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

- 1. Scope.** This Carahsoft Rider and the Manufacturer End User License Agreement (EULA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").
- 2. Applicability.** The terms and conditions in the attached Manufacturer EULA (<http://www.alexcorp.com/popups/index.asp?pop=eula>) are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's EULA are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's contract #GS-35F-0119Y, including, but not limited to the following:

 - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under GSA contracts as set forth in GSA ORDER 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
 - (b) Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 200 0) (Deviation I 2010) (AUG 1987), and 52.212 -4 (f) Excusable delays. (JUN 2010) regarding which the GSAR and the FAR provisions shall take precedence.
 - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - (d) Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering

Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

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

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

- (f) **Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41 U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) **Force Majeure.** Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer EULA referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.
- (h) **Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer EULA are hereby deemed to be deleted.
- (i) **Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer EULA are hereby deemed to be deleted.
- (j) **Customer Indemnities.** All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All Manufacturer EULA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.

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

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

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

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

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

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

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

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

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



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ALEXSYS TEAM 2 PRODUCTS - SOFTWARE LICENSE AGREEMENT

DEFINITIONS: Software shall mean the server, client and maintenance server computer programs contained in this package, together with any updates subsequently provided by Alexsys Corporation. Documentation shall mean all of the on-line or printed materials provided by Alexsys Corporation. Software Copies shall mean actual copies of all or any portion of the Software and includes updates and backups. Documentation Copies shall mean actual copies of all or any portion of the Documentation and includes any updates. Agreement shall mean this Software License Agreement in its entirety.

INITIAL LICENSE FEE: Upon receipt of an unpaid order for licensed product, Licensor shall provide Licensee with a time sensitive key to utilize the product, until such time as payment is received by Licensor, but in no event shall that period exceed sixty (60) business days. Within sixty (60) business days after installation, activation or receipt of the Software, whichever is sooner, Licensee shall pay Licensor the license fee provided for herein and Licensor shall provide Licensee with a permanent key. All payments due under this Agreement shall be made in U.S. dollars at Licensor's address.

U.S. GOVERNMENT END USERS: Payment terms shall be consistent with the then current prompt payment provisions provided for in the Federal Acquisition Regulations (FAR), referenced in the contract award vehicle.

LICENSE: Alexsys Corporation agrees to grant the user a license that is non-exclusive and non-transferable. The license allows the user to use the Software contained herein for an unlimited duration. The rights granted herein are limited to use of the Software, Software Copies, Documentation and Documentation Copies as defined within the Agreement. Alexsys Corporation reserves all rights not specifically granted in this Agreement.

PERMITTED USES: The Licensee may use the Software in the following ways: install the server Software onto only one server with a single Team database installation; install the client Software onto as many client PCs as needed, provided that licenses have been purchased for all non-Guest users; make copies of the Software for backup purposes only, and the Licensee must keep possession of them at all times. Multiple Team database installations require unique serial numbers for each installed database. Team licenses cannot be shared between databases.

PROHIBITED USES: The Licensee may not: install the server Software onto more than one server without purchasing additional server licenses; copy the server Software onto another server for purposes other than backup; circumnavigate or tamper with the licensing mechanism; distribute copies of the Software or Documentation to others; under any circumstances attempt to rewrite, decompile, disassemble, reverse-engineer or tamper with any of the Software or Software Copies; reproduce, transmit, transcribe or store in a retrieval system the Documentation or Documentation Copies in any form by any means without the written consent of Alexsys Corporation.

LIMITATIONS: This license grants the user-limited rights to use the Software, Software Copies, Documentation and Documentation Copies as provided in this Agreement. Alexsys Corporation retains title to all the Software, Software Copies, Documentation and Documentation Copies. The Licensee agrees to protect

the Software, Software Copies, Documentation and Documentation Copies from unauthorized publication, use, reproduction or distribution.

U.S. GOVERNMENT END USERS: The Software is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software, with only those rights set forth herein.

TERM: This license is effective from the date you execute this agreement, and continues until you destroy the entire contents of this package and any copies of the Software or Documentation. Recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

LIMITED WARRANTY: Alexsys Corporation warrants to the original Licensee that the original CD-ROM is free from defects in material and workmanship under normal use and service for a period of thirty (30) calendar days from purchase as evidenced by your original receipt or invoice. If any defects are apparent, Alexsys Corporation will replace the defective CD-ROM, provided the disk is returned to Alexsys Corporation with a copy of your dated receipt or invoice. Alexsys Corporation shall not be liable to the Licensee or any other person for any special, consequential, indirect or other similar damages or claims including loss of profits or any other commercial damage caused or imagined to have been caused directly or indirectly by the use of the Software. Alexsys Corporation specifically disclaims all other warranties, expressed or implied. Alexsys Corporation makes no representations or warranties with respect to merchantability or fitness of Software for any particular purpose, business or application. Implied warranties of merchantability are expressly and specifically disclaimed. In no event shall Alexsys Corporation have liability for damages to you or any other person exceed the price paid for the license to use the Software regardless of the form of any claim.

TERMINATION FOR BREACH:

U.S. GOVERNMENT END USERS: Termination provisions shall be consistent with the then current Termination provisions provided for in the Federal Acquisition Regulations (FAR), referenced in the contract award vehicle.

UPDATES & REVISIONS: Alexsys Corporation reserves the right to modify and/or enhance the Software and its related Documentation without obligation to notify any person or organization of such modifications or enhancements.

ACKNOWLEDGEMENT: You acknowledge that you have read and understand this Agreement and agree to abide by its terms and conditions. You also agree that this, together with the contract award vehicle, is the complete and exclusive Agreement between us and supersedes all prior agreements, proposals or communications, verbal or written, between us relating to the subject matter in this Agreement.