

**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.).



MASTER SOFTWARE SERVICES AGREEMENT

THIS MASTER SOFTWARE SERVICES AGREEMENT (the "Agreement") is between PhishLine, LLC ("PhishLine") and the Government Ordering Activity ("Customer") and sets forth the terms and conditions by which Customer may use the PhishLine Solution. (PhishLine and Customer may each be referred to as a "party" or collectively as the "parties").

OVERVIEW

PhishLine is a security awareness software platform hosted by PhishLine. Customers provide PhishLine with employee email addresses and/or phone numbers that it owns. No further information is necessary. Using the PhishLine Software and wide range of templates offered by PhishLine, the Customer (or PhishLine on Customer's behalf) may then conduct simulated security attacks against the Customer's selected email and/or phone recipients. These "security campaigns" typically consist of emails, but may also consist of text messages and pre-recorded voice messages. These messages will either simulate social engineering attacks, direct employees to security awareness training resources, or both. The Customer can then review reports that contain information that allow the Customer to take steps to better improve its overall security posture with respect to these types of attacks.

AGREEMENT

The parties hereby agree as follows:

1. Definitions.

(a) "Affiliate" as it relates to a party shall mean any other entity that directly or indirectly controls, or is controlled by, or is under common control with that party, where "control" means the direct or indirect ownership of more than 50% of the voting securities of such entity or party.

(b) "Analytical Data" shall mean the analytical data collected by PhishLine in relation to Customer's use of the Services that, in the form and manner collected, does not contain personally identifiable information and does not identify or permit identification, association, or correlation of or with Customer or its Affiliates or its or their Confidential Information. For clarification, such data shall not contain any Customer Data that has been subsequently scrubbed or de-identified, but rather consists of inherently anonymous data that cannot be identified to Customer Data.

7. (c) "Confidential Information" shall have the meaning set forth in Section 7.

(d) "Customer Data" shall mean information generated or created by Customer, its Affiliates, or their respective customers or clients (or prepared on any of their behalves) as well as any reports generated by PhishLine for Customer, its Affiliates, or any of their respective customers or clients through the Services, except that Customer Data shall not include Analytical Data. All Customer Data is Customer's Confidential Information and the Customer retains all ownership rights to the Customer Data.

(e) "Documentation" shall mean the documents that describe the functionality and features of the Software and Services, any user instructions or specifications related to the Software and Services as may be updated and revised from time to time by PhishLine, including without limitation the specifications set forth in a Quotation.

(f) "Fees" shall mean the then current annual subscription and services fees set forth in a Quotation.

(g) "PhishLine Solution" shall mean the Software, the Services and all security awareness training materials, messages, landing pages, surveys, templates, URL's and Documentation developed or created by PhishLine or transmitted to Customer in order to provide any of the Services under this Agreement.

(h) "Quotation" shall mean the description of Fees, scope of Services and number of Recipients licensed to Customer attached to this Agreement as Schedule A. Any additional Quotation accepted by Customer and PhishLine for additional Services or Recipients shall be incorporated into this Agreement in writing as a separate Schedule. Each Quotation shall be made part of and shall be governed by the terms and conditions of this Agreement and shall be binding upon execution by both parties.

(i) "Security Campaign" shall mean a set of electronic messages that may involve sending training, surveys, announcements, or phishing-style messages to Customer designated recipients. Unless otherwise stated in a Quotation, all recipients shall be Customer employees.

(j) "Services" shall mean the services, functions, and responsibilities, as described in a Quotation to be provided by PhishLine to Customer.

(k) "Software" shall mean the PhishLine software accessible through the password protected PhishLine Solution portal.

2. **Services.**

(a) Scope of Services. Subject to Customer's payment of Fees and Customer's compliance with the terms and conditions contained in this Agreement, PhishLine agrees to provide Customer with the Services as set forth in a Quotation in accordance with this Agreement. Customer may purchase additional Services from PhishLine by entering into a separate written and mutually approved Quotation for such Services. If a Quotation includes managed services, PhishLine shall conduct Security Campaigns on Customer's behalf for the number of Recipients set forth in the applicable Quotation.

(b) Service Availability. Customer acknowledges and agrees that the Services or Customer's access to the PhishLine Solution to obtain data and reports may not be available at certain times as a result of routine maintenance, technical difficulties, equipment malfunctions or due to circumstances beyond PhishLine's reasonable control. Notwithstanding, PhishLine agrees to meet the service levels set forth in the Service Level Agreement attached as Schedule B (the "Service Levels"). Should PhishLine fail to meet the Service Levels, the Term of this Agreement shall be extended to make up for the period of time Customer was unable to access or utilize the Services or PhishLine Solution. Except as otherwise set forth in this Agreement, under no circumstances shall Customer be entitled to any refund or credit for such failures.

3. Licenses.

(a) PhishLine Solution License Grant. Subject to Customer's payment of Fees and Customer's compliance with the terms and conditions contained in this Agreement, PhishLine hereby grants to Customer and its Affiliates a non-exclusive, royalty-free license, during the Term, to access and use the Software and Documentation to conduct Security Campaigns for up to the number of Recipients set forth in the applicable Quotation solely for Customer's internal business purposes and in accordance with the Documentation. Additionally, Customer shall have a non-exclusive, royalty-free license to use, copy and distribute internally reports containing Analytical Data made available to Customer through the PhishLine Solution solely for Customer's internal business purposes and in accordance with the Documentation.

(b) Analytical Data. PhishLine shall have the right to collect and aggregate metadata derived from Customer's use of the PhishLine Solution. This metadata is limited to Analytical Data that assists PhishLine to determine and recommend ways for Customer to improve its organization's overall security awareness and does not contain any Customer confidential information. PhishLine shall own the Analytical Data, which PhishLine uses to provide analytical and security awareness data (such as benchmarking) and reports to Customer and PhishLine's other customers; and to improve the functions and features of the PhishLine Solution. During the Term of this Agreement, Customer may access the PhishLine Solution and obtain reports comprised of Analytical Data. However, Customer acknowledges that it shall only use such reports the Analytical Data contained therein for Customer's own internal business purposes.

(c) Restrictions. Unless otherwise stated in a Quotation, Customer shall have no right to license, re-license, lease or sell the Software or Services to any individual or entity that is not an Affiliate, agent, officer, director or employee of Customer. Customer shall have no right to share, license, lease sell, publish, distribute or otherwise provide security awareness services to any third party using the PhishLine Solution or Analytical Data. Customer and its Affiliates shall not: (i) modify, disassemble, decompile or reverse engineer the Services or PhishLine Solution; and Customer shall take commercially reasonable care not to permit any third party to do so; or (ii) copy the Software or Documentation. Customer shall require that its contractors, consultants and Affiliates accessing the PhishLine Solution on Customer's behalf comply with the terms of this Agreement, expressly including this Section 3 and Section 7 (Confidentiality), and Customer shall ensure that any login and password information provided to Customer by PhishLine shall not be disclosed or used by any third party other than Customer's Affiliates or designated consultants or contractors performing services on Customer' behalf.

(d) Conduct. Customer and its Affiliates, contractors and consultants shall not use the Services for any unlawful purpose or any purpose not directly related to Customer's own internal business security analysis, including but not limited to (i) conducting unauthorized phishing schemes or attacks using the Software or Services, (ii) redirecting recipients to connect to non-PhishLine resources; (iii) data mining of personal or proprietary information or otherwise; (iv) harassing or attempting to cause distress or inconvenience to any third party; or (v) sending messages that contain content that may be deemed obscene, offensive, lewd, defamatory or discriminatory. Customer shall comply with all applicable laws and regulations for the jurisdiction(s) in which the Services are provided (including without limitation to all federal, state, and international laws pertaining to the Customer use of electronic communications such as the CAN-SPAM Act, Lanham Act, Telephone Consumer Protection Act (TCPA), FTC regulations and similar laws or agencies). Subject to the availability of lawful appropriations and consistent with Section 8 of the State Court of Claims Act.

(e) Simple Message Services (SMS) texting and telephone restrictions. If Customer contracts with PhishLine to provide Services that utilize SMS/texting, automated or manual telephone calls, or similar telecommunications technology, Customer shall be solely responsible for obtaining prior approval from the owner of any device that may receive such messages from PhishLine in strict compliance with the Telephone Consumer Protection Act of 1991 (TCPA) or any similar law or regulation in any country; and Customer shall be solely responsible for any charges or fees charged by any carrier to PhishLine, Customer or the device owner.

(f) Updates. If PhishLine releases new versions, patches, updates, revisions, or changes of any kind (collectively, "Updates") to any of its customers generally, such Updates and the associated costs of installation and testing shall be provided at no additional cost to Customer.

(g) Self-help Remedy. Customer acknowledges and agrees that PhishLine may suspend Customer's access to the PhishLine Solution, or portions thereof, if

PhishLine reasonably determines that the Customer's use of the PhishLine Solution does, or is likely to, violate sections 3(c), 3(d) or 3(e) of this Agreement. If PhishLine suspends Customer's access to the PhishLine Solution, PhishLine shall promptly provide Customer with written notice and PhishLine agrees to re-enable access to the PhishLine Solution upon Customer's confirmation that it will cease any further improper use of the PhishLine Solution. Notwithstanding the above, Customer expressly acknowledges and agrees that PhishLine does not have a duty to monitor Customer's use of the PhishLine Solution and PhishLine's failure to discover Customer's violation of the above-referenced sections, or failure to suspend Customer's access to the PhishLine Solution, shall not absolve Customer from any liability, responsibilities or duty to indemnify PhishLine under this Agreement. This remedy is in addition to any other remedies PhishLine may have including PhishLine's right to terminate this Agreement due to Customer's material breach of this Agreement.

4. Pricing and Payment Terms.

(a) Fees. Unless stated otherwise in a Quotation, upon acceptance of this Agreement, PhishLine shall invoice Customer for the Fees set forth in the Quotation and Customer agrees to pay PhishLine the Fees within thirty (30) days of Customer's receipt of such invoice.

(b) Payment Terms. Customer shall pay PhishLine interest of 1% per month on past due amounts owed to PhishLine. Customer is responsible for any legally required sales and use tax on the Services covered in this Agreement.

5. Term. Unless stated otherwise in a Quotation, this Agreement shall remain in effect for an initial term of twelve (12) months (the "Initial Term"). Thereafter, this Agreement may be renewed for subsequent twelve (12) month terms (each a "Renewal Term"). The Initial Term, together with any Renewal Term(s), shall constitute the "Term." If the parties renew this Agreement, such renewal shall be governed by the terms and conditions set forth in this Agreement but subject to PhishLine's then current Fees, which shall be set forth in a Quotation mutually agreed upon by the parties.

6. Termination.

(a) Termination for Breach. Either party may terminate this Agreement immediately upon written notice to the other party if the other party fails to cure a material breach within thirty (30) days after receiving written notice thereof from such party. PhishLine acknowledges and agrees that its failure to meet the Service Levels set forth in Schedule B shall constitute a material breach of this Agreement.

(b) Termination for Bankruptcy and Related Events. Subject to Title 11, United States Code, if either party becomes or is declared insolvent or bankrupt, is the subject of any proceedings relating to its liquidation, insolvency, or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors or enters into an agreement for the

composition, extension or readjustment of all or substantially all of its obligations, then the other party may, by giving written notice thereof to such party, terminate this Agreement as of the date specified in such notice of termination.

(c) Termination by Mutual Agreement. This Agreement may be terminated upon mutual written agreement between PhishLine and Customer.

(d) Termination for Convenience. Customer may terminate this Agreement at any time with or without cause for its convenience, effective upon thirty (30) days' notice to PhishLine. Customer agrees that in the event it terminates this Agreement for convenience, Customer shall not be entitled to any refund, credit or other amount invoiced, paid or due in the corresponding Quotation.

(e) Return of Customer Data and Transition Assistance. Upon Customer's request at any time during the Term and within 30 days after the termination or expiration of this Agreement, PhishLine shall make available to Customer (or Customer's designee) any or all Customer Data in PhishLine's possession for export.

(f) Survival. The provisions of this Agreement which by their nature are intended to survive the termination, cancellation, completion or expiration of the Agreement shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion or expiration. Without limiting the foregoing, the provisions regarding confidentiality, indemnity, and limitations of liability shall survive the expiration or termination of this Agreement.

7. Confidential Information. Upon execution of this Agreement, the following terms and conditions as they relate to confidentiality shall supersede and replace any previously executed non-disclosure agreement or confidentiality agreement.

(a) Definition. The parties agree that all information and know-how, whether or not in writing, relating to the business, technical or financial affairs of either party that is generally understood in the industry as being a trade secret, confidential and/or proprietary, whether or not designated as being confidential and/or proprietary information by the party disclosing such information ("Disclosing Party"), or as representing trade secrets of the Disclosing Party (collectively, "Confidential Information"), is and shall be the exclusive property of the Disclosing Party. The party to which the Disclosing Party provides or grants access to shall be referred to hereafter as the "Receiving Party." For purposes of this Agreement, Confidential Information includes, but is not limited to, the following types of information and other information of a similar nature whether or not reduced to writing: (i) discoveries, ideas, concepts, research, development, processes, operating procedures, "know-how" (whether or not patentable and whether or not copyrightable), trade secret, software, technology, personnel information, marketing techniques, procedures and materials, marketing and development plans, client names and other information related to clients, employee information, vendor information, account fees, pricing and policies, and financial information; (ii)

any personally identifiable information, defined as information that can be identified to a particular person without unreasonable effort, such as names and social security numbers (“PII”); and (iii) any other information received from or on behalf of the Disclosing Party that the Receiving Party could reasonably be expected to know is confidential. Confidential Information also includes any information described above obtained from a third party, which either party treats as proprietary or designates as Confidential Information.

(b) Obligations. The Receiving Party will use the same care and discretion to avoid disclosure of Confidential Information as it uses with its own similar information that it does not wish disclosed, but in no event less than a reasonable standard of care and no less than is required by law. The Receiving Party may only use and disclose Confidential Information of the Disclosing Party as necessary for the following “Permitted Purposes”: (i) performing its obligations under this Agreement; (ii) in the case of Customer, deriving the reasonable and intended benefit from the Services provided under this Agreement; and (iii) as otherwise specifically permitted in writing by the Disclosing Party in this Agreement or elsewhere. The Receiving Party may disclose Confidential Information to its employees and employees of permitted subcontractors and Affiliates who have a need to know, but only to the extent required to perform any obligations under this Agreement; and any other party with the Disclosing Party’s prior written consent. Before disclosure to any such individuals, the Receiving Party will have a written agreement with such individual sufficient to require that person to treat Confidential Information in accordance with the requirements of this Agreement, and the Receiving Party will remain responsible for any breach of this Section 7 by any individuals or entities to which it discloses the other party’s Confidential Information. No obligation of confidentiality applies to any Confidential Information that: (A) the Receiving Party already possesses without obligation of confidentiality, develops independently without reference to Confidential Information of the Disclosing Party, or rightfully receives without obligation of confidentiality from a third party; or (B) is or becomes publicly available without the Receiving Party’s breach of this Agreement. However, the foregoing exceptions shall not excuse either party from its obligations to comply with applicable law. The obligations of these confidentiality provisions shall survive termination or expiration of this Agreement.

(c) Each party agrees that its obligation not to disclose or to use Confidential Information also extends to such types of information, know-how, records and tangible property of employees, customers or potential customers of either party, suppliers or potential suppliers to either party, or other third parties who may have disclosed or entrusted the same to a party.

(d) The Receiving Party may disclose Confidential Information to the extent required by law or legal process, provided that (i) the Receiving Party gives the Disclosing Party prompt notice, if legally permissible, so that the Disclosing Party may seek a protective order, (ii) the Receiving Party reasonably cooperates with the Disclosing Party (at Disclosing Party’s expense) in seeking such protective order, and (iii) all Confidential Information shall remain subject to the terms of this

Agreement in the event of such disclosure. At the Receiving Party's option, Confidential Information will be returned to the Disclosing Party or destroyed (except as may be contained in back-up files created in the ordinary course of business that are recycled in the ordinary course of business over an approximate 30- to 90-day period or such longer period as required by applicable law) promptly upon the Disclosing Party's request and at the termination or expiration of this Agreement and the Receiving Party will certify to the Disclosing Party in writing that it has complied with the requirements of this sentence.

8. Ownership.

(a) Ownership of Customer Data. PhishLine acknowledges and agrees that Customer is the sole and exclusive owner of all rights, title and interest in and to the Customer Data.

(b) Ownership of PhishLine Solution and Analytical Data. Customer acknowledges and agrees that PhishLine is the sole and exclusive owner of all rights, title and interest in and to the Software, PhishLine Solution and, subject to Section 8 above, Analytical Data. Nothing contained in this Agreement shall grant Customer title to or ownership of any of the Software, PhishLine Solution or Analytical Data.

9. Security of Customer Data.

(a) PhishLine shall have the right to (i) access Customer Data for the purpose of aggregating such Customer Data and (ii) store the Aggregated Customer Data for use by PhishLine in accordance with this Agreement. PhishLine will use the Customer Data only as necessary to perform the Services, and not for any other purpose whatsoever, and, at all times, in accordance with this Agreement. PhishLine covenants that it shall not collect, access, or store any Customer Data other than as necessary for the performance of the Services.

(b) Access Controls. Because the Customer Data constitutes Customer's Confidential Information, PhishLine acknowledges and agrees that all obligations imposed on it by this Agreement with respect to Confidential Information apply with equal force to the Customer Data. In addition to the provisions regarding Confidential Information in this Agreement, PhishLine will take commercially reasonable steps to protect the Customer Data in PhishLine's possession from unauthorized use, access, disclosure, alteration or destruction. Security measures shall include reasonable access controls, including passwords and other measures to authenticate and permit access only to authorized individuals, as well as encryption or other means, where appropriate.

(c) Security Monitoring. PhishLine shall (i) maintain an intrusion detection system to monitor the Data Center which is consistent with industry standards, (ii) use commercially reasonable efforts to detect the occurrence of attacks against the Data Center, the network of which the Data Center is a part (the "Network"), or the Software; (iii) implement and follow a procedure to ensure all Security Incidents

are appropriately reported and escalated once detected; (iv) immediately report to Customer any confirmed unauthorized access to Customer Data (a "Security Incident"), and (v) cooperate with Customer to immediately alleviate any continued threat to the privacy or security of the Customer Data, respond to and mitigate the harm arising from a Security Incident, and prevent foreseeable future threats to the security or privacy of the Customer Data.

(d) Personal Information. With the exception of employee email addresses and/or phone numbers, the PhishLine Solution does not require any personal data or information to perform the Services, including without limitation, information (i) that identifies or can be used to identify, contact, or locate the person to whom such information pertains, such as name, address, phone number, fax number, social security number or other government-issued identifier, and credit card information, (ii) from which identification or contact information of an individual person can be derived, or (iii) which constitutes "non-public personal information," as defined by Title V of the Gramm-Leach-Bliley Act and the regulations issued thereunder ("Personal Information"). PhishLine covenants that it shall not access or attempt to access Personal Information of Customer or its Affiliates or of their respective employees, customers, agents or contractors, and if PhishLine inadvertently receives such information, it shall treat all such information as Confidential Information under the Agreement and in accordance with all applicable laws and regulations.

(e) Customer acknowledges that PhishLine will exercise no control whatsoever over the content of the Customer Data passing through the PhishLine Solution (e.g. network, email, messaging systems, or website). Customer acknowledges and agrees that PhishLine shall not be liable to Customer or any other third party the disclosure of Confidential Information or Customer Data by Customer, its Affiliate or its employees, officers, directors.

10. Warranties; Disclaimer of Warranties and Liabilities; Exclusive Remedy.

(a) Customer Warranties. Customer represents that the Customer Data does not, to the best of Customer's knowledge, infringe upon the rights of any third party and, to the best of Customer's knowledge, is not intended to violate, or to be used to violate, any laws or regulations.

(b) General Warranties. PhishLine represents and warrants that: (i) it is compliant and shall comply with all US federal, state, and local laws, statutes, ordinances, rules and regulations applicable to its obligations hereunder; and (ii) its performance of its obligations under this Agreement shall not violate any obligations owed by it to any third party.

(c) Software and Services Warranties. PhishLine represents and warrants that during the Term (i) it is compliant and shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations applicable to its obligations hereunder; (ii) the Software will materially perform in accordance with the

Documentation; and (iii) PhishLine shall perform the Services in a professional and workmanlike manner using due care and consistent with the standards of the PhishLine's industry using appropriately trained and qualified personnel; and (iv) to PhishLine's knowledge, no portion of the Services, including without limitation the Software, infringes upon any U.S. patent, trademark or copyright.

(d) Warranty Disclaimer. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE FOREGOING WARRANTIES ARE IN LIEU OF ANY AND ALL OTHER IMPLIED WARRANTIES. EXCEPT AS OTHERWISE SET FORTH ABOVE, PHISHLINE DISCLAIMS ANY AND ALL OTHER REPRESENTATIONS AND IMPLIED WARRANTIES OF ANY KIND WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PHISHLINE DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

(e) Limitation of Liability. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, OR PUNITIVE DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE SOFTWARE OR THE SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE EXCEPT THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO PHISHLINE'S INDEMNIFICATION OBLIGATIONS. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL PHISHLINE BE LIABLE TO CUSTOMER UNDER SECTION 12 OR OTHERWISE IN AN AMOUNT BEYOND THE LIMITS ON ITS INSURANCE (PLUS ANY DEDUCTIBLE OR RETENTION PAYABLE BY PHISHLINE) AS SET FORTH IN SECTION 12(D). **CUSTOMER ACKNOWLEDGES AND AGREES THAT BECAUSE THE PHISHLINE SOLUTION IS A TOOL TO TEST SECURITY AWARENESS AMONG EMPLOYEES AND A SECURITY AWARENESS EDUCATIONAL TOOL, RATHER THAN A MISSION CRITICAL NETWORK SECURITY APPLICATION, THE LIMITATION OF LIABILITY SET FORTH IN THIS SECTION IS REASONABLE.**

(f) Remedy for Intellectual Property Infringement. For any claim of infringement of third party intellectual property that is subject to indemnification by PhishLine under Section 12 below, that would prohibit Customer from using the Software, Services or PhishLine Solution, by reason of an actual or anticipated claim of infringement, PhishLine shall, at PhishLine's option and expense: (i) obtain for Customer the right to continue using the Software, Services and PhishLine Solution, or (ii) replace or modify the Software, Services or PhishLine Solution so that they are no longer subject to such claim, but perform substantially in accordance with the Documentation. If neither of the foregoing options is commercially practicable, Customer shall be entitled to terminate this Agreement and receive a refund of fees paid to PhishLine for the preceding twelve (12) month period of the Term.

11. Use of Trade Names. PhishLine shall not be permitted to use Customer's name or image or refer to Customer in any marketing or similar materials without the prior written consent of Customer to such use.

12. Indemnification.

(a) By PhishLine. PhishLine shall indemnify, defend, and hold harmless each of Customer, its Affiliates, and their respective directors, officers, members, employees, customers, agents, successors and assigns (each, a "Customer Indemnitee") from and against, any and all third party claims and the judgments, awards, losses, costs, expenses, liabilities, and damages of every kind and nature (including, without limitation, reasonable attorney fees) resulting therefrom, incurred by any Customer Indemnitee to the extent arising from or in connection with: (i) PhishLine's breach of Sections 7 (Confidentiality), 9 (Security and Customer Data); (ii) subject to the exclusive remedy set forth in Section 10(f), infringement or alleged infringement of a U.S. patent, trademark or copyright brought by any individual or entity relating to the Software, Services or PhishLine Solution, or (iii) PhishLine's intentional or negligent misuse of the PhishLine Solution in violation of any law or regulation. Notwithstanding the above, PhishLine shall not have any duty to indemnify Customer against a third party claim of intellectual property infringement, or alleged infringement if and to the extent such claim is based on Customer's use of the Software, Services or PhishLine Solution in a manner that is in violation of this Agreement or inconsistent with the Documentation, as may be amended from time to time by PhishLine.

(b) Indemnification Procedures. In the event a claim for which indemnification is available under this section (a "Claim") is filed against a PhishLine Indemnitee or Customer Indemnitee (collectively, an "Indemnitee"), the Indemnitee shall promptly notify the indemnifying party in writing of the Claim. No delay on the part of the Indemnitee in notifying the indemnifying party shall relieve the indemnifying party from any obligations hereunder unless, and then solely to the extent that, the indemnifying party is materially prejudiced thereby. The indemnifying party shall assume the defense of, compromise or settle the Claim at its expense, provided, however, that the indemnifying party shall have no right to settle any Claim that in any way assesses blame against any Indemnitee or that provides a remedy other than the payment of money without the Indemnitee's prior written consent. After the indemnifying party assumes the defense of the Claim, the Indemnitee shall have the right to retain separate counsel, at its own expense, for the purpose of participating in the defense and/or settlement of the Claim. The Indemnitee shall provide to the indemnifying party all information, assistance and authority reasonably requested in order to evaluate any Claim and effect any defense, compromise or settlement thereof at the expense of the indemnifying party.

(c) Insurance. During the term of this Agreement, PhishLine shall maintain, at its sole cost and expense: (i) commercial general liability insurance with limits of \$1,000,000 per occurrence; (ii) Claims-made and reported Cyber / Technology E&O policy with a limit of liability of \$2,000,000; and (iii) worker's

compensation insurance to the extent required by law. PhishLine agrees that it shall provide Customer with a certificate of insurance upon request.

13. General.

(a) Severability; Governing Law; Waiver. If any provision of this Agreement is held to be unenforceable, the provision shall be deemed stricken herefrom *ab initio*, and the enforceability of the remaining provisions shall in no way be affected or impaired thereby. This Agreement and any disputes arising hereunder shall be governed by the federal laws of the United States. A failure by any party to exercise or any delay in exercising a right or power conferred upon it in this Agreement shall not operate as a waiver of any such right or power.

(b) Merger. This Agreement, the terms and conditions of Carahsoft Technology Corporation's GSA Multiple Award Schedule Contract, the Schedules and each Quotation constitute the entire agreement between Customer and PhishLine regarding the subject matter hereof and supersede all prior writings, discussions and negotiations, including any Customer standard terms and conditions. No discussions, writings, communications or parole evidence indicating the parties' intent with respect to any provision of any of such documents shall be admissible evidence for purposes of interpreting such provisions.

(c) Assignment; Successors and Assigns. Notwithstanding anything in this Agreement to the contrary, during the Term and any Renewal Term of this Agreement, (i) PhishLine shall not assign this Agreement to any other party without prior written consent of Customers except that PhishLine may assign this Agreement to an Affiliate or to a successor or entity that acquires all or substantially all of PhishLine's assets without Customer's consent, and (ii) Customer shall not assign this Agreement to any other party without the prior written consent of PhishLine except that Customer may assign this Agreement to an Affiliate or to successor or entity that acquires all or substantially all of Customer's assets without PhishLine's consent. Subject to the foregoing, the provisions of this Agreement shall be binding on the successors and permitted assigns of each of the respective parties to this Agreement.

(d) Relationship of the Parties. PhishLine and Customer are independent of one another and neither party's employees will be considered employees, agents or contractors of the other party for any purpose. Nothing contained in this Agreement shall be deemed to create the relationships of employer and employee, master and servant, franchisor and franchisee, partnership or joint venture between the parties. Neither party has the authority to bind the other to any third party. Customer shall have no right to direct or control PhishLine with respect to PhishLine activities hereunder. PhishLine shall have no right to direct or control Customer with respect to Customer activities hereunder.

(e) Notices. All notices required or permitted under this Agreement shall be in writing and shall be given by (i) registered or certified mail, return receipt requested, postage prepaid, or (ii) nationally recognized overnight courier service

to the other party at the addresses listed below or to such other address or person as a party may designate in writing, or (iii) electronic mail.

(f) Force Majeure. In no event shall either party be liable for any delay or failure to perform its obligations hereunder where such delay or failure is caused by act of God, disease, terrorist act, natural calamity, war, act or order of government specifically targeting the affected party (a "Force Majeure Event"), provided that the party whose performance is affected by such Force Majeure Event gives as much notice as reasonably possible to other party regarding the non-performance, uses reasonable efforts to resume performance as soon as possible following the commencement of such events or conditions and, provided further, that such affected party was not responsible for the event or condition giving rise to such non-performance.

(g) Other Terms & Conditions. Any conflict between the terms of this Agreement and any other terms and conditions, including those on purchase orders created by Customer, shall be resolved in accordance with General Services Administration Acquisition Regulation (GSAR) 552.212-4(s) Order of Precedence.

Schedule A

Intentionally Omitted.

Schedule B

Service Level Agreement

PhishLine's business hours are 7:00 a.m. – 6:00 p.m. Central Time weekdays, except for holidays as defined by the Office of Personnel Management of the United States Federal Government (<https://www.opm.gov>).

PhishLine's customer service line is open during business hours and outside of business hours for Priority 1 problems. PhishLine allows you to use the ticketing system built into our solution to contact us any time, 24/7.

1. NETWORK PERFORMANCE SERVICE LEVELS

System Availability Target Percentage: 99.5% over a given calendar quarter

System Availability Percentage is defined by the following formula:

- $(\text{Hours Service was Available during given period excluding scheduled maintenance}) \div (\text{Total Hours in the Period})$
- Hours that service was available will be determined by the following independent third party: ServiceUptime (serviceuptime.com).

2. APPLICATION PERFORMANCE SERVICE LEVELS

Application Performance Target Percentage: 99.5% over a given calendar quarter

Application Performance Percentage is defined by the following formula:

- $(\text{the number of logins that took time less than 5 seconds during the given period}) \div (\text{the total number of logins during the given period})$
Note: this service level is not available when multi-factor authentication is required.
- $(\text{the number of Interactive Pages loading in less than 5 seconds during the given period}) \div (\text{the total number of Interactive Pages that loaded during the given period})$
Note: this service level is not available for advanced analytical pages or pages with multi-media content or other content where delivery is outside of PhishLine's reasonable control (e.g. training content sourced from a third party).

Automatic Data Center/Server Rollover: 5 minutes after emergency is declared

3. SUPPORT RESPONSE TIME

PhishLine shall exercise commercially reasonable efforts to correct any Problem reported by Customer in accordance with the priority level reasonably assigned to such Problem by PhishLine. The following definitions will apply to such prioritization:

- “Priority 1 Problem” means a Problem which (i) renders the Service inoperative or intermittently operative; or (ii) degrades performance to the point where the Service is effectively unusable; or (iii) causes any essential feature to be unavailable or substantially impaired; or (iv) causes a complete failure of the Service.
- “Priority 2 Problem” means a Problem which degrades the performance of Service or restricts Customer’s use of the Service.
- “Priority 3 Problem” means a Problem which causes only a minor impact on the Customer’s use of Service.

| RESPONSE TIME COMMITMENTS BASED ON PROBLEM PRIORITY | | | |
|----------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| Problem Priority | Mean Response Time | Mean Escalation Time <i>(to Chief Operating Officer or President of PhishLine)</i> | Notification Path |
| Priority 1 Problems | 2 business hours Best effort during non-business hours. | 4 business hours | Customer will notify PhishLine via telephone / voicemail to all available emergency support phone #s from the most recent list provided to Customer. |
| Priority 2 Problems | 1 business day | 2 business days | Customer will notify PhishLine using the “Suggestion Box” feature built into the |

| | | | |
|---------------------|-----------------|-----------------|----------------------------------------------------------------------------------------|
| | | | tool. |
| Priority 3 Problems | 2 business days | 5 business days | Customer will notify PhishLine using the "Suggestion Box" feature built into the tool. |

| CONTACT INFORMATION FOR KEY PHISHLINE PERSONNEL | | |
|--------------------------------------------------------|------------------------------------------------------------|----------------------------------------------------------------------------------|
| Emergency Support Contact | Emergency Support Phone # | Email |
| Michael Barrett (Support) | +1.415.238.1448 (mobile) +1.262.546.1867 – General Line | mbarrett@phishline.com |
| Michael Behrend (Support) | +1.262.224.0360 (mobile) | michael.behrend@phishline.com |
| Dan Fifiel (Support) | (262) 424-6150 (mobile) | dan.fifiel@phishline.com |
| Dennis Dillman (COO) | +1.262.442.6216 (mobile) +1.262.546.1867 | dennis.dillman@phishline.com |
| Mark Chapman (President) | +1.414.839.5965 (mobile) +1.262.546.1867 ext. 7010 | mchapman@phishline.com |