



## LICENSE FOR DIFFEO SOFTWARE

**THIS COVER PAGE ALONG WITH THE TERMS AND CONDITIONS ATTACHED HERETO FORM THE ENTIRE AGREEMENT (THIS "AGREEMENT") BETWEEN DIFFEO AND THE ENTITY DEFINED HEREIN AS "CUSTOMER".**

### **LICENSED PRODUCT INFORMATION:**

The terms "**You/you/your**" and "**Customer**" mean the organization identified in the Accepted Price Quote issued by a Diffeo Representative.

"**Diffeo Representative**" means either Diffeo, Inc. or a Diffeo Certified Support Partner, who are:

- Computable Insights LLC
- CarahSoft Technology Corp.

"**Accepted Price Quote**" means the documentation provided by a Diffeo Representative to the Customer listing products and prices and including a quote number that the Customer identifies in a purchase order with respect to the Licensed Products that is accepted by a Diffeo Representative. The Accepted Price Quote defines the program or activity that may use the Licensed Products under this Agreement, as well as maintenance terms, numbers of Client Access Licenses, services/labor, and other items as requested by the Customer. Unless specified differently in the Accepted Price Quote, the following terms define authorized usage:

- "**Authorized Computer(s)**" mean computer systems owned and operated by or on behalf of the Customer for the program or activity identified in the Accepted Price Quote.
- "**Authorized Network(s)**" means networks connected to Authorized Computers.
- "**Authorized User(s)**" mean users for which Customer has obtained Client Access Licenses.
- "**Authorized Number of Users**" means the quantity of Client Access Licenses (CALs) for which a customer has paid.
- "**Authorized Forms of Usage**" means test, development, evaluation, and production usage for the program or activity identified in the Accepted Price Quote.

"**License Fees**" means the compensation accepted by a Diffeo Representative in association with the Accepted Price Quote.

"**Licensed Products**" means the commercial computer software identified in the Accepted Price Quote for which a Diffeo Representative accepts payment. Licensed Products include computer software, software-as-a-service from diffeo.com, and any updates, upgrades, additional modules, or any third party software or data relating to such products, whether provided on or about the Effective Date or thereafter, and subject to this Agreement. Licensed Products include Diffeo Engines, Diffeo client applications, such as Diffeo for Windows (DfW) and Diffeo for Browsers (DfB), the Diffeo Enterprise HierCoref (DEHC) suite of tools, and other product offerings. Any additional Licensed Products delivered under this Agreement shall be reflected in a purchase order or other document accepted by a Diffeo Representative that refers to the terms and conditions of this Agreement and the applicable Term.

"**Relevant Prime Contract and Prime Contractor**" prime contract number and prime contractor organization identified in the Accepted Price Quote or accompanying documentation.

### **EFFECTIVE DATE/TERM**

"**Effective Date**" of this agreement shall be the order date of the purchase order for the Accepted Price Quote.

"**License Term**" shall be perpetual, unless earlier terminated as provided for herein, or annual or monthly as specified in the Accepted Price Quote.

"**Initial Maintenance Term**" shall be twelve (12) months from the Effective Date, unless earlier terminated as provided for herein, or specified differently in the Accepted Price Quote or price list description.

### **FEES AND PAYMENT**

"**License Fees**" shall mean the fees set forth in a purchase order with respect to the Licensed Products accepted by a Diffeo Representative.

"**Maintenance Fees**" shall mean the fees set forth in a purchase order with respect to Maintenance Services for the Licensed Products accepted by a Diffeo Representative.

The terms and conditions set forth in this Agreement shall control in the event that there are different or additional terms set forth in any **other** purchase order submitted by Customer, or **other** price quote issued by a Diffeo Representative, or acceptance form or invoice issued by a Diffeo Representative. Diffeo and Customer are each a "Party" and together they are the "Parties."

## I. DEFINITIONS

In addition to the items defined on the cover page, the following capitalized terms as used herein shall have the meaning ascribed to them below.

1.1 "Documentation" shall mean Diffeo's then current help guides and manuals published by Diffeo and made generally available by Diffeo for the Licensed Products.

1.2 "Intellectual Property Rights" shall include all past, present and future rights, throughout the world, whether arising under federal law, state law, common law, foreign law or otherwise, whether registered or unregistered, in and to all copyrights, patents, data, trademarks, service marks, domain names and trade secrets. Such rights shall include moral rights and *sui generis* rights.

1.3 "Maintenance Services" shall mean all upgrades to the Licensed Products, as well as, bug or error fixes, patches, workarounds, and maintenance releases for the Licensed Products. Diffeo's current maintenance policy is set forth in Exhibit A attached hereto.

1.4 "Product Materials" shall mean any written materials, including, without limitation, Documentation and training materials provided by Diffeo to Customer.

## II. LICENSE

2.1 License Grant to Licensed Products Subject to the payment of the License Fees and the other limitations or restrictions contained herein, Diffeo hereby grants to Customer, and Customer hereby accepts, a personal, non-transferable and non-exclusive license, under Diffeo's Intellectual Property Rights, to use the Licensed Products (including source code, if provided for any components, and any "derivative works" thereof) and, subject to the restrictions set forth in this Agreement, any output generated from Customer's authorized use of the Licensed Products in each case solely for Customer's internal, noncommercial purposes. The making, selling or use of Licensed Products are subject to the Intellectual Property Rights of Diffeo. The Licensed Products may include text analytics components from Basis Technology Corporation ("**Basis**"), which have been licensed to Diffeo and may be distributed through a Diffeo Representative. No rights in Diffeo's or Basis's Intellectual Property Rights are granted in this Agreement except for the specific rights granted by Diffeo to Customer above. Diffeo shall provide Customer with one (1) copy of the Documentation. Customer may use the Documentation to instruct its Authorized Users in the operation of the Licensed Products, but may not copy or distribute such Documentation except for the purpose of using the Licensed Products as authorized herein.

2.2 License Restrictions. The limited license granted in Section 2.1 is subject to the following restrictions: (a) the Licensed Products may only be used by Authorized Users accessing Authorized Computers and on Authorized Networks for Authorized Forms of Usage and no provision of this Agreement is intended to grant Customer a license under any Diffeo Intellectual Property Rights except as specifically permitted in 2.1; (b) Customer must at all times control the access and use of the Licensed Products and not grant or permit other agencies or organizations to use the Licensed Products, and Customer agrees to work closely with Diffeo to document and audit its use of Licensed Products to ensure that the number of actual users does not exceed the Authorized Number of Users; (c) the Licensed Products shall be used only for Customer's

internal business use and shall not be used for the benefit of a third party (for example to process data or provide the services to third parties); (d) Customer shall not reverse engineer (unless specifically permitted under applicable law for interoperability), disassemble, decompile, otherwise attempt to derive the source code of the Licensed Products or any third party data included in the Licensed Products, or separate the contents of any Licensed Product or permit others to do any of the foregoing, unless previously agreed to in writing by Diffeo; and (e) Customer shall not sublicense the Licensed Products (including derivative works thereof), or (f) use the Licensed Products for time-sharing, rental, outsourcing, or service bureau use, or to train persons other than Authorized Users, unless previously agreed to in writing by Diffeo. If the Licensed Products include embedded text analytics components from Basis, then the output of those components may only be used for the purposes of the Licensed Product and may not be directly accessed by a bulk processing system or otherwise. For example, the mention spans from Basis' named entity recognition may only be used within the Licensed Product and applications built on APIs provided by the Licensed Product.

2.3 Ownership/Retention of Rights. Diffeo reserves all rights not expressly granted to Customer in this Agreement. Without limiting the generality of the foregoing, Customer acknowledges and agrees that: (a) except for the licenses granted in Section 2.1 of this Agreement, Diffeo and its licensors retain all right, title and interest, including all Intellectual Property Rights, in and to the Licensed Products and Product Materials, as well as any data or software included therein. All copies shall be and shall remain the property of Diffeo and its licensors. The grant of rights hereunder to the Licensed Products is not a sale of the Licensed Products or any portion thereof. Customer acknowledges and agrees that it does not acquire any Intellectual Property or other rights, express or implied, in or to the Licensed Products or Product Materials; (b) any configuration or deployment of the Licensed Products shall not affect or diminish Diffeo's (or its licensors') rights, title, and interest in and to the Licensed Products; and (c) if Customer suggests any new features, functionality, or performance for the Licensed Products ("Customer Enhancements"), Customer acknowledges that all such Customer Enhancements and the programs incorporating such Customer Enhancements are sole and exclusive property of Diffeo and all such Customer Enhancements shall be free from any confidentiality restrictions that might otherwise be imposed upon Diffeo pursuant to Section X. Customer hereby irrevocably assigns to Diffeo all Intellectual Property Rights and all other rights and title to the Customer Enhancements. Customer agrees to execute such further documents and agreements as reasonably requested by Diffeo from time to time to vest, perfect or evidence Diffeo's Intellectual Property Rights or title in and to the Customer Enhancements. For avoidance of doubt, Diffeo shall be the sole owner of any derivative products created by Customer from the Licensed Products and Customer hereby transfers and assigns all rights to such derivative products to Diffeo. For software-as-a-service offerings, such as those provided through diffeo.com, this Agreement takes priority if any conflicts exist between this Agreement and any terms of service published as part of such offerings. This Section 2.3 shall survive termination of this Agreement.

2.4 Government Rights in Licensed Products. This Section 2.4 applies to all acquisitions of the Licensed Products by or for the federal government, or by any prime contractor or subcontractor (at any tier) under any contract, grant, cooperative agreement or other activity with the federal government. By accepting delivery of the Licensed Products, the government hereby agrees that such Licensed Products qualify as "commercial computer software" within the meaning of FAR Sections 2.101 and 12.212 and DFARS 227.7202, and that the use, duplication, and disclosure of the Licensed Products

by the U.S. Government or any of its agencies is governed by, and is subject to, all of the terms, conditions, restrictions, and limitations set forth in this standard commercial license Agreement. If this Agreement fails to meet the Government's needs, the Government agrees to return the Licensed Products, unused, to Diffeo. If this Agreement is found to be inconsistent in any respect with Federal law, the Government agrees that the Government's right to use, duplicate, or disclose the Licensed Products shall be no more than "Restricted Rights" as defined in FAR 52.227-14(a) or DFARS 252.227-7014(a)(15).

2.5 API License. The Licensed Products contain certain application program interfaces ("API") and Customer is hereby granted a personal, non-transferable and non-exclusive license, under Diffeo's Intellectual Property Rights, to use such APIs in conjunction with the Licensed Products for internal, non-commercial purposes. Customer may develop applications from Diffeo's APIs pursuant to the license rights and other restrictions provided herein.

2.6 User Interface Patents. Customer acknowledges that the Licensed Products are protected by Intellectual Property Rights of Diffeo with respect to user interface methods and techniques. Typically, these user interface methods and techniques leverage the APIs referenced in Section 2.5. Customer acknowledges that if and when it implements user interfaces that utilize these Intellectual Property Rights, including patented or patent-pending methods and techniques, then the use of those implementations will be restricted by the license grant and license restrictions provided by this Agreement in Article II.

2.7 Open Source Software Components. Customer acknowledges that some or all of the software that it will use in connection with the engagement of Diffeo is open source software that is subject to certain license terms. Customer shall use any such open source software as a direct licensee of such software and shall abide by any and all license terms.

### III. MAINTENANCE SERVICES

Maintenance Services for the Licensed Products are set forth in Exhibit A attached hereto. Diffeo reserves the right to alter its standard Maintenance Services policy from time to time. Diffeo may provide additional services to assist customers in deployment and utilization of Licensed Products. When applicable, such additional services shall be described in a separate exhibit.

### IV. TERM AND TERMINATION

4.1 License Term. see first page.

4.2 Maintenance Term. The "Maintenance Term" of this Agreement shall be comprised of the Initial Maintenance Term (as defined below) and any Renewal Maintenance Term (as defined below). The "Initial Maintenance Term" of this Agreement shall be as set forth in the cover page of this Agreement. Upon the expiration of the then current Maintenance Term, this Agreement shall automatically renew for the Renewal Maintenance Term (as defined below), unless Diffeo or Customer provide written notice of its intent not to renew to the other party no later than thirty (30) days prior to the expiration of the then current Maintenance Term. The maintenance obligations for the Renewal Maintenance Term shall be on the same terms as provided for herein, except that Customer (or its agents, including any prime or sub-prime contractor) shall pay to a Diffeo Representative, Diffeo's then current Maintenance Fees and abide by Diffeo's current payment terms, as such Maintenance Fees and payment terms are indicated in the renewal quote issued by a Diffeo Representative or any other document accepted by a Diffeo Representative for the Renewal Maintenance Term. The "Renewal Maintenance Term" shall be set forth in the renewal quote issued by a Diffeo Representative or any other document accepted by a Diffeo

Representative for the Renewal Maintenance Term. Unless otherwise terminated as provided herein, this Agreement shall continue in full force and effect until the expiration of the then current Term.

4.3 Effect of Termination. This Agreement shall terminate upon Diffeo's notice to Customer in connection with a material violation by Customer of any of the terms and conditions of Section II herein. This Agreement shall be terminable upon five (5) days' written notice from a Diffeo Representative to Customer for Customer's failure to make payment when due hereunder, unless such payment is made within such five (5) day period. Upon termination of this Agreement, Customer shall: (a) cease using the Licensed Products, Product Materials and Proprietary Information of Diffeo; and (b) certify to Diffeo within thirty (30) days after termination of this Agreement that Customer has destroyed, or has returned to Diffeo, all Product Materials and Proprietary Information, and all copies thereof, whether or not modified or merged into other materials.

4.4 Survival. The provisions of Section 2.2, 2.3 and 4.3 and Articles V through XI shall survive any termination or expiration of this Agreement.

### V. LIMITED WARRANTIES AND DISCLAIMERS

5.1 Authority. Each Party represents and warrants that it has the authority to enter into this Agreement.

5.2 Disclaimers. THE EXPRESS WARRANTIES IN THIS AGREEMENT SHALL BE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE. DIFFEO AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES CAUSED BY THE OPERATION OF THE LICENSED PRODUCTS ON OTHER THAN THE COMPUTER AND OPERATING SYSTEM IDENTIFIED IN THIS AGREEMENT OR ACTS OF ABUSE OR MISUSE BY CUSTOMER. DIFFEO AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE IN CONNECTION WITH OR ARISING OUT OF THE INTERRUPTION OR LOSS OF USE OF THE LICENSED PRODUCTS. DIFFEO AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY LOST DATA. EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED IN THIS SECTION V, DIFFEO AND ITS LICENSORS SHALL HAVE NO LIABILITY TO CUSTOMER OR ANY THIRD PARTY DUE TO CUSTOMER'S USE OF THE PRODUCTS OR DUE TO CUSTOMER'S ACTS, INCLUDING NEGLIGENCE. THE LICENSED PRODUCTS INCORPORATE PROPRIETARY INFORMATION AND TECHNOLOGY OF THIRD PARTIES. NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IS GIVEN BY DIFFEO OR ANY OF SUCH THIRD PARTIES WITH RESPECT TO SUCH THIRD PARTY PROPRIETARY INFORMATION AND TECHNOLOGY.

VI. INDEMNIFICATION. If Customer is the U.S. Government this Section VI shall not apply. Customer shall indemnify, defend and hold Diffeo, its licensors and their officers, directors and employees, harmless from any losses, damages, costs and expenses directly or indirectly arising out of any claim arising from or relating to Customer's use, misuse or possession of the Licensed Products, excluding claims of Diffeo's gross negligence or intellectual property infringement of third party rights.

## VII. INFRINGEMENT

If a third party makes a claim against Customer that the Licensed Products directly infringe any U.S. patent issued as of the Effective Date, U.S. copyright, or U.S. trademark or misappropriate any trade secret recognized under the laws of the United States (“IP Claim”), then Diffeo shall defend Customer against the IP Claim and pay all costs, damages and expenses (including reasonable legal fees and costs) finally awarded against Customer by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Diffeo arising out of such IP Claim; *provided that*: (a) Customer promptly notifies Diffeo in writing no later than thirty (30) days after Customer’s receipt of notification of a potential claim; (b) Diffeo shall assume sole control of the defense of such claim and all related settlement negotiations; and (c) Customer provides Diffeo, at Diffeo’s request and expense, with the reasonable assistance, information and authority necessary to perform Diffeo’s obligations under this Section VII. Notwithstanding the foregoing, Diffeo shall have no liability for any claim of infringement based on (i) the use of a superseded or altered release of any portion of the Licensed Products, if the infringement would have been avoided by the use of a current unaltered release of the Licensed Products, (ii) the unauthorized modification of the Licensed Products, or (iii) the use of the Licensed Products other than in accordance with the Documentation and this Agreement. If, due to an IP Claim or the threat of an IP Claim, (x) the Licensed Products are held by a court of competent jurisdiction to be infringing, or in Diffeo’s reasonable judgment may be held to infringe by such a court, or (y) Customer receives a valid court order enjoining Customer from using the Licensed Products, or in Diffeo’s reasonable judgment Customer may receive such an order, Diffeo shall, at its option, (i) replace or modify the Licensed Products to be non-infringing, provided that the replacement Licensed Products contain substantially similar functionality; (ii) obtain for Customer a license to continue using the Licensed Products; or (iii) terminate the license for the infringing programs and refund the depreciated License Fees paid during the current Term for those programs upon return of the programs by Customer. The License Fees shall be depreciated based on a pro-rata straight-line basis based on the percentage determined by dividing (A) number of months that remain under the Agreement (without renewal) after the date that Customer or Diffeo provides notice infringing program is first delivered to Customer of receipt of written notice of an infringement claim by (B) the term of the Agreement (without renewal). Notwithstanding the above, if this license is for a term of 5 or more years, then the license fee shall be depreciated on a five (5) year basis. THE FOREGOING SECTION VII STATES THE ENTIRE LIABILITY OF DIFFEO AND ITS LICENSORS TO CUSTOMER OR ANY THIRD PARTY WITH RESPECT TO INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER PROPRIETARY RIGHTS.

## VIII. LIMITATION OF LIABILITY

EXCEPT IN CONNECTION WITH A CLAIM FOR BREACH UNDER THIS AGREEMENT’S CONFIDENTIALITY PROVISIONS, IN NO EVENT SHALL DIFFEO AND/OR ITS LICENSORS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES. EXCEPT IN CONNECTION WITH A CLAIM FOR BREACH UNDER THIS AGREEMENT’S CONFIDENTIALITY PROVISIONS, THE AGGREGATE AND CUMULATIVE LIABILITY OF DIFFEO AND ITS SUPPLIERS TO CUSTOMER OR ANY THIRD PARTY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THE LICENSED PRODUCTS OR THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID UNDER THIS AGREEMENT.

## IX. PAYMENT

In consideration of the license to the Licensed Products granted to Customer herein, Customer agrees to pay the License Fees in the amounts and at the times specified in this Agreement or in any purchase order agreed to by Diffeo. Except as expressly set forth in this Agreement, all payments shall be nonrefundable and irrevocable.

## X. NONDISCLOSURE

10.1 The term “Proprietary Information” means information relating to a Party’s research, development, trade secrets or business affairs that the Party treats as confidential, designates as confidential or that, given the circumstances, should be reasonably apparent that such information is of a confidential or proprietary nature Customer acknowledges and agrees that the Licensed Products and Product Materials contain Proprietary Information of Diffeo and its licensors. For purposes of this Agreement, Diffeo’s and its licensors’ Proprietary Information shall include, but not be limited to, the Licensed Products, Product Materials, formulas, source code, algorithms, methods, data, know how, processes, designs, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, third party proprietary information included in the Licensed Products, and the terms and pricing under this Agreement, regardless of whether such information is marked as “Proprietary Information”. The term “Receiving Party” means a Party that receives Proprietary Information from the other Party (the “Disclosing Party”).

10.2 Receiving Party shall not use the Disclosing Party’s Proprietary Information for any purpose unrelated to this Agreement and shall limit disclosure of Proprietary Information to those of its employees, subcontractors, and consultants with a need to know the Proprietary Information, subject to a nondisclosure obligation comparable in scope to this Section X. Diffeo shall have the right to condition receipt of Proprietary Information on the recipient’s execution of a Non-Disclosure Agreement prepared or approved by Diffeo. Each Party shall protect the other Party’s Proprietary Information by using the same degree of care (but no less than a reasonable degree of care) that it uses to protect its own Proprietary Information. The obligations imposed by this Section X shall expire five (5) years after this Agreement’s completion or termination, provided however that the obligations imposed by this Section X shall continue in perpetuity with respect to Diffeo’s trade secrets, and shall not apply to any Proprietary Information that: (a) is or becomes publicly known through no fault of the Receiving Party; (b) is developed independently by the Receiving Party prior to the date of disclosure; or (c) is rightfully obtained by the Receiving Party from a third party entitled to disclose the information without confidentiality restrictions. A Receiving Party also may disclose Proprietary Information to the extent required by a court or other governmental authority, provided that the Receiving Party promptly notifies the Disclosing Party of the disclosure requirement and cooperates with the Disclosing Party (at the latter’s expense and at its request) to resist or limit the disclosure.

10.3 Except as may be required by law (including without limitation, federal or state securities laws), Diffeo shall respect the confidentiality of, and shall not disclose, disseminate or publish the terms of this Agreement. In any case, where Diffeo proposes to disclose the terms of this Agreement because disclosure is required by law, Diffeo shall provide Customer with prior notice of the proposed disclosure and, in consultation with Customer, shall undertake efforts to maintain the confidential nature of this Agreement, or appropriately redact portions thereof (and cooperate with Customer in Customer’s actions to prevent disclosure). Notwithstanding the foregoing, nothing herein shall prevent Diffeo from providing a copy of this Agreement or documentation

associated with an Accepted Price Quote to a party who is conducting "due diligence" on Diffeo.

10.4 Either Party's breach of this clause would cause the other Party irreparable injury for which it would not have an adequate remedy at law. The non-breaching Party shall be entitled to seek injunctive relief in a court of competent jurisdiction in addition to other legal or equitable remedies.

## XI. GENERAL TERMS

11.1 Contract Interpretation. All headings in this Agreement are included solely for convenient reference, and shall not affect its interpretation. The following articles, sections or subsections of this Agreement shall remain in effect after its termination or completion: Section I and Sections V through XI. If any provision of this Agreement is determined by a court to be unenforceable as drafted, that provision shall be construed in a manner designed to effectuate its purpose to the greatest extent possible under applicable law, and the enforceability of other provisions shall not be affected. Either Party may be irreparably damaged if the obligations under Sections II and X are not specifically enforced and such Party may not have an adequate remedy in the event of an actual or threatened violation by the other Party of its obligations under such sections. The parties agree, therefore, that such Party may be entitled, in addition to other available remedies, to an injunction restraining any actual, threatened or further breaches of the other Party's obligations under such Sections or any other appropriate equitable order or decree.

11.2 Notices. All notices sent under this Agreement shall be in writing and: (a) hand delivered; (b) transmitted by fax or electronic mail; or (c) delivered by prepaid overnight courier. Notices shall be sent to the parties' respective addresses as indicated on the cover page, attention President. Such notices delivered by hand, by fax, email, or overnight delivery service shall be deemed received on the date of delivery.

11.3 Relationship of the Parties. Nothing in this Agreement shall be construed as creating a partnership, joint venture or agency relationship between the Parties, or as authorizing either Party to act as agent for the other or to enter into contracts on behalf of the other. The relationship between Diffeo (and its licensors) and Customer is that of licensee/licensor. Neither party shall represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other party, nor to represent the other party as agent, employee, franchisee, or in any other capacity.

11.4 Reservation of Rights. Except as specifically provided in this Agreement, this Agreement does not offer or grant to either Party any rights or licenses under any present or future Intellectual Property Rights of the other Party, and neither Party shall copy, distribute or disclose Intellectual Property Rights of the other Party without the other Party's consent, remove, alter or obfuscate any copyright or other proprietary rights notices placed on or embedded in the other Party's Intellectual Property Rights, or fail to reproduce such notices on any copies it is authorized to make.

11.5 Assignment and Delegation. Customer shall not assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of Diffeo which consent shall not be unreasonably withheld or delayed. Any purported assignment in contravention of this Section is null and void. A transfer of a controlling interest of Customer shall be deemed an assignment for purposes of this subsection. Subject to the foregoing, this Agreement

shall bind and inure to the benefit of any successors or assigns. Diffeo may assign this Agreement in whole or in part, by operation of law or otherwise.

11.6 Agreement Modifications. This Agreement may be modified or amended only by a written agreement signed by both Parties.

11.7 Export. None of the Licensed Products or underlying information or technology may be exported or reexported (i) into (or to a national or resident of) Cuba, Iraq, Libya, Sudan, North Korea, Iran, Syria, Taliban controlled areas of Afghanistan or any other country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. Customer agrees that it will not ship, transfer or export the Licensed Products into any country or use the Licensed Products in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions or regulations.

11.8 Force Majeure. Diffeo shall be excused from performance for any period during which, and to the extent that it or its subcontractor(s) is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence including without limitation, acts of God, strikes, lockouts, riots, acts of war, terrorism, epidemics, communication line failures, and power failures, etc.

11.9 Counterparts and Exchanges by Fax. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which shall be considered an original, but all of which together shall constitute one and the same instrument. The exchange of a fully executed Agreement (in counterparts or otherwise) by fax shall be sufficient to bind the Parties to the terms and conditions of this Agreement.

11.10 Clickwrap. Diffeo may deliver Licensed Products through electronic means such as download links graphical software installation tools or other technologies for providing the Licensed Products to Customer. The user interfaces to such electronic means may require that the Customer agree to this Agreement by checking a box, clicking a button, or continuing with the downloading or installation of the Licensed Product. If Customer or its representative indicates such agreement, then through such action the Customer becomes a Party to this Agreement. Such an action of acceptance shall be sufficient to bind the Customer to the terms and conditions of this Agreement.

11.11 Governing Law. The interpretation of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts without regard to its conflict of laws principles.

11.12 Entire Agreement. This Agreement, inclusive of all exhibits, constitutes the entire agreement between the Parties concerning its subject matter (including for this purpose the confidentiality provisions) and supersedes any prior agreements between the Parties concerning the subject matter of this Agreement. Customer has not been induced to enter into this Agreement by any representations or promises not specifically stated herein. This Agreement may or may not be signed by authorized representatives of Diffeo and Customer, see Section 11.10.

[END OF AGREEMENT]

## Exhibit A

### DIFFEO SOFTWARE MAINTENANCE AND SUPPORT POLICY

Diffeo and Diffeo Certified Support Partners provide maintenance and support services for Licensed Software during the period for which applicable fees have been paid. Maintenance and support services include email and telephone support, error corrections, and software and documentation updates as described below. **For clarity, “Your Diffeo Support Representative” or “your DSR” is a Diffeo Representative assigned by Diffeo to provide technical support to a particular Customer (“You” or “you”). Ask your DSR about other forms of support, such as for hosted Diffeo’s web services, on-site training for research analysts and administrators, deployment assistance, and architecture planning.**

#### 1. Definitions

**Error** - a situation where the software does not function in accordance with the documentation.

**Fix** - the repair or replacement of binary or executable code versions of the software to remedy an Error.

**Workaround** - a change in procedures followed by the customer to avoid an Error without substantially impairing use of the software.

#### 2. Telephone and Email Support

Telephone and email support on the installation and use of the software is available from 9:00 a.m. to 5:00 p.m. Eastern Time (U.S.), Monday through Friday, excluding holidays observed by your DSR. Support calls outside of these times will be directed to an answering service or call router. The answering service will contact a Technical Support representative, who will respond to the customer appropriate to the urgency of the problem as discussed in paragraph 3 below. Installation support includes answering questions and providing a reasonable level of guidance to the customer on the installation process. Usage support includes answering questions and providing a reasonable level of guidance to the Customer about the use of the software, responding to reports of Errors in the software and determining if the reported Error is a result of a problem in the software or an environmental or installation problem.

The customer is responsible for providing documentation sufficient for your DSR to reproduce the Error on its master copy of the software including a written, detailed description of the problem, log files, core dumps, data files, or any other information reasonably requested by your DSR.

Support shall be available from the following sources:

**Phone: 617-446-DIFF (617-446-3433)**

**Email: support@diffeo.com**

#### 3. Error Corrections

Diffeo and its resellers are committed to correcting Errors in the current version of the software in a timely manner by providing the repair or replacement of object or executable code versions of the software. Your DSR Technical Support representative will endeavor to resolve suspected Errors at the time of the initial call or email response.

If the Technical Support representative cannot resolve the matter while on the call or in the email response, the request for service will be logged and responded to by a Software Engineer according to the priority level of the Error.

**PRIORITY 1** - The Software has ceased to work or substantially fails. Your DSR will allocate a member of its staff to investigate the problem upon notification and will use all commercially reasonable efforts to provide either a practical solution or a work-around within 4 working hours. If this is not achieved, a full-time resource will be allocated to the problem until either a practical solution or a work-around is provided. Status reports will be made on a daily basis for as long as the problem remains unresolved.

**PRIORITY 2** - An essential function of the Software has ceased to work. Your DSR will allocate a member of its staff to investigate the problem upon notification and will use all commercially reasonable efforts to provide either a practical solution or a work-around within 2 working days. If this is not achieved, your DSR will allocate a full-time resource to the problem until either a practical solution or a work-around is provided. Status reports will be made on a weekly basis for as long as the problem remains unresolved.

**PRIORITY 3** - The Software is causing a problem that is only having a minor impact on normal operating activities of the Software (such as a function of the Software has ceased to work as efficiently as previously). Your DSR will, on request, allocate a member of staff to investigate the problem upon notification and will use commercially reasonable efforts to provide either a practical solution or a work around within 5 working days.

Status reports will be made on a weekly basis for as long as the problem remains unresolved.

**PRIORITY 4** – There is a minor issue related to the software, perhaps simply annoying in nature or informational. Your DSR will use commercially reasonable efforts to respond to these issues or requests in a timely fashion.

**ENHANCEMENT REQUESTS** - Enhancements and new feature requests shall be considered for future releases of the software. Any enhancements shall be subject to the provisions of Section II, “License,” above.

If your DSR reasonably believes that a problem reported by the customer may not be due to an Error in the software, your DSR will so notify you, and your DSR shall not proceed further, unless so instructed in writing by you. If upon resolution of the problem it is determined that the Error is not a result of an Error in the software, you will be invoiced for time and materials at your DSR’ then standard rates for the time spent in the resolution process.

Your DSR shall have no obligation to provide maintenance and support services for problems that are due to: (a) misuse of the software, (b) modification of the software by a party other than your DSR, unless your DSR has authorized such modification in writing, (c) incompatible computer and networking hardware and software, or (d) non-Diffeo products or services.

#### 4. Software and Documentation Updates

Your DSR will make available all upgrades, improvements or modifications of the software that your DSR makes generally available to supported Diffeo customers and does not market as independent Licensed Products or modules. Diffeo produces updates only to licensees of the most recent versions of its software; and may condition delivery of any upgrade, improvement or modification on the customer licensing the current Licensed Products at then-applicable prices. From time to time, Diffeo may create upgrades, improvements and modifications due to particular circumstances. Such upgrades, improvements and modifications shall not be deemed to have been made “generally available” to Diffeo Customers for purposes of the provisions above. Nevertheless, Diffeo or your DSR shall notify Customer of the availability of such upgrades, improvements and modifications and Customer shall have the right to requests them. Any updates provided under this agreement shall be subject to the provisions of Section II, “License,” above.

#### 5. Security Updates

Diffeo produces updates that contain new security content (for example, attack signatures and vulnerability checks) only for the most recent versions of software. These updates are based on timely information from the Computer Emergency Response Team (CERT). In the event of a security update, customers’ specified point of contact will be notified via email regarding the extent of the update and the path(s) and password(s) necessary to download the update in a timely fashion. Any security updates provided under this agreement shall be subject to the provisions of Section II, “License,” above.

#### 6. Authorized Personnel.

Your DSR shall have the right to provide the services under this Exhibit A to any employee of Customer that in your DSR’ reasonable discretion has the authority to requests services. However, your DSR’ obligation to perform the services under this exhibit shall be limited to requests made by authorized employees of Customer. Such authorized employees shall be communicated to your DSR in writing and shall be updated from time to time by Customer. Neither Diffeo nor your DSR shall have any obligations in connection with any requests made by any person other than such authorized employee.