

**Carahsoft Rider to Manufacturer Commercial Supplier Agreements  
(for U.S. Government End Users)  
Revised 20161213**

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) 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's CSA 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 CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule 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 Government contracts as set forth in General Services Administration Order OGP 4800.2I, 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 General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of 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 CSA: (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 CSA. 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 CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing suspension, termination or cancellation of the Manufacturer's CSA, the License, or the Customer's Account are hereby deemed to be deleted. Termination, suspension or cancellation shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA 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 and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA 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 (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA 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 of the Manufacturer's CSA 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 of the Manufacturer's CSA 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 GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w) (1) (x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (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's CSA, 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's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w) (1) (iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

**(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 CSA and this Rider contain no confidential or proprietary information and acknowledges the CSA 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. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).

**Poplicus Inc.**  
**SUBSCRIPTION AGREEMENT**

This Subscription Agreement (the "**Agreement**") is made by and between Poplicus Inc., dba Govini, with offices located at 1735 North Lynn St, Suite 600, Arlington, VA 22209 (collectively with its affiliated companies, "**Poplicus**") and { **Insert Customer Name** }, with offices located at the address set forth on the signature page below ("**Customer**"). This Agreement is effective as of { **Insert Date Subscription will Begin** } (the "**Effective Date**").

**1. Subscription Period.** Under this Agreement, Customer is purchasing a subscription to Poplicus' Web-delivered data and analytics service (collectively, the "**Service**"). Customer's subscription begins on the Effective Date and, unless terminated earlier in accordance with the Terms and Conditions (as defined in Section 5 below), will continue for a period of one (1) year (the "**Subscription Period**").

**2. Subscription Fee.** Customer will pay either { **Insert Total Contract Value #1** } if the signature page below reflects Customer's signature on or before { **Insert Date #1** }, or Customer will pay { **Insert Total Contract Value #2** } if the signature page below reflects Customer's signature after { **Insert Date #1** } and on or before { **Insert Date #2** }, for access to the Service during the Subscription Period (the "**Subscription Fee**"). Customer acknowledges that the Subscription Fee is a discounted, promotional rate that applies only during the Subscription Period. Unless the parties expressly otherwise agree in writing, Poplicus is not bound to the Subscription Fee for any renewal periods.

**3. Payment.** The Subscription Fee is invoiced on the Effective Date and payable to Carahsoft Technology Corporation in accordance with the terms and conditions of GSA Multiple Award Schedule (MAS) Contract GS-35F-0119Y and the Prompt Payment Act.

**4. End Users.** The Subscription Fee includes access by up to { **Insert Number of Seats in Text and (N)** } named end users ("**End Users**"). Poplicus will provision user accounts for each End User.

**5. Subscription Terms.** Customer acknowledges that this Agreement is subject to the Subscription Terms & Conditions attached hereto as Exhibit A ("Subscription Terms") and the terms and conditions of GSA MAS Contract GS-35F-0119Y. This Agreement may not be modified except in a written instrument signed by both parties. Exhibit A shall only be modified by the GSA Contracting Officer assigned to GS-35F-0119Y. Notwithstanding any provision of the Subscription Terms, Customer's execution of this Agreement constitutes acceptance of the Subscription Terms. In the event of any conflict between the provisions of this Agreement, GSA MAS Contract GS-35F-0119Y, and the provisions of the Subscription Terms, the conflict will be resolved in accordance with General Services Administration Acquisition Regulation (GSAR) 552.212-4(s) Order of Precedence.

*(SIGNATURE PAGE FOLLOWS)*

ACCEPTED AND AGREED:

**Poplicus, Inc.**

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print)

Date: \_\_\_\_\_

**Legal Customer Name** \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Print)

Date: \_\_\_\_\_

**Customer Relationship Contact:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

**Customer Procurement Contact Information:**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Purchase Order# (if required): \_\_\_\_\_

**Customer Accounts Payable Contact Information**

Name: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Mailing Address

\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**  
**SUBSCRIPTION TERMS & CONDITIONS**

These Subscription Terms & Conditions (the "**Subscription Terms**") govern your use of our Web-delivered data and analytics service (the "**Service**"). We provide the Service from our Web site at <http://www.govini.com> and from any mobile sites, mobile applications, widgets, and other internet points of presence that we make available to you to access the Service (collectively, the "**Site**"). THIS AGREEMENT GOVERNS ALL USE OF OUR SERVICE AND SITE, WHETHER ON A FREE TRIAL OR PAID BASIS.

**1. Acceptance of Agreement.** These Subscription Terms are entered into by and between Poplicus Inc. dba Govini, together with its affiliated companies (collectively, "**we,**" "**us,**" or "**Govini**") and the customer ("**you**") identified in a Subscription Agreement or other written agreement between you and us for your subscription to the Service ("**Subscription Agreement**"). Collectively, the Subscription Agreement and Subscription Terms are referred to herein as the "**Agreement.**"

**2. Fees; Payment.** You agree to pay the fees ("**Subscription Fees**") set forth in the Subscription Agreement or other written agreement between you and us for your subscription to the Service (each a "**Subscription Agreement**"). Unless otherwise provided in the Subscription Agreement, all amounts under this Agreement are payable in U.S. dollars. Service Fees are due and payable as set forth in the Subscription Agreement or, if not set forth in the Subscription Agreement, net fifteen (15) days from the date of our invoice. We may charge a late fee of one and one half percent (1.5%) per month on past due amounts. If you pay by credit card, you are responsible for maintaining up-to-date, valid credit card or other payment information. The fees payable under this Agreement do not include local, state or federal taxes or duties of any kind; all such taxes will be assumed and paid by you, except for taxes based on Govini's income or receipts. You will send payments to Carahsoft Technology Corporation in accordance with the terms and conditions of GSA MAS Contract GS-35F-0119Y.

**3. User Accounts.**

**3.1 User Accounts.** Govini will provision username/password pairs ("**User Accounts**") for up to the number of individual authorized users specified in your Subscription Agreement ("**End Users**").

**3.2 End Users.** You may designate your employees or independent contractors as End Users; provided, that (a) you are responsible for all use of the Service that occurs under your User Accounts and for any breach of this Agreement by any of your End Users, and (b) all use of the Service by End Users is subject to the pricing terms and limitations set forth in your Subscription Agreement. Each User Account may be used by only one individual End User. You agree to notify us of any unauthorized access or use of which you become aware.

**4. Permitted Use of the Service.**

**4.1 Govini Content.** Subject to the terms and conditions of this Agreement, you are authorized to access and use the text, graphics, data, benchmarks, analytics, business metrics, indicators, data analysis tools, and other information and content that we make available to you through the Service ("**Govini Content**") and otherwise use the features and functionality of the Service only for your internal business purposes (if you represent a company, non-profit, governmental agency or other entity) or your personal, non-commercial use (if you are an individual).

**4.2 Govini APIs and Software.** From time to time, we may make application programming interfaces (APIs), HTML scripts, data import tools, or other software code or executables available to you as part of the Service ("**Govini APIs and Software**"). We grant you a non-exclusive, non-transferable license, only while this Agreement remains in effect, to use the Govini APIs and Software (if any) to access and use the Service in compliance with the terms of this Agreement, and for no other purpose.

**5. Prohibited Uses of the Service.** You specifically agree not to:

- access the Service using the username and password of another user;
- permit anyone else (including another employee or contractor from your company) to access the Service using your username or password;
- make copies of any Govini Content or distribute Govini Content to any third party, except where we specifically authorize the reproduction and use of content we make publicly available to non-subscribers;
- use any robot, spider, data scraping, crawler or extraction tool or similar mechanism with respect to the Service, including to retrieve or copy Govini Content or other materials from the Service;
- reproduce or distribute any Govini Content except as expressly permitted in writing;
- "frame," distribute, resell, or permit access to the Service (including Govini Content) by any third party;
- use the Service other than in accordance with the instructions or documentation we provide and in compliance with applicable laws;
- interfere with the Service or disrupt any other user's access to the Service;
- reverse engineer, attempt to gain unauthorized access to the Service, or attempt to discover the underlying source code, data sources, or structure of the Service;
- submit to the Service any routine, device or other undisclosed feature, including a so-called time bomb, virus, worm, Trojan horse, trapdoor or back door, that is designed to delete, disable, deactivate, interfere with or otherwise harm any software, program, data, device, system or service, or which is intended to allow unauthorized access or produce unauthorized modifications;
- distribute, or permit any third party to use, Govini APIs and Software; or
- If you are (or your company is) our competitor, access, use, distribute or resell any of the content on the Site, directly or indirectly.

**6. Your Content.**

**6.1 Ownership; Representation.** As between the parties, you retain all right, title and interest in any and all search terms, search histories, data, text, personally identifiable information, and other content that you or your End Users upload or submit to the Service (collectively, "**Your Content**"). You represent and warrant that you have all rights, permissions and consents necessary to submit Your Content to the Service and to grant us the limited rights to use Your Content set forth in this Agreement. Your Content may include Public Content (as defined in Section 6.2 below) that you submit to the Service.

**6.2 Use of Your Content.** You agree that we may use Your Content to make the Service and its features available to you in accordance with this Section 6, including without limitation by making Your Content available for viewing, modification or download by your End Users. You agree that we may distribute Your Content to our service providers who act on our behalf in providing the Service, provided, that we bind such service providers to confidentiality obligations substantially as protective of Your Content as this Agreement, and that we will be responsible for any breach of this Agreement by such service providers in connection with our provision of the Service. The Service and Site may include areas or pages where you can submit content designated for public availability to all users of the Site and Service ("**Public Content**"). If you submit Public Content, you grant us a perpetual, irrevocable, royalty free, worldwide license to (a) display, distribute, reproduce, reformat, make available for download, modify and use Public Content and to sublicense these rights to other users of the Site and Service .

**6.3 Security; Treatment at Termination.** We will maintain commercially reasonable administrative, technical and procedural safeguards designed to protect Your Content from unauthorized access, disclosure or loss. After termination or expiration of this Agreement, Govini has no obligation to retain, and may delete, Your Content from the Service at any time.

**7. No Competitive Use.** If you are (or your company is) a direct competitor of Govini, you may not use our Service. The Service is intended for use by our customers, not our competitors, and may contain data or information proprietary and confidential to us.



For avoidance of doubt, the remedies available to us under this Section 7 are in addition to, and do not limit, any other rights we may have, at law or in equity, arising from your breach of any other provision of this Agreement

## **8. Term and Termination.**

**8.1 Term.** This Agreement begins when you accept it and register for the Service (the "**Effective Date**"), and remains in effect throughout the Subscription Period identified in your Subscription Agreement ("**Initial Term**") unless earlier terminated as provided in this Section 8. After the Initial Term, the Agreement and your subscription will automatically renew for successive one year renewal terms (each a "**Renewal Term**") unless either party provides written notice of non-renewal at least 30 days prior to the end of the Initial Term or then-current Renewal Term.

**8.2 Termination by You.** You may terminate this Agreement at any time by giving us at least thirty (30) days' prior written notice via email to [accounts@govini.com](mailto:accounts@govini.com), but you will not be entitled to any refund of Subscription Fees in connection with such termination except as expressly provided in Section 8.5 below, and you will promptly pay any unpaid portion of your Subscription Fees for your then-current Subscription Period.

**8.3 Termination by Us for Cause.** We may terminate this Agreement immediately and discontinue your access to the Service at any time, upon written notice to the email address you provide when you register for the Service, if (a) you are in breach of any material provision of this Agreement, (b) you misappropriate or infringe any of our intellectual property or proprietary rights, or (c) you fail to make a payment when due (e.g., because your payment information is out-of-date or invalid).

**8.4 Termination by Us for Convenience.** In addition, we may terminate this Agreement at any time, for any reason, upon written notice to you, in which case we will provide you the pro-rated refund for any pre-paid, unused Subscription Fees described in Section 8.5 below.

**8.5 Effect of Termination.** Upon expiration or termination of this Agreement for any reason: (a) all rights and obligations of the parties will cease, except that the following sections of the Agreement will survive any such termination or expiration: 1, 2 (but only with respect to amounts that are accrued but unpaid as of the effective date of termination), 3.2, 5, 6, 8.5, 9 through 17, 19, 20 and 21; (b) notwithstanding any provision of a surviving section, you will have no further right to use the Service, Govini Content, or Govini Software and APIs; and (c) you will not be entitled to any refund of any Subscription Fees, except that if we terminate the Agreement for convenience under Section 8.4 before your subscription to a paid account has ended, we will provide you with a pro-rated refund of any unused Subscription Fees.

## **9. Intellectual Property.**

**9.1 Service.** We retain all right, title and interest in the Service and the technology and software we use to provide the Service, including any Govini APIs and Software. Any HTML scripts or other software code created to generate or display content on the Service is protected by our copyright, and you have no right to copy or adapt that code.

**9.2 Govini Content.** The Govini Content and all trademarks, logos, button icons, graphics, "look and feel," and additional materials on the Site are the property of Govini and our licensors, and protected by copyright, trademark, and other intellectual property rights. Use or reproduction not authorized in this Agreement is prohibited. If the Service permits you to download and distribute any Govini Content, you must preserve all copyright, trademark, and other proprietary rights notice in the Govini Content or any copy you make of such Govini Content that is authorized by this Agreement.

**9.3 Your Content.** Except for the rights you grant to us in this Agreement, you retain all right, title and interest in Your

Content.

**9.4 Feedback.** We are grateful for input and suggestions you provide, but we need to maintain our intellectual property rights in the Service. You acknowledge and agree that all feedback and suggestions for enhancement that you provide to us concerning the Service ("**Feedback**") will be owned by us without any obligation of compensation to you.

**10. Warranty Disclaimer.** The Service is provided via the internet, and may therefore experience periods of downtime, including but not limited to scheduled maintenance. Further, much of the Govini Content available through the Service was obtained by us from third party sources. Accordingly, WE MAKE NO REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICE, THE Govini CONTENT AND ANY DOCUMENTATION WE MAKE AVAILABLE VIA THE SERVICE, OR ANY GOVIN! SOFTWARE AND APIS. WE SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, OR RESULTS TO BE OBTAINED FROM THE SERVICE. WE DO NOT WARRANT THAT THE SERVICE WILL BE ERROR-FREE OR OPERATE WITHOUT INTERRUPTIONS OR DOWNTIME.

**11. Privacy.** Your (and your End Users') use of the Service is governed by our attached [Privacy Policy](#), which we may update from time to time. Our [Privacy Policy](#) describes our practices regarding collection, use and disclosure of information we obtain about you in connection with the Service. However, our [Privacy Policy](#) does not apply to personal information that you may submit as part of Your Content.

**12 Confidentiality.** Each party (the "receiving party") agrees not to disclose, duplicate, publish, release, transfer or otherwise make available the Confidential Information of the other party (the "disclosing party") in any form to, or for the use or benefit of, any person or entity without the disclosing party's prior written consent. "**Confidential Information**" means the disclosing party's financial, technical, or business information that is designated as confidential at the time of disclosure, or that the receiving party reasonably should understand to be confidential based on the nature of the information or the circumstances surrounding its disclosure. The specific features of the Service, the documentation we provide to you in connection with the Service, and the Govini Software and APIs are included among our Confidential Information. Your Content and any personal information you submit to the Service are your Confidential Information; provided, however, that our display or disclosure of Your Content as necessary to provide the Service to you and your End Users or disclosure of personal information submitted by you or your End Users consistently with the Privacy Policy will not be deemed to violate this section. Confidential Information does not include information that: (i) is or becomes generally known to the public without breach of the receiving party's confidentiality obligation under this Agreement; (ii) was independently developed by the receiving party without breach of its confidentiality obligation under this Agreement; or (iii) the receiving party received from a third party who obtained such Confidential Information without breach of any obligation owed to the disclosing party.

**13. Limited Liability; Exclusion of Certain Damages.** EXCEPT FOR LIABILITY ARISING FROM OUR FRAUD, WILLFUL MISCONDUCT OR OUR INFRINGEMENT OF YOUR INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT WILL WE BE LIABLE UNDER THIS AGREEMENT, WHETHER UNDER CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY, FOR (I) ANY AMOUNT IN EXCESS OF THE SUBSCRIPTION FEES ACTUALLY PAID TO US DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE ON WHICH THE APPLICABLE CLAIM AROSE, (II) ANY LOST PROFITS OR OTHER INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF WE HAVE BEEN GIVEN ADVANCE NOTICE OF SUCH POSSIBLE DAMAGES; OR (III) ANY LOSS OF YOUR CONTENT OR DATA SUBMITTED TO THE SERVICE.

#### **14. Indemnification.**

**14.1 By Us.** We will defend, indemnify and hold harmless you and your corporate affiliates, directors, officers, employees, successors, assigns and agents from and against any third party claim, demand or action, and all resulting

damages, settlement amounts, penalties, costs and expenses, to the extent such claim, demand or action alleges that the Service, when used by you in compliance with this Agreement, infringes or violates any intellectual property or proprietary right of any third party; provided, that we will not be obligated under this sentence to the extent any such infringement or violation arises from (a) use of the Service in combination with technology or services not provided by us, (b) Your Content, or (c) third party content made available to you through the Service.

**14.2 By You.** You agree to indemnify and hold us and our corporate affiliates, directors, officers, employees, successors, assigns and agents harmless from and against any claim, demand, action, proceeding, loss, damage, settlement, penalty, cost, expense or other liability (including but not limited to reasonable attorneys' fees and expenses) arising out of (1) any allegation that, if true, would establish a breach of this Agreement by you, or (2) Your Content (except to the extent such liability results from our modification of Your Content or our violation of this Agreement).

**14.3 Conditions.** The indemnifying party's obligations under this section are contingent on the indemnified parties: (a) promptly providing written notice of the claim to the indemnifying party, (b) giving the indemnifying party sole control of the defense and settlement of the claim (provided, however, that the indemnifying party will not enter into any settlement that imposes any monetary liability on, or admits any fault on the part of, an indemnified party); and (c) providing the indemnifying party, at the indemnifying party's expense, all reasonable assistance in connection with such claim. In no event will an indemnified party be liable for any settlement that admits any fault of or imposes any monetary liability on an indemnified party without its prior written consent.

**15. Copyright Complaints.** If you believe that your copyrighted work has been infringed by content appearing on our Site, please follow our [Procedure for Making Claims of Copyright Infringement](#).

**16. Links to Third Party Sites.** This Site may contain links to Web sites maintained by others. These links are provided solely as a convenience, and not because we endorse the content or have an opinion about the content on such sites. If you access any of these Web sites, you do so at your own risk.

**17. Insurance.** We will maintain at our sole cost and expense errors and omissions/professional liability insurance in the amount of no less than one million dollars (\$1,000,000) per claim, covering acts, errors, omissions, negligence, infringement of copyrights, trademarks or trade secrets, and unauthorized disclosure of your Confidential Information. The insurance required herein shall protect us, you, and your end users from claims for which we have an obligation to indemnify you hereunder.

**18. Modifications.** We reserve the right to modify the terms and conditions of this Agreement from time to time. We will post any updated version on the Site and deliver a copy of the updated version to Carahsoft Technology Corporation for review and approval by the GSA Contracting Officer assigned to GAS MAS Contract GS-35F-0119Y

**19. Notices.** Except in cases where this Agreement permits notice via email, all notices required under this Agreement must be in writing, must be sent via internationally recognized delivery service or messenger or via U.S. mail, and will be deemed given five (5) business days after having been sent. Notices must be addressed as follows: if to us, to Attn: Legal Affairs, 1735 North Lynn Street, Arlington, Virginia 22209, and for notices permitted to be sent via email, to [legal@govini.com](mailto:legal@govini.com); and, if to you, to the contact name and address or email address that you have provided us in your Subscription Agreement or otherwise.

**20. Miscellaneous.** Neither you nor we will be liable for delay or default under this Agreement if caused by conditions beyond our or your reasonable control (e.g., technology malfunctions or acts of God) . This Agreement is governed by Federal law. Neither party may assign this Agreement to a third party without the written consent of the other party in advance, except that we may assign this Agreement without such consent to a third party acquiring all or substantially all of our assets or equity securities. This Agreement will bind and benefit the parties, their successors, and their permitted assigns. You and we are independent contractors to each other in our activities under this Agreement. This Agreement, including the terms and conditions of GSA MAS Contract GS-35F-0119Y, our Privacy Policy and the other documents referenced in this Agreement, represents the entire agreement between you and us with respect to your use of the Service, and expressly supersedes any terms or conditions stated in a Customer purchase order or similar document, whether submitted or executed before or after the Effective Date. If any provision of this Agreement is invalid or unenforceable in any jurisdiction, the other provisions herein will remain in full force and effect, and will be liberally construed to effectuate the purposes of this Agreement. This Agreement supersedes any contemporaneous or prior agreements regarding the Service.

## Privacy Policy

This Privacy Policy describes our privacy practices with respect to personal information and content that we receive about you when you use our Web site, mobile sites, mobile applications and other internet points of presence that we host or control (collectively, our “Site”). If you have any questions about our privacy practices, please contact us any time at [privacy@govini.com](mailto:privacy@govini.com).

### 1. SCOPE OF POLICY; ELIGIBILITY

**Scope.** This Privacy Policy describes our practices with respect to the collection, use and sharing of personal information when you use our Site. It governs your activity on all of our Site, but does not cover any third party Web sites or applications that we do not control. By using or accessing our Site, you agree to this Privacy Policy, as well as our Terms of Use.

### 2. INFORMATION WE RECEIVE ABOUT YOU

**Account Information.** When you register to use our subscription-based government analytics service (the “Subscription Service”), we collect your name, title, email address, company name, business address, phone number, fax number, and geographical preferences for the searches you conduct on the Service, and a password. We may give you the opportunity to provide other information to display as part of a profile visible on the Site, in connection with content you submit, or for us to contact you or provide specific services to you. – **Billing Information.** If you sign up for a paid account or other paid services, and pay by credit card, we collect billing information such as your credit card number and its expiration date, security code and billing address. – **Content You Submit.** In connection with sales inquiries and requests for product demonstrations, our Site asks you to provide your first and last name, business email address, phone number and company name. We also give you the opportunity to submit job inquiries via the Site and upload resumes (which would include personal information), in which case we ask for your name, email address, phone number and LinkedIn profile. Finally, our Site allows users to post content and information that is visible to other users. You should avoid submitting personal information when you post content, because we do not remove or “scrub” personal information from content submitted by users. – **Information About Activity on Our Site.** We receive and store certain types of information whenever you interact with our Site. We keep track of your “clicks” and pages you view on our Web site. This includes information that is specific to the computer or device you use to access our Site, but does not include any information personally identifiable to you. We use “cookies” and obtain certain types of information when your Web browser accesses the Site, such as the Internet Protocol (IP) address of your computer, information about your browser software and operating system, and the date and time you access our site. “Cookies” are alphanumeric identifiers that we transfer to your computer’s hard drive through your Web browser to enable our systems to recognize your browser and to provide certain features on the Site. The “Help” feature in most Web browsers will tell you how to prevent your browser from accepting new cookies, how to have the browser notify you when you receive a new cookie, or how to disable some cookies altogether. Keep in mind that disabling cookies may result in some features of the Site not working properly.

### 3. HOW WE USE YOUR INFORMATION

**To Provide, Manage and Improve the Site and Our Services.** We may use content and profile information posted by our users to make the Site and its features available. We may use your information to customize certain of the Site’s features for you. – **To Contact You.** We will use your email address or other contact information you give us to contact you with announcements related to our services.

#### **4. HOW WE SHARE YOUR INFORMATION**

**Third Party Service Providers.** We rely on some third party service providers to assist us in operating the Site. For example, we may use third parties to host our Site, process credit card transactions, send email messages, and provide search results. When we provide your personal information to these third party service providers, they will possess it for only a limited time, and we put contractual and technical protections in place to limit their use and disclosure of your information. – **Business Transfers.** If Govini is (or its assets are) acquired by another company, personal information and content you posted to the Site would be among the assets transferred to the acquirer. In the event of such an acquisition, the Privacy Policy in force at the time would continue to apply your information. – **To Our Affiliated Companies.** We may share all personal information and content submitted to the Site among our parent, subsidiary and other affiliated companies. This Privacy Policy applies to all of our affiliated companies. – **To Protect Govini and Others from Liability or Harm.** We release posted content and personal information when we believe we must do so to comply with the law, to enforce our Terms of Use, or to protect the safety and rights of Govini itself or our users. – **Information You Share With Other Users.** The Site may allow you to share comments and other information with other users. You should understand that even though our Terms of Use imposes certain limitations on distributing or re-using posted content, other users with whom you share content might distribute, copy, or re-share your content on other Web sites or other locations. We assume no responsibility for such actions by other users. – **Aggregated Information.** We may sell or share non-personally identifiable, aggregated information demographic data or data about user activity on our Site with our business partners or other users of our Sites. – **With Your Consent.** In addition to the circumstances described above, we may also share your personal information or content with third parties if you give us your consent.

#### **5. HOW TO VIEW AND EDIT YOUR INFORMATION**

**Personal Information and Payment Information.** You can view and modify your name, company name, contact information and geographical search preferences at any time from your “Profile” page on the Site. – **Account Deactivation.** If you wish to delete your account, please email us at [accounts@govini.com](mailto:accounts@govini.com) requesting account deletion. Note that any comments, reviews and other content you may have submitted may remain available for view on the Site.

#### **6. SECURITY**

We take reasonable precautions to maintain the security and integrity of your personal information, including storage of your personal information and payment information on a secure server behind a firewall.

#### **7. MODIFICATIONS TO THIS PRIVACY POLICY**

We may modify this Privacy Policy at any time. We will notify you of any material modifications to this Privacy Policy either on the Site or at the email address you provide to us.