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

- 1. Scope.** This Carahsoft Rider and the Manufacturer End User License Agreement (EULA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").

- 2. Applicability.** The terms and conditions in the attached Manufacturer EULA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 § U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's EULA are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's contract #GS-35F-0119Y, including, but not limited to the following:
 - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under GSA contracts as set forth in GSA ORDER 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

 - (b) Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 200 0) (Deviation I 2010) (AUG 1987), and 52.212 -4 (f) Excusable delays. (JUN 2010) regarding which the GSAR and the FAR provisions shall take precedence.

 - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

 - (d) Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the

Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

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

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

- (f) **Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) **Force Majeure.** Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer EULA referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.
- (h) **Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer EULA are hereby deemed to be deleted.
- (i) **Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer EULA are hereby deemed to be deleted.
- (j) **Customer Indemnities.** All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.

- (k) Contractor Indemnities.** All Manufacturer EULA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) Renewals.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) Future Fees or Penalties.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all federal, state, local taxes and duties.
- (o) Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer EULA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) Dispute Resolution and Venue.** Any disputes relating to the Manufacturer EULA and to this Rider shall be resolved in accordance with the FAR, and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Ordering Activity expressly acknowledges that Carahsoft, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- (r) Limitation of Liability: Subject to the following:**
- Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.
- (s) Advertisements and Endorsements.** Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

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

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

360SUITE LICENSE AGREEMENT

IMPORTANT: PLEASE READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY

THIS END-USER LICENSE AGREEMENT (THE "AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU (AN ORDERING ACTIVITY, AN ENTITY ENTITLED TO ORDER UNDER GSA SCHEDULE CONTRACTS AS DEFINED IN GSA ORDER ADM 4800.2H, AS MAY BE REVISED FROM TIME TO TIME.) AND GB AND SMITH (THE "LICENSOR") FOR 360SUITE SOFTWARE (THE "SOFTWARE").

The Software is protected by copyright laws and international copyright treaties, patent, as well as other intellectual property laws and treaties. The Software is licensed, not sold.

1. Grant of License

Licensor grants to YOU a non-exclusive, non-transferable and non-sublicenseable license to use the Software and the printed and/or electronic documentation (the "Documentation") accompanying the Software in accordance with this Agreement for which YOU have paid Software's fees. The license granted herein is conditional on timely payment in full of all applicable invoices and charges.

360suite means one (or more) of the following solutions: 360view, 360plus, 360cast, 360eyes, 360eyes compliance or 360gate.

2. Software Ownership and Restrictions on Copyright

Licensor owns and will retain all copyright, trademark, trade secret and other proprietary rights in and to the Software and the Documentation. THE SOFTWARE AND THE DOCUMENTATION ARE PROTECTED BY COPYRIGHT LAWS, TRADE SECRET, PATENT AND OTHER INTELLECTUAL PROPERTY LAWS. YOU obtain only such rights as are specifically provided in this Agreement. YOU may use the Software solely for your own internal data processing operations. YOU may copy the Software into any machine-readable form only for back-up purposes and within the license restrictions of Article 1. YOU further acknowledge and agree that the Software embodies confidential information and trade secrets of the Licensor and YOU shall not disclose any portion of the Software to any third party. YOU may not remove from the Software or Documentation any copyright or other proprietary rights notice or any disclaimer, and YOU shall reproduce on all copies of the Software made in accordance with this Agreement, all such notices and disclaimers. YOU shall not sell, lease, lend, assign, sublicense, publish, translate, modify in any way, disclose, copy or transfer the Software in any form, including, but not limited to, charts, design look and feel, object code, source code or documentation. YOU shall not reverse engineer, decompile, disassemble, reverse-assemble or trace the Software for any purpose, or otherwise attempt to uncover the source code. The Software is registered on the repertory of the Agency for the Protection of Programs (APP). The Software is also registered in the United States on the repertory of the US Copyright Office. The Software is protected in France by the Code of the Intellectual Property, and abroad by the International Conventions on the royalties. The violation of any of the rights of the original author is a breach of copyright punished in France by article L. 335-2 of the code for intellectual property rights and overseas by international conventions on the rights of authors. Unauthorized or illegal copying of copyrighted software for institutional, personal use or for distribution to others is strictly prohibited and will be prosecuted.

3. Inspections and Audit

The Licensor may inspect YOUR deployments where the Software is used, and audit YOUR records subject to any security requirements, to confirm YOUR compliance with this Agreement.

4. Support and Maintenance

If you have purchased support, maintenance and installation services (the "Services") from the Licensor or its resellers for the Software, the Licensor will provide you: On-line web access to download the latest updates of the Software; all major upgrades of the Software released during the support and maintenance period and Email support services. The term of these Services runs for one year from the date you purchased Services from the Licensor or its resellers. Software that is delivered as an upgrade

or update to a previous version of the Software must replace the previous version and no additional license is granted. The term "Software" includes and these terms and conditions also apply to any updates or upgrades to the Software that you may receive from time to time under the Services.

5. Term

The license granted herein will continue until it is terminated in accordance with this Article. Upon the termination of the license, YOU will delete the Software and Documentation and promptly return it to the Licensor or its resellers. The provisions of Articles 2, 3, 7 and 8 of this Agreement shall survive any termination of this Agreement.

6. Responsibility for Selection and Use of the Software

YOU are responsible for the supervision, management and control of the use of the Software, and output of the Software, including, but not limited to: (1) selection of the Software to achieve YOUR intended results; (2) determining the appropriate uses of the Software and the output of the Software in YOUR business; (3) establishing adequate independent procedures for testing the accuracy of the Software and any output; and (4) establishing adequate backup to prevent the loss of data in the event of a Software malfunction. The Software is a tool that is intended to be used only by trained persons. It is not to be a substitute for professional judgment or independent testing of physical prototypes for product stress, safety and utility; YOU are solely responsible for any results obtained from using the Software.

7. Warranty

YOU AGREE THAT LICENSOR OR ITS RESELLERS HAVE MADE NO EXPRESS WARRANTIES TO YOU REGARDING THE SOFTWARE AND THAT THE SOFTWARE IS BEING PROVIDED TO YOU "AS IS" WITHOUT WARRANTY OF ANY KIND. LICENSOR DISCLAIMS ALL WARRANTIES WITH REGARD TO THE SOFTWARE EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS CLAUSE DOES NOT LIMIT OR DISCLAIM ANY OF THE WARRANTIES SPECIFIED IN THE GSA SCHEDULE 70 CONTRACT UNDER FAR 52.212-4(O). IN THE EVENT OF A BREACH OF WARRANTY, THE U.S. GOVERNMENT RESERVES ALL RIGHTS AND REMEDIES UNDER THE CONTRACT, THE FEDERAL ACQUISITION REGULATIONS, AND THE CONTRACT DISPUTES ACT, 41 U.S.C. 7101-7109.

8. Limitation of Liability

LICENSOR AND ITS RESELLERS SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS OR REVENUES, ANY DATA LOSS OR INACCURACY, BUSINESS INTERRUPTION, OR LOSS OF INFORMATION ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF LICENSOR OR ITS RESELLERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER RELATING TO ANY THIRD PARTY SOFTWARE OR HARDWARE. IN NO EVENT SHALL LICENSOR'S AGGREGATE LIABILITY FOR ANY REASON(S) AND UPON ANY CAUSE(S) OF ACTION WHATSOEVER EXCEED THE AMOUNT OF LICENSE FEES ACTUALLY PAID BY YOU TO LICENSOR OR ITS RESELLERS UNDER THIS AGREEMENT. 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.

9. Fees

YOU shall pay to Licensor or to its resellers for use of the Licensed Software pursuant to the terms set forth in the applicable order ("Order") provided by the Licensor or its resellers. The payment of the fees is due within conditions set in the the Order that was negotiated. The Software fees are strictly based

on the number of SAP BusinessObjects Users administrated or CPU within your deployment as specified in the "Quote". The Software may only be used in the Operating Environment specified in the Quote.

10. Governing Laws

This Agreement will be governed by and construed in accordance with the laws of United States.

11. No infringement

Licensor or its resellers represent and warrant to YOU that it has full legal right to license the Software in accordance with this Agreement, that there is no claim, litigation or proceeding pending or threatened against Licensor with respect to the Software or any component thereof alleging infringement of any patent, copyright, trade secret or any proprietary right or any person.

12. Indemnification

a. Licensor does hereby agree to indemnify and shall hold harmless YOU, YOUR corporate affiliates, and any employee or agent thereof against all liability, losses, costs, claims, damages and expenses (including reasonable legal fees) in relation to claims of third parties (other than liability to the extent it is the fault of the Indemnified Party) arising from the infringement, alleged infringement or other violation of any third party's trade secrets, proprietary information, trademark, copyright, patent or other intellectual property rights in connection with the licensing of the Software. Licensor may, at its option, conduct the defense in any such third party action arising as described herein and YOU promise to cooperate fully with such defense to the extent permitted by 28 U.S.C. 516 subject to Licensor providing to YOU such security for costs and damages as YOU may reasonably require. This indemnification is limited to the Software delivered to YOU or as modified by Licensor and does not cover third party claims arising from modifications not authorized by Licensor.

b. If the Software becomes the subject of a third party claim of infringement, Licensor may, at its option, (i) replace the Software, without additional charge, by a compatible, functionally equivalent and non-infringing product; (ii) modify the Software to avoid the infringement; (iii) obtain a license for YOU to continue to use the Software for the term of this Agreement and pay for any additional fee required for such license; or (iv) if none of the foregoing alternatives are possible even after Licensor's reasonable efforts, Licensor may terminate this Agreement (including all licensees granted herein) and article 8 applied.

360SUITE MAINTENANCE AGREEMENT

IMPORTANT: PLEASE READ THE TERMS AND CONDITIONS OF THIS MAINTENANCE AGREEMENT CAREFULLY

THIS MAINTENANCE LICENSE AGREEMENT (THE "AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU (DEFINED AS "AN ORDERING ACTIVITY, AN ENTITY ENTITLED TO ORDER UNDER GSA SCHEDULE CONTRACTS AS DEFINED IN GSA ORDER ADM 4800.2H, AS MAY BE REVISED FROM TIME TO TIME.") AND GB AND SMITH (THE "LICENSOR") FOR 360SUITE SOFTWARE (THE "SOFTWARE

The Software is protected by copyright laws and international copyright treaties, patent, as well as other intellectual property laws and treaties.

1. License

Maintenance and support is provided subject to the terms and conditions of the general Software License terms and conditions.

360suite means one (or more) of the following solutions: 360view, 360plus, 360cast, 360gate, 360eyes compliance or 360eyes.

2. Term

The initial term of this Agreement (first year maintenance) shall begin on receipt of your purchase order by the Licensor or its resellers. It shall continue for 12 months.

Software that is delivered as an upgrade or update to a previous version of the Software must replace the previous version and no additional license is granted. The term "Software" includes and these terms and conditions also apply to any updates or upgrades to the Software that you may receive from time to time under the Maintenance.

3. Fees

Payment is due annually in advance if YOU decide to extend this Agreement. YOU shall pay the Licensor or its resellers for the maintenance fees set in the quotation provided by the Licensor or its resellers, YOU have accepted when placing your order.

4. Support and Maintenance

Licensor will support and maintain the Software for a period of 12 months. Software maintenance will apply only to unmodified Software. Software updates or fixes are provided only for supported platforms as described in the Documentation.

Licensor supports YOU with the installation and maintenance of the Software, assistance in solving problems arising from the use of the Software and logging of enhancement requests and bugs submitted by YOU on the Licensor support web site:

<http://support.gbandsmith.com/> using your support account.

Licensor will provide you: On-line web access to download the latest updates of the Software; all major upgrades of the Software released during the support and maintenance period and Email support services.

Support is covering

- . Bug corrections
- . Upgrades of 360suite on SAP BusinessObjects XI (as long as BO versions are to be considered minor releases)
- . Major upgrade of SAP BusinessObjects
- . Support
- . Technical improvements.

5. Termination

6. Warranty and Limitation of Liability

Licensor will use commercially reasonable efforts to provide corrections or workarounds solutions for any errors reported and determined to be in the Software at no cost to YOU for the term of this agreement.

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USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF LICENSOR OR ITS RESELLERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL LICENSOR BE LIABLE FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER RELATING TO ANY THIRD PARTY SOFTWARE OR HARDWARE. IN NO EVENT SHALL LICENSOR'S AGGREGATE LIABILITY FOR ANY REASON(S) AND UPON ANY CAUSE(S) OF ACTION WHATSOEVER EXCEED THE AMOUNT OF LICENSE FEES ACTUALLY PAID BY YOU TO LICENSOR OR ITS RESELLERS UNDER THIS AGREEMENT. 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.

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