harmless from and against any costs, losses, liabilities, claims or expenses (including reasonable attorneys' fees) arising out of (i) any third-party claim that any Partner product or service infringes its intellectual property rights, including any combination of Partner's product or service with the Software, except to the extent such infringement is caused solely by the Software, (ii) any breach of Section 8.5, or (iii) any breach of Section 2 of this Agreement. To obtain indemnity from Partner, Hyland shall (a) notify Partner in writing of the claim promptly after receipt of the claim, (b) provide Partner the right to control the defense of the claim with counsel of its choice, and to settle such claim at Partner's sole discretion (unless the settlement requires payment by Hyland or requires Hyland to admit liability), and (c) cooperate with Partner in the defense of the Claim.

8. Publicity and Confidentiality

8.1 Publicity. Neither party will disclose the terms of this Agreement (including the Fees paid hereunder) without the other party's prior written consent. Each party may generally reference the existence of this relationship on its website, during discussions with analysts, meetings with the press, customer briefings, or in regulatory filings. Partner may identify itself as an Alfresco partner on its web site and in promotional materials, in accordance with the terms of this Agreement and the Addendum. Partner shall not represent itself as Hyland in any manner. Any use of the other party's names, marks, logos or other designations except as described above requires prior written authorization of the other party. Use of a party's names, marks, logos or other designations is subject to all marks use guidelines and similar guidelines provided by that party as well as the terms of this Agreement and the Addendum, as applicable.

8.2 Confidentiality. 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 party 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, contractors with a need to know, and to its auditors and legal counsel 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 non-public information, including the terms of this Agreement or any Addendum, disclosed by either Hyland or Partner ("**Disclosing Party**") to the other party ("**Recipient**") during the term of this Agreement that is either (y) marked confidential or (z) any information a reasonable person would understand to be confidential or proprietary under the circumstances of its disclosure.

8.3 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 or regulation, provided it gives the Disclosing Party sufficient advance notice of the disclosure requirement to seek an order or other mechanism to prevent or limit disclosure. In the event disclosure is required by law or regulation, the party making the disclosure will disclose only the minimum amount of Confidential Information necessary to comply with the applicable requirements.

8.4 Independent Development. Each party understands that the other party may develop or receive information similar to the other party's Confidential Information. Subject to the intellectual property rights of each party, (a) either party may develop or acquire technology or products, for itself or others, that are similar to or competitive with the technology or products of the disclosing party, and (b) each party is free to use (but not disclose to third parties) information which may be retained in the unaided memory of the receiving party's employees or contractors who have had access to the Confidential Information of the other party.

8.5 Personal Data. In connection with the Partner Program, Partner may receive contact information and other personally identifiable information in connection with this Agreement. Partner warrants to Hyland that Partner will: (a) only use such information expressly for purposes of engaging with End Users (and prospective End Users) in connection with the Subscription transactions authorized under this Agreement; (b) abide by all terms of Hyland's then-current privacy policies and any applicable End User privacy policies in handling and using such data; (c) Partner will handle, store and process all such data in a secure manner, and Partner will have and maintain an information security program in accordance with prevailing law and all applicable laws, rules and regulations which will at all times be applicable to such information; (d) comply with all applicable laws, rules and regulations governing use of such data, including without limitation GDPR and CCPA obligations; and

(e) Partner will promptly notify Hyland (and in no event later than 48 hours) if Partner discovers any unauthorized use or disclosure of any such information or other breach of this Section 8.5. Partner also agrees to enter into any further documentation or agreements requested by Hyland in connection with required compliance with applicable laws, rules or regulations. Hyland will obtain consent for the use expressly authorized above. Any other use is not authorized, and Partner is solely responsible for obtaining any consents, permissions or rights directly from the individual should Partner wish to make any other use of that data.

9. Dispute Resolution. The following dispute resolution provisions will apply based upon Partner's Territory.

9.1 Partners with Territories in Europe, Africa and/or the Middle East (EMEA). English law shall govern all aspects of this Agreement. Any dispute arising from this Agreement shall be subject to the exclusive jurisdiction of courts located in England and Wales, without regard to their conflict-of-law principles or the United Nations Convention on Contracts for the International Sale of Goods.

9.2 Partners with Territories in the United States and all Non-EMEA Locations. Ohio law shall govern all aspects of this Agreement, without regard to its conflict-of-law principles. Any dispute arising from this Agreement shall be subject to the exclusive jurisdiction of state and federal courts located in Cuyahoga County, Ohio. The prevailing party in any such dispute shall recover its reasonable attorneys' fees and costs from the losing party, including any fees or costs arising from an appeal.

9.3 Partners with Territories in Both EMEA and Non-EMEA Locations. In the event a Partner has a global Territory, or one that otherwise includes both EMEA and non-EMEA locations, then the party initiating the action may choose to proceed under either Section 9.1 or 9.2.

10. General

10.1 Notices. Notices under this Agreement must be in writing in the English language, and delivered to the receiving party's Chief Financial Officer, with a copy to its General Counsel, at the receiving party's address listed below or, if not listed in this Agreement, in the most recent Addendum or Order Form. Notices will be deemed received when (1) delivered personally; or (2) upon confirmed delivery by a commercial express carrier.

10.2 Assignment. This Agreement is binding on the signing parties. Nothing in this Agreement confers upon any other person or entity any right, benefit or remedy of any nature. This Agreement is assignable by a party only with the other party's prior written consent, which will not be unreasonably withheld; provided, however, that either party may assign this Agreement as a result of a merger or a sale of all or substantially all of such party's assets or stock without the other party's approval.

10.3 Subcontracting. Hyland may subcontract services under this Agreement without the prior approval of Partner; provided, however, that (a) subcontractors must agree to keep confidential any proprietary information received from Hyland or Partner, and (b) Hyland remains responsible to Partner for the performance of its obligations under this Agreement. Partner acknowledges and agrees that to provide the Services, it may be necessary for Hyland to transfer information received from Partner to its affiliates, and/or subcontractors, which may be located worldwide.



10.4 Independent Contractor. Partner is an independent contractor for all purposes, without express or implied authority to bind Hyland. Neither Partner nor its employees, agents or subcontractors are entitled to any employee benefits of Hyland. Partner will be responsible for all costs and expenses incident to performing its business. Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture between the parties.

10.5 Force Majeure. Neither party will be liable for nonperformance or delays caused by acts of God, wars, riots, strikes, fires, floods, earthquakes, government restrictions, terrorist acts or other causes beyond its reasonable control, except with respect to payment under Section 3. In the event of a force majeure event, the date of performance will be deferred for a period of time equal to the time lost by reason of the delay. The affected party will notify the other in writing of such events promptly upon their occurrence.

10.6 Compliance with Law and Export Controls

10.6.1 Partner represents and warrants, that: (a) it has not entered into, nor will it enter into, any personal, business, or financial dealing with, or make any payment to, any directors, officers, employees, affiliates and subsidiaries of Hyland, except as specifically provided for in this Agreement; (b) Partner has not and will not, in connection with its performance under this Agreement, make or receive any payments or give or receive any gift, loans, entertainment, gratuities or other compensation in any form to or from third parties for any purpose if such would be in violation of any laws or regulations of any country; and (c) Partner has not entered into any agreement that would prevent Partner from diligently performing its obligations under this Agreement.

10.6.2 Partner agrees that it will not re-export the Alfresco Products or any other technical data received from Hyland except as permitted by all applicable laws.

10.6.3 To the extent required by applicable law, Partner will register this Agreement, at its expense, with any governmental authority requiring such registration. At Hyland's option, Hyland may obtain such registration in its own name. At Hyland's request, Partner will withdraw any application or registration of this Agreement that it has filed.

10.7 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.

10.8 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 to the greatest possible extent. If the impacted provision cannot be so modified, the parties agree that the invalid provision will not affect the validity of the remaining portions of the Agreement.

10.9 Waiver. The delay or failure of either party to exercise any rights hereunder will not constitute a waiver or forfeiture of those rights. No waiver will be valid unless in writing and signed by an authorized representative of the party against whom the waiver or forfeiture would be enforced. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

10.10 Entire Agreement. This Agreement contains the final, complete and exclusive statement of the agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous oral and written agreements. In the event of any conflict between this Agreement, the Addendum and any order form or exhibits, this Agreement will take precedence unless otherwise expressly provided in the Addendum, order form or exhibit.

10.11 Amendment. This Agreement may not be amended, supplemented or modified except by specific written agreement signed by authorized representatives of each party.

10.12 Interpretation. Each party acknowledges it has reviewed and participated in settling the terms of this Agreement. The parties further agree that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation or construction of this Agreement.

10.13 Controlling Language. This Agreement has been prepared, negotiated and signed in English, and English is the controlling language of this Agreement