

DENSIFY EVALUATION AGREEMENT

*PLEASE READ THE FOLLOWING **EVALUATION AGREEMENT** CAREFULLY. BY CLICKING THE “AGREE” BUTTON AND PROCEEDING WITH THE EVALUATION FOR THE SERVICE, YOU, ON BEHALF OF THE COMPANY OR ORGANIZATION FOR WHOSE BENEFIT YOU ACT (“CUSTOMER”) ACKNOWLEDGE THAT YOU HAVE READ AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS AS DEFINED IN THE EVALUATION AGREEMENT (“AGREEMENT”) BETWEEN CUSTOMER AND CIRBA INC. D/B/A DENSIFY (“DENSIFY”) (TOGETHER THE “PARTIES” AND INDIVIDUALLY A “PARTY”).*

BY CLICKING “DO NOT AGREE”, THIS EVALUATION FOR THE SERVICE WILL NOT PROCEED. YOU MAY NOT USE THE SERVICE UNLESS YOU ACCEPT THESE TERMS AND CONDITIONS.

IF YOU CLICK THE “AGREE” BUTTON, THAT ACTION IS THE EQUIVALENT OF YOUR SIGNATURE AND INDICATES YOU HAVE READ THIS AGREEMENT, UNDERSTAND AND ACCEPT ALL THE TERMS AND CONDITIONS AND THAT YOU INTEND TO BE LEGALLY BOUND BY THEM AND THAT YOU HAVE THE AUTHORITY TO BIND THE COMPANY OR ORGANIZATION FOR WHOSE BENEFIT YOU ACT.

This Densify Evaluation Agreement (including the terms, Schedules and other documents included by reference herein) (“**Agreement**”) is made by and between Cirba Inc. d/b/a Densify (“**Densify**”), an Ontario corporation located at 179 Enterprise Boulevard, Suite 400, Markham, Ontario, Canada, L6G 0E7 and the customer entity (“**Customer**”) for whom you act and becomes effective on the date of acceptance of the Agreement by you (“**Effective Date**”).

1. Interpretation.

In this Agreement, the following terms and expressions will have the following meanings:

- “**Confidential Information**” means: (i) all information of Densify or Customer that is marked confidential, restricted or proprietary or that may reasonably be considered as confidential from its nature or from the circumstances surrounding its disclosure; (ii) the Customer Data, (iii) the Densify Technology; and (iv) the specific terms and conditions of this Agreement, and any amendment and attachment thereof between the parties.
- “**Customer Data**” means electronic data uploaded by or for Customer and Customer’s agents, employees and contractors, and processed using the Service.
- “**Densify Software**” means the proprietary computer programs of Densify, in object code format only, that are accessed by the Service and that are included in the Local Component.
- “**Densify Technology**” means: (a) the Service; Densify Software; the Local Component; Documentation and Densify technology and methodologies and third party software (including, without limitation, products, software tools, algorithms, templates, software (in source and object forms), architecture, class libraries, objects and documentation) existing as of the Effective Date; (b) Updates, upgrades, improvements, configurations, extensions, and derivative works of the foregoing and related technical or end user documentation or manuals; and (c) intellectual property anywhere in the world relating to the foregoing.
- “**Documentation**” means the user documentation for the Service that is made generally available by Densify to customers of the Service and which may include technical program or interface documentation, user manuals, operating instructions and release notes, as updated from time to time by Densify. The Documentation is provided in electronic form and is accessible through the Service and may also be found at <https://www.densify.com/docs/content/welcome.htm>.
- “**Evaluation Term**” means the term of the evaluation period approved by Densify for Customer’s evaluation of the Service. The default Evaluation Term is fourteen (14) days.

- **“Instance”** means a compute-based service, including physical servers, virtual machines, cloud instances or containers (whether Standalone Containers or Replicated Containers), employed by Customer in its infrastructure environment and which is supported by the Service, as described in the Documentation.
- **“Intellectual Property Rights”** means all worldwide intellectual and industrial property rights including all rights in each country to copyrights, trademarks, patents, inventions, industrial designs, trade secrets, trade dress and all other proprietary rights.
- **“Local Component”** means Densify connector software provided or made available by Densify to Customer that operates on Customer-provided machines to perform data collection and automation capabilities and otherwise facilitate the use of the Service. The Local Component is only required for certain Customer Data.
- **“Replicated Container”** means those containers where 2 or more Instances are created from the same definition.
- **“Restricted Countries”** means any of the countries listed in Schedule F – List of Restricted Countries, located at <http://www.densify.com/legal/schedule-f>, which Schedule is incorporated into this Agreement by reference and is deemed to be a part hereof. This Schedule may be updated by Densify from time to time.
- **“Service”** means the Densify software as a service (SaaS) offering hosted by Densify or its subcontractors. A description of the principal features of the Service is set out in Schedule A – Densify Subscription Offering Description, located at <http://www.densify.com/legal/schedule-a>, which Schedule is incorporated into this Agreement by reference and is deemed to be a part hereof. This Schedule may be updated by Densify from time to time.
- **“Standalone Container”** means those containers where there is only ever one Instance running (or zero).
- **“Territory”** means worldwide, other than any Restricted Countries.
- **“Updates”** means any new versions and releases of the Service and/or the Local Component, which Densify makes generally available to its licensees from time to time.

2. Grant of Use Rights for Evaluation

- Densify Service. Subject to the terms of this Agreement, Densify hereby authorizes Customer to access and use the Service, including the features and functions provided by the software programs and programming, applications, operating systems, networks, utilities, hardware and interfaces (other than those components comprising Customer’s computing and network systems), in each case solely as made accessible to Customer through the client-facing portion of the Service, and including any Updates thereto, such right of access and use to be during the Evaluation Term and for the number of Instances approved by Densify in its sole discretion. Customer shall use or access the Service in accordance with the Documentation and only for its internal business purposes to evaluate the Service.
- Local Component. Densify hereby grants Customer a limited, personal, non-transferrable and non-exclusive license in the Territory and during the Evaluation Term to install and use the Local Component on machines operated by or for Customer, if required for the collection of the Customer Data and solely to facilitate Customer’s authorized access to and evaluation of the Service. The Local Component is licensed and not sold, even if for convenience Densify makes reference to words such as “sale” or “purchase”.

3. Supplementary Use Terms

- Restrictions. Customer shall not (and shall not permit others to) do any of the following with respect to the Densify Technology: (i) use the Service with external programs in a manner that intentionally circumvents contractual usage restrictions; (ii) license, sublicense, sell, resell, rent, lease, transfer, distribute, use for time sharing, or otherwise make any of it available for access by third parties; (iii) access it for the purpose of developing or operating products or services intended to be offered to third parties in competition with Densify or the Service; (iv) disassemble, decompile, translate or convert into human readable form or into another computer language, reconstruct or decrypt, or reverse engineer all or any part of it; (v) copy, create derivative works based on or otherwise modify it, except as may be expressly authorized hereunder; (vi) remove or modify a copyright or other proprietary rights notice on it; or (vii) use the Service or the Local Component for the purpose of benchmarking, performance analysis or in any manner to compete with the business of Densify; or (viii) use it to create, use, send, store or run viruses

or other harmful computer code, files, scripts, agents or other programs or otherwise engage in a malicious act or disrupt its security, integrity or operation.

- b. Open Source. Certain portions of open source or third party software accessible through the use of the Service are subject to terms and conditions that the licensor of such software imposes on Densify (the "Open Source Provisions"). The licenses applicable to such open source or third party software are identified in the Documentation. Customer's right to use such open source or third party software is solely as accessed through the Service and as incorporated in the Local Component. In the event that Customer elects to use any such software other than as integrated by Densify and accessed through the Service or incorporated in the Local Component, then Customer shall be responsible for such use and the Open Source Provisions shall govern such use. Customer hereby agrees not to make any modification to any Open Source Third Party Software for use with the Service or the Local Component.
- c. Documentation. The Documentation may be used by Customer for the purpose of assisting in its use of the Service and the Local Component for the internal business purposes of Customer. No reproduction or other use of the Documentation is permitted.

4. Proprietary Rights and Confidential Information.

- a. All right, title and interest in and to all intellectual property rights in the Densify Technology are, as between Densify and Customer, owned exclusively by Densify notwithstanding any other provision in this Agreement. Customer acknowledges and agrees that nothing herein transfers or conveys to Customer any ownership right, title or interest in or to all or any part of the Densify Technology or any Intellectual Property Rights therein, or to any copy thereof or any license right with respect to same not expressly granted herein. Nothing in this Agreement constitutes a sale of the Densify Technology to Customer and no copies are being sold to Customer. All rights not expressly granted to Customer hereunder are retained by Densify.
- b. As between Customer and Densify, Customer shall retain all of its right, title and interest in and to its intellectual property rights in the Customer Data. Customer hereby grants to Densify a royalty-free, fully paid up, non-exclusive, non-transferrable (except as set forth in Section 9.b (Assignment)), sub-licensable right to use Customer Data for the purpose of providing the Service to Customer, which for certainty includes providing Customer the ability to use the Service, as well as for Densify to use the Customer Data in a user acceptance test ("UAT") environment for the purpose of responding to and resolving specific issues reported by Customer concerning the Service or for the purpose of validating upgrades to the Service prior to such upgrades being made available to Customer. Notwithstanding the foregoing, Customer agrees that Densify may collect, use and disclose quantitative data derived from the use of the Service for industry analysis, benchmarking, analytics, marketing, and other business purposes. All data collected, used and disclosed will be in aggregate form only and will not identify Customer or its users.
- c. Densify encourages Customer to provide suggestions, proposals, ideas, recommendations or other feedback regarding improvements to the Service and other Densify products. To the extent Customer provides such feedback, Customer grants to Densify a royalty-free, fully paid up, sublicensable, transferrable, non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import and otherwise exploit feedback (including by incorporation of such feedback into the Densify Technology) without restriction.
- d. Each party agrees to maintain the confidentiality of the Confidential Information of the other party that has been disclosed or made available by the other party or otherwise received by the receiving party, whether prior to, subsequent to or on the Effective Date hereof, and to use same only as expressly authorized herein. Each party shall safeguard and maintain the other party's Confidential Information in strict confidence and shall not disclose, provide, or make the Confidential Information or any part thereof available in any form or medium to any person except to such party's employees, agents, contractors and consultants who have executed an agreement in writing to protect such Confidential Information and who have a need to access such Confidential Information for the purpose of this Agreement. Customer shall ensure that all persons to whom it gives access to the Confidential Information, including employees, agents, contractors and consultants, shall comply with the provisions of this Section 4 and the other provisions of this Agreement related to the use of the Densify Technology.
- e. The provisions of Section 4.d shall not apply to any information which: (i) was at the time of disclosure to a party, in the public domain; (ii) after disclosure to a party becomes part of the public domain through no fault of the receiving party; (iii) was in the possession of the receiving party prior to the time of disclosure to it without any obligation of confidence or any breach of confidence; (iv) was received after disclosure to a party from a third party who had a lawful right to disclose such information to it; (v) was independently developed by a party without reference to the Confidential Information of the other party; or (vi) was ordered to be disclosed by a court, administrative agency, or other governmental body with

jurisdiction over the parties hereto, provided that, to the extent legally permissible, the ordered party will have first provided the disclosing party with prompt written notice of such required disclosure and will take reasonable steps to allow the disclosing party to seek a protective order with respect to the confidentiality of the information required to be disclosed. Further, the ordered party will promptly cooperate with and assist the disclosing party in connection with obtaining such protective order.

- f. Customer shall not remove any proprietary copyright, patent, trademark, design right, trade secret, or any other proprietary rights legends from the Densify Technology.
- g. Customer shall not export or re-export the Local Component or any other part of the Densify Technology or any copies thereof, either directly or indirectly, outside of the Territory. Customer shall have the exclusive obligation to ensure that any export of the Densify Technology is in compliance with all applicable export laws and the laws of any foreign country.

5. Technical Support.

Densify may, at its option, provide technical support services to Customer during the Evaluation Term, to be provided through the Service and by email.

6. Disclaimer.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DENSIFY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, CONCERNING OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, PERFORMANCE, RESULTS, TITLE, NON-INFRINGEMENT AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE. DENSIFY DOES NOT PROVIDE SUPPORT OF ANY KIND UNLESS DENSIFY SPECIFIES OTHERWISE. IN SUCH EVENT, ANY SUPPORT PROVIDED BY DENSIFY IS SUBJECT TO THE DISCLAIMERS AND EXCLUSIONS IN THIS SECTION 6.

7. Limitation of Liability.

- a. FOR ANY BREACH OR DEFAULT BY DENSIFY OF ANY OF THE PROVISIONS OF THIS AGREEMENT, OR WITH RESPECT TO ANY CLAIM ARISING HEREFROM OR RELATED HERETO, DENSIFY'S AGGREGATE LIABILITY TO CUSTOMER, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON CONTRACT OR TORT, INCLUDING NEGLIGENCE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE FOR ALL CLAIMS, THE SUM OF U.S. FIVE HUNDRED DOLLARS (U.S. \$500) (THE "LIABILITY CAP"). THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT INCREASE THIS LIMIT. THE LIABILITY CAP SHALL NOT APPLY TO: (1) DENSIFY'S OBLIGATIONS UNDER SECTION 4 (PROPRIETARY RIGHTS AND CONFIDENTIAL INFORMATION) FOR WHICH THE LIMIT OF LIABILITY SHALL NOT EXCEED, IN THE AGGREGATE FOR ALL SUCH CLAIMS, THE SUM OF U.S. FIFTY THOUSAND DOLLARS (U.S. \$50,000) OR (2) DENSIFY'S FRAUD, GROSS NEGLIGENCE OR WILFULL MISCONDUCT.
- b. OTHER THAN FOR A BREACH OF SECTION 3.A (RESTRICTIONS) OR SECTION 4 (PROPRIETARY RIGHTS AND CONFIDENTIAL INFORMATION), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY IN CONNECTION WITH THIS AGREEMENT FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE, LOST BUSINESS REVENUE, LOSS OF PROFITS, OR LOSS OF DATA, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- c. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS AGREEMENT SHALL APPLY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION, DEMAND, OR ACTION BY CUSTOMER, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL THEORY AND SHALL SURVIVE A FUNDAMENTAL BREACH OR BREACHES OR THE FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT.
- d. Neither Densify nor Customer may bring an action, regardless of form, arising out of or related to this Agreement more than two (2) years after the cause of action has arisen or the date of discovery of such cause, whichever is later.

8. Termination.

This Agreement continues until the expiry of the Evaluation Term hereunder. Densify may terminate this Agreement if Customer fails to comply with the terms of this Agreement. Upon the expiration or termination of this Agreement for any reason, Densify shall stop providing and Customer shall stop accessing the Service

and all rights granted to Customer in this Agreement shall immediately terminate. In addition, Customer shall promptly destroy all copies of the Local Component in its possession.

9. Miscellaneous.

- a. Notices. Except as otherwise provided herein, all notices shall be in writing and deemed given upon: (i) personal delivery; (ii) when received by the addressee if sent by a recognized overnight courier (receipt requested); (iii) the second business day after mailing; or (iv) the first business day after sending by email with confirmation of receipt, except that email shall not be sufficient for notices regarding a claim. Notices shall be sent to the parties as set forth in this Agreement or as otherwise advised by a party.
- b. Assignment. Customer may not assign its rights or obligations under this Agreement, whether by operation of law or otherwise, without Densify's prior written consent. Any attempted or purported assignment in violation of this Section 9.b will be null and void. Subject to the foregoing, this Agreement shall bind and enure to the benefit of the parties hereto, their respective successors and permitted assigns.
- c. Severability. The parties agree that it is the intention of each party not to violate any public policy, statutory or common law or government regulation. To the extent that any provision, portion or extent of this Agreement is deemed to be invalid, illegal or unenforceable, such provision, portion or extent shall be severed and deleted herefrom or limited so as to give effect to the intent of the parties insofar as possible and the parties will use their best efforts to substitute a new provision of like economic intent and effect for the illegal, invalid or unenforceable provisions and each remaining provision shall be enforced.
- d. Waiver. No modification, addition to or waiver of any rights, obligations or defaults shall be effective unless in writing and signed by the party against whom the same is sought to be enforced. One or more waivers of any right, obligation or default shall not be construed as a waiver of any subsequent right, obligation or default. No delay or failure of either party in exercising any right hereunder and no partial or single exercise thereof shall be deemed of itself to constitute a waiver of such right or any other rights hereunder.
- e. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. With respect to any action, suit or proceeding brought by either party hereto under or relating to this Agreement, each party irrevocably submits to the exclusive jurisdiction of the courts of the Province of Ontario. The Uniform Computer Information Transaction Act shall not apply to this Agreement. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.
- f. Survival. The provisions of this Agreement which by their nature should survive, shall survive any termination or this Agreement, including, without limitation, Sections 1, 3.a, 3.b, 4, 6, 7, 8 and 9.
- g. Headings. The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of the Agreement.
- h. Entire Agreement. This Agreement, together with other information included by reference herein, contains the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior agreements or understandings of the parties concerning the subject matter hereof. The terms of this Agreement apply to the exclusion of any other terms that Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. This Agreement may be executed in counterparts, each of which shall be deemed to be an original.