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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.persecexpress.com/eula.php) 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.

1. Thank you for selecting PerSec eXpress ™ software (the "Software"). This End User License Agreement (EULA) is a legal agreement between you ("you", "licensee"), and CANDA Solutions, LLC (Developer, we, our or us) that describes the terms and conditions applicable to your use of the Software. By clicking ACCEPT, you indicate that you have read and understood and assent to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, you are not granted any rights whatsoever in the Software, and you will not be able to access or use the Software.

2. **LICENSE GRANT AND RESTRICTIONS**. Subject to the terms and conditions of this Agreement, including the payment of the applicable subscription fees, Developer grants you a personal, limited, non-exclusive, non-transferable license, during the initial term of the subscription and any Renewal Term (as defined in Section 4), to electronically access and use the Software for which the applicable fee has been paid by you.

In addition to the PerSec eXpress ™ software, the term Software includes any other programs, tools, internet-based services, components and any updates (for example, Software maintenance, service information, help content, bug fixes, or maintenance releases etc.) of the Software that Developer provides or makes available to you.

You are not licensed or permitted under this Agreement to do any of the following and shall not allow any third party to do any of the following: (i) access or attempt to access any other Developer systems, programs or data that are not made available for public use; (ii) copy, reproduce, republish, upload, post, transmit, resell or distribute in any way the material from the PerSec eXpress site; (iii) permit any third party to benefit from the use or functionality of the Software via a rental, lease, timesharing, service bureau, or other arrangement; iv) transfer any of the rights granted to you under this Agreement; (v) work around any technical limitations in the Software, use any tool to enable features or functionalities that are otherwise disabled in the Software, or decompile, disassemble, or otherwise reverse engineer the Software except as otherwise permitted by applicable law; (vi) perform or attempt to perform any actions that would interfere with the proper working of the Software, prevent access to or the use of the Software by Developer's other licensees or customers, or impose an unreasonable or disproportionately large load on Developer's infrastructure; or (vii) otherwise use the Software except as expressly allowed under this Section 2.

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versions (if applicable) of the Software and upon acceptance of this Agreement and payment of the subscription fee for paid for versions of the Software. Access to the Software will begin (i) for trial versions after your acceptance of this Agreement and after Developer receives and processes all the information, requested in the registration process; and (ii) for paid for versions after your acceptance of this Agreement and after Developer receives and processes all the information, including the credit card or bank account information requested by the registration process. You must have a valid credit card or a valid debit card with a Visa or MasterCard logo (Card) or sufficient funds in a U.S. checking or savings account to cover an electronic debit of the subscription fee to obtain access to the Software. The payment information you provide must be accurate and complete, and you agree to notify us promptly of any change in the payment information. When you subscribe and provides payment information, your Card or bank account will be debited, and will be automatically re-debited at the beginning of each applicable monthly subscription term (Renewal Term) at the then-current subscription rate to maintain access to the Software.

5. **REGISTRATION**. You must register to use the Software and (i) provide true, accurate, current and complete information as prompted in the sign-up process (the "Registration Data"), and (ii) maintain and promptly update the Registration Data to keep it accurate, current and complete. If you provide any Registration Data that is inaccurate, not current or incomplete, or Developer has reasonable grounds to suspect is inaccurate, not current or incomplete, Developer may, in its sole discretion, suspend or terminate your account and refuse any and all current or future access to and use of the Software or Services (or any portion thereof).

6. **PRIVACY**. For details about Developer's privacy policies, please refer to the Privacy Statement contained either in the Software, at PerSec eXpress, or the privacy policy link provided by Developer. You agree to be bound by the applicable Developer privacy policy, as it may be amended from time to time in accordance with its terms.

7. **DISCLAIMER OF WARRANTIES**. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SOFTWARE, SERVICES, AND ANY CONTENT ACCESSIBLE THROUGH THE SOFTWARE ARE PROVIDED "AS-IS" AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DEVELOPER, ITS AFFILIATES, LICENSORS, THIRD-PARTY CONTENT OR SERVICE PROVIDERS, DEALERS AND SUPPLIERS (COLLECTIVELY, "SUPPLIERS") DISCLAIM ALL GUARANTEES AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SOFTWARE, SERVICES, CONTENT, AND RELATED MATERIALS, INCLUDING ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, TITLE, MERCHANTABILITY, AND NON-INFRINGEMENT. DEVELOPER DOES NOT WARRANT THAT THE SOFTWARE IS SECURE OR FREE FROM BUGS, VIRUSES, INTERRUPTION, OR ERRORS, OR THAT THE SOFTWARE WILL MEET YOUR REQUIREMENTS. FURTHER, DEVELOPER DOES NOT WARRANT ACCESS TO THE INTERNET OR TO ANY OTHER SERVICE OR CONTENT OR DATA THROUGH THE SOFTWARE OR CONTINUED ACCESS TO ANY TRIAL VERSION OF THE SOFTWARE OR TO THE DATA ENTERED INTO THE TRIAL VERSION OF THE SOFTWARE AFTER THE TRIAL PERIOD OF TIME IS OVER (IF APPLICABLE). SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE

EXCLUSIONS MAY NOT APPLY TO YOU. IN THAT EVENT, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO 60 DAYS FROM THE DATE OF PURCHASE OR DELIVERY OF THE SOFTWARE, AS APPLICABLE. HOWEVER, SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE.

8. **LIMITATION OF LIABILITY AND DAMAGES**. THE ENTIRE CUMULATIVE LIABILITY OF DEVELOPER, ITS SUPPLIERS, AND SERVICES PROVIDERS FOR ANY REASON ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT PAID BY YOU FOR THE SOFTWARE, UNLESS OTHERWISE SEPARATELY AGREED BY DEVELOPER IN WRITING. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DEVELOPER, ITS SUPPLIERS, AND SERVICE PROVIDERS SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR FOR ANY DAMAGES RELATING TO LOSS OF BUSINESS, TELECOMMUNICATION FAILURES, THE LOSS, CORRUPTION OR THEFT OF DATA, VIRUSES, SPYWARE, LOSS OF PROFITS OR INVESTMENT, USE OF THE SOFTWARE WITH HARDWARE OR OTHER SOFTWARE THAT DOES NOT MEET DEVELOPER'S SYSTEMS REQUIREMENTS OR THE LIKE, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF DEVELOPER, ITS SUPPLIERS, SERVICE PROVIDERS, OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SOME STATES DO NOT ALLOW THE LIMITATION AND/OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

9. **CONSENT TO CONDUCT BUSINESS ELECTRONICALLY (CONSENT)**.

(a) <u>Consent to Electronic Communications</u>. Developer may be required by law to send Communications to you that may pertain to the Software, the use of information you may submit to Developer, and the services you choose. Additionally, certain of the Third Party Services you choose may require Communications with the third parties who administer these programs. You agree that Developer, on behalf of itself, and others who administer such services (as applicable), may send Communications to you by email and/or may make Communications available to you by posting them at one or more websites. You consent to receive these Communications electronically. The term Communications means any notice, record, agreement, or other type of information that is made available to you or received from you in connection with the Software and the Online Services and Third Party Services.

(b) <u>Consenting to Do Business Electronically</u>. The decision whether to do business electronically is yours, and you should consider whether you have the required hardware and software capabilities described below. Your consent to do business electronically and our agreement to do

so covers all transactions you conduct through the Software for as long as you remain a subscriber to the Software.

(c) <u>Hardware and Software Requirements</u>. In order to access and retain an electronic record of Communications, you will need: a computer, a monitor, a connection to an Internet service provider, Internet browser software that supports 128-bit encryption, and an e-mail address. By selecting the "I accept" button, you are confirming to us that you have the means to access, and to print or download, Communications. We do not provide ISP services. You must have your own Internet service provider.

(d) <u>Withdrawal of Consent</u>. If you later decide that you do not want to receive future Communications electronically, write to us at: info@persecexpress.com. If you withdraw your consent to receive Communications electronically, we may terminate your use of the Software.

(e) <u>Changes to Your Email Address</u>. You agree to notify us promptly of any change in your email address.

10. **AMENDMENT**. Developer shall have the right, to change or add to the terms of its Agreement at any time, (provided that it is not Developer's intent that such change substantially affect the license rights granted to Licensee in Section 1 and for which consideration was paid by you) and to change, delete, discontinue, or impose conditions on any feature or aspect of Software and Services (including but not limited to Internet based services, pricing, technical support options, and other product-related policies) upon notice by any means Developer determines in its discretion to be reasonable, including posting information concerning any such change, addition, deletion, discontinuance or conditions in Software or on any Developer sponsored web site. Any use of the Software by you after Developer's publication of any such changes shall constitute your acceptance of this Agreement as modified.

11. **TERMINATION**. Your rights under this Agreement may be terminated or suspended by Developer immediately and without notice if you or any of your authorized users fail to comply with any term or condition of this Agreement or you no longer consent to receive Electronic Communications in accordance with Section 9. Upon termination you must immediately cease using the Software and Services. Any termination of this Agreement shall not affect Developer's rights hereunder.

12. **MISCELLANEOUS**. Except as expressly set forth in this Agreement, this Agreement is a complete statement of the agreement between you and Developer and sets forth the entire liability of Developer, its Suppliers, and service providers, and your exclusive remedy with respect to the Software, and its use. The Suppliers, agents, employees, distributors, and dealers of Developer are not authorized to make modifications to this Agreement, or to make any additional representations, commitments, or warranties binding on Developer. Any waiver of the terms herein by Developer must be in a writing signed by an authorized officer of Developer and expressly referencing the applicable provisions of this Agreement. If any provision of this Agreement is invalid or unenforceable under applicable law, then it shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect. This

Agreement will be governed by Maryland law as applied to agreements entered into and to be performed entirely within < >, without regard to its choice of law or conflicts of law principles that would require the application of law of a different jurisdiction, and applicable federal law. Headings are included for convenience only, and shall not be considered in interpreting this Agreement. As used in this Agreement, the word including means including but not limited to. This Agreement does not limit any rights that Developer may have under trade secret, copyright, patent or other laws.