

Carahsoft Rider to Manufacturer Commercial Supplier Agreements
(for U.S. Government End Users)
Version 20160504

- 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 Government Order 4800.2H 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 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 termination or cancellation of the Manufacturer's CSA are hereby deemed to be deleted. Termination 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.).

Content Solutions Sublicense

Terms and Conditions

By executing the Order Form that references these Terms and Conditions, the GSA Order and GSA Multiple Award Schedule (MAS) 70 Contract GS-35F-0119Y (collectively, the “Agreement”), You agree that the Agreement terms govern Your acquisition and use of the Licensed Products. If You are entering into this Agreement on behalf of a company or other legal entity, You represent that You have the authority to bind such entity and its affiliates to these terms, in which case the terms “You” or “Your” shall refer to the entity and its affiliates. If You do not have such authority, or if You do not agree with these terms and conditions, You must not accept the Agreement and may not accept or use the Licensed Products.

1. DEFINITIONS

“**Contributed Database**” means Databases licensed by certain Contributors to Us with the right to grant sublicenses as set forth herein and identified on the Order Form.

“**Contributor**” means a third party licensor of any Contributed Database to Us.

“**Database**” means a compilation of geographic, cartographic, engineering, architectural, tabular, text, and/or other data, information, or works, including, but not limited to, graphic and/or file data in automated or manual form.

“**Derivative Products**” or “**Derivatives**” shall mean all works created by You which incorporate all or part of the Licensed Products, including, but not limited to, any revision, modification, translation, abridgment, condensation, expansion, collection, compilation or any other form of, or modification to the Licensed Products.

“**Intended Use**” means the specific works, uses, purposes, end users, and industries expressly described on the Order Form. Unless expressly stated otherwise on the Order Form, the Intended Use is limited to geospatial mapping products, activities, and applications, and does not include any form of commercial use, distribution, publishing, sublicensing, modifying, reformatting, creation of derivative works, products, or databases, marketing or telemarketing activities, models or algorithms, appraisal, title or other legal reporting, debt collection, insurance of any kind, legal services or products, extracting or otherwise modifying, processing, or removing data elements.

“**Licensed Products**” means the products ordered by You on the Order Form and may include portions of the Contributed Databases.

“**Order Form**” means an ordering document specifying the Services to be provided hereunder that is entered into between You and Us, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

“**Visual Output**” means printouts, plots, displays, photographic film, printed matter and other visual representation of data.

"We," "Us" or "Our" means Digital Map Products, Inc. or its affiliate.

"You" or "Your" means the company or legal entity, and any of its affiliates, for which you are accepting this Agreement. "You" or "Your" also refers to the Government Customer (Agency) who, under GSA Schedule Contracts, is the "Ordering Activity," defined as the "entity authorized to order under GSA Schedule Contracts," as defined in GSA Order ADM4800.2H, as may be revised from time to time.

2. GRANT OF LICENSE

We hereby grant, and You hereby accept, subject to the terms and conditions of this Agreement, a non-exclusive, non-transferable, and non-assignable right and sublicense to use the Licensed Products solely for the Intended Use, from the Effective Date hereof until this Agreement is terminated or expires in accordance with its terms. You may produce Visual Output from the Licensed Products only for the Intended Use.

Subject to the terms of this Agreement, You may create and distribute Derivative Products to the extent that such Derivative Products are part of the Intended Use. You shall be able to use such Derivative Products and all intellectual property rights attributable or corresponding thereto, royalty-free, in perpetuity, under the terms of this Agreement, solely for the Intended Use provided that such use does not include any attempt to reverse-engineer any aspect of Licensed Products or to compete with User the Contributors.

Except as expressly permitted herein, You shall have no right to assign, transfer, or sublicense any aspect of the Licensed Products other than to Your rightful successors or assigns by means of a merger or sale of all or substantially all of Your business.

Your contractors, consultants, and agents that You engage for the Intended Use may use the Licensed Products in digital format as long as (a) these third parties' use is only for the Intended Use, (b) these third parties do not sell, license, or otherwise distribute Licensed Products or any portion thereof, (c) these third parties must destroy any copies of the Licensed Products or portions thereof immediately upon termination or completion of their scope of work as related to the Intended Use, (d) these third parties are not competitors of Ours or of the Contributors, and (e) these third parties must abide by the terms of this Agreement. Without limiting the foregoing, You agree that You shall in no event use any aspect of the Licensed Products other than for the Intended Use.

3. OUR RESPONSIBILITIES

3.1. Delivery Formats and Schedules. We shall make delivery of the Licensed Products to You pursuant to the formats and schedules designated on the Order Form. Unless indicated otherwise, We will only make one (1) data delivery.

4. YOUR RESPONSIBILITIES

4.1. Compliance and Protection from Unauthorized Access and Use. You will be responsible for (a) compliance with the terms of this Agreement by any parties to whom you grant access to the Licensed Products or Derivative Products, (b) securing and protecting the Licensed Products and Derivatives from unauthorized distribution and access, (c) preventing any use of the Licensed Products or Derivatives outside of the Intended Use, (d) preventing access from any of Our competitors or those of our Contributors to any portions of the Licensed Products, Derivatives, or any related information; (e) ensuring that no aspect of the Licensed Products is used in any way that (1) violates any law, statute, ordinance, or regulation; (2) infringes a third party's copyright, patent, trademark, trade secret, or other proprietary rights of publicity or privacy; or (3) is defamatory, trade libelous, unlawfully threatening or harassing.

5. FEES, PAYMENT, AND TERM

5.1. Fees and Payment. In consideration of the license rights granted in Section 2, You shall pay all fees as set forth in the Order Form, plus all applicable taxes, levies, duties, or similar governmental assessments of any nature. Except as otherwise specified herein or in an Order Form, (a) fees are based on Licensed Products purchased and not contingent upon Your actual usage, (b) payment obligations are non-cancelable and fees paid are non-refundable, (c) fees shall be paid in accordance with the terms of GSA MAS 70 Contract GS-35F-0119Y and the applicable GSA Order, and (d) payment of the invoiced amount shall be in accordance with the Prompt Payment Act and the terms and conditions of GSA MAS 70 Contract GS-35F-0119Y and the applicable GSA Order.

5.2. Non-Payment or Failure to Pay. We may pursue remedies for late payments, non-payment of fees and failure to pay fees in accordance with the Prompt Payment Act, the applicable GSA Order and the terms and conditions GSA Schedule Contract GS-35F-0119Y. We may also pursue remedies, to include termination, pursuant to the Contract Disputes Act and FAR 52.233-1.

6. PROPRIETARY RIGHTS, ADDITIONAL LICENSE LIMITATIONS, AND CONFIDENTIALITY

6.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, We and Our Contributors reserve all of Our/their rights, titles, and interests in and to the Licensed Products and Contributed Databases, including all of Our/their related intellectual property rights. You understand that We may at our sole discretion replace Contributors at any time without notice. You agree that any works commissioned or undertaken by Us pursuant to or in supplement to this Agreement shall be and remain Our property unless indicated otherwise. No rights are granted to You hereunder other than as expressly set forth herein.

6.2. Proprietary Notices.

We and our Contributors claim and reserve all ownership and rights afforded at law and in equity in all data, compilations, and materials that constitute the Licensed Products, including, but not limited to, all rights under federal copyright law. You agree to respect and not to knowingly or maliciously remove, obliterate, or cancel from view any copyright, trademark, confidentiality, or other proprietary notice, mark, or legend appearing on the Licensed Product or on the Visual Output, including, but not limited to, any such notices displayed to the user during the operation of the Licensed Products and any such notices in the documentation, and agree to use reasonable best efforts to reproduce and include the same on any copy of the Licensed Product or any portion thereof distributed to Your consultants, agents and contractors.

6.3. Confidential Information. Each party agrees to keep confidential all confidential information disclosed to it by the other party in accordance herewith, and to protect the confidentiality thereof, in the same manner in which it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of confidential information). You acknowledge that the unauthorized use, transfer, assignment, sublicensing, or disclosure of the Licensed Products, documentation, Derivative Products, or copies of any portions thereof will (a) substantially diminish the value to Contributors of their intellectual property, (b) render Our remedy at law for such unauthorized use, disclosure, or transfer inadequate, and (c) cause irreparable injury. Upon (presentation of just cause and) ten (10) days' written notice to You, We shall, with Your consent and permission, have reasonable access to inspect and audit Your procedures and to examine Your computer systems in order to determine whether such procedures and computer systems comply with the requirements set forth in this Agreement.

7. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

7.1. Our Warranties. EXCEPT FOR ANY EXPRESS WARRANTIES PROVIDED HEREIN AND THE LIMITED AND APPLIED WARRANTY OF 60 DAYS THAT THE PRODUCT IS MERCHANTABILITY AND FIT FOR THE PARTICULAR PURPOSE SET FORTH BY THE CUSTOMER, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR OTHERWISE. WE PROVIDE THE LICENSED PRODUCTS ON AN "AS IS," "AS AVAILABLE" BASIS. NEITHER WE NOR OUR CONTRIBUTORS MAKE ANY REPRESENTATION, WARRANTY, OR COVENANT WHATSOEVER REGARDING AVAILABILITY OR ACCURACY OF THE LICENSED PRODUCTS AND/OR CONTRIBUTED DATABASES. WE MAY ALTER OR REDUCE THE AVAILABILITY AND QUALITY OF THE LICENSED PRODUCTS AT ANY TIME WITHOUT CAUSE IN OUR SOLE DISCRETION. NO AGENT OF DMP IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF DMP AS SET FORTH HEREIN.

NEITHER US NOR ANY CONTRIBUTORS WARRANT THAT THE LICENSED PRODUCTS OR RELATED E-MAILS SENT ARE FREE OF ERRORS, OMISSIONS, VIRUSES OR OTHER HARMFUL COMPONENTS. BY ACCEPTING THIS AGREEMENT, YOU DISCLAIM ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT.

7.2. Limitation of Liability. Our aggregate and maximum liability in connection with any claim arising out of or relating to this Agreement shall be limited to a refund of 12 months of fees paid by You to Us. Neither We nor the Contributors shall be liable for any special, indirect, incidental, or consequential damages of any kind whatsoever (including attorneys' fees) arising in connection with the Licensed Products, or any failure by Us to perform our obligations, regardless of any negligence alleged.

7.3. Indemnification. We will defend and indemnify You against a third-party action, suit, or proceeding against You to the extent such claim is based upon an allegation that the Licensed Product, as of its delivery date under this Agreement, infringes a valid United States patent or copyright or misappropriates a third party's trade secret.

8. ADDITIONAL PROVISIONS

8.1. Non-Assignability. Neither party may assign or transfer this Agreement without the prior written consent of the other party. Any unauthorized assignment or transfer will be null and void. This Agreement is binding upon any authorized successor or assignee.

8.2. Entire Understanding. This Agreement, including the applicable GSA Order and the terms and conditions of GSA Schedule Contract GS-35F-0119Y, is the parties' entire agreement relating to its subject, and supersedes any prior or contemporaneous agreement. Any amendment must be in writing and expressly state that it is amending this Agreement.

8.3. Governing Law & Arbitration. This Agreement is governed by the Federal laws of the United States.

8.4. Headings Not Controlling. All captions and headings in this Agreement are for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

8.5. Severability. If any provision of this contract is held to be illegal, invalid, or unenforceable, such provision is fully separable, and the remaining provisions of the contract shall remain in full force and effect.

Initials

Date

Web Application Subscription Terms and Conditions

By executing the Order Form that references this agreement and initialing these Web Application Subscription Terms and Conditions (collectively, the "Agreement"), You agree that the Agreement terms govern Your purchase and use of Digital Map Products ("DMP") Web Application and Content. If You are entering into this Agreement on behalf of a company or other legal entity, You represent that You have the authority to bind such entity and its affiliates to these terms, in which case the terms "You" or "Your" shall refer to the entity and its affiliates. If You do not have such authority, or if You do not agree with these terms and conditions, You must not accept the Agreement and may not use the Web Application or Content.

This Agreement was last updated on June 2nd, 2014. It is effective as of the date You signed the Order Form.

1. DEFINITIONS

"Content" means any content provided through the Web Application (whether created by Us or Our third-party licensors), and includes but is not limited to any information portrayed or rendered in any manner through the Web Application, including maps, data, analysis and images of any kind.

"Order Form" means an ordering document specifying the specifics of what is being provided hereunder that is entered into between You and Us, including any addenda and supplements thereto. By entering into an Order Form hereunder, an affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

"User" means an individual who is authorized by You to use the Web Application, for whom You have ordered the Web Application, and to whom You (or We at Your request) have supplied a user identification and password.

"We," "Us" or "Our" means Digital Map Products, Inc. or its affiliates.

"Web Application" means the product You have requested access to and that has been ordered by You under this Agreement and has been made available by Us, excluding any third-party web sites, content, or applications that our products and services link to. Any use of the term Web Application shall be assumed to include Content.

"You" or "Your" means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity. "You" or "Your" also refers to the Government Customer (Agency) who, under GSA Schedule Contracts, is the "Ordering Activity," defined as the "entity authorized to order under GSA Schedule Contracts," as defined in GSA Order ADM4800.2H, as may be revised from time to time.

"Your Data" means electronic data and information submitted by or for You to be incorporated into the Web Application.

2. WEB APPLICATION, CONTENT, AND USAGE

2.1. Web Application and Content. We will (a) make the Web Application available to You pursuant to this Agreement and the Order Form, (b) provide support for the Web Application to You pursuant to any such indication on the Order Form. Unless expressly provided otherwise, the Web Application is

purchased as a subscription, and subject to usage limits, including, for example, the number of Users and the geographic coverage areas specified in the Order Form. Unless otherwise specified, the Web Application may not be accessed by more than the number of Users indicated, a User's password may not be shared with any other individual, and Users will not attempt to access information or functionality outside of the purchased geographic coverage areas.

2.2 Your Responsibilities. You will (a) be responsible for Users' compliance with this Agreement, (b) be responsible for the accuracy, quality, and legality of Your Data and the means by which You acquired Your Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Web Application, and notify Us promptly of any such unauthorized access or use, and (d) use the Web Application in accordance with any applicable laws and government regulations.

2.3 Usage Restrictions. You will not (a) make the Web Application available to, or use the Web Application for the benefit of, anyone other than You or Users, (b) sell, resell, license, sublicense, distribute, rent, or lease any portion of the Web Application, (c) use the Web Application to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) interfere or disrupt the integrity or performance of the Web Application or third-party data, (e) copy the Web Application or any part, feature, function, or user interface thereof, (f) copy, extract, or store Content except as expressly permitted, (g) frame or mirror any part of the Web Application, other than framing on Your own intranets or otherwise for Your own internal business purposes, (h) process, extract, conduct load testing on, or place undue load on any part of the Web Application except as expressly permitted, or (i) access the Web Application in order to build or enhance a competitive product or service.

2.4. Future Functionality, Updates, and Beta Services. You agree that Your purchase of use of the Web Application is not contingent on the delivery of any future functionality or content, nor dependent on any oral or written public comments made by Us regarding future functionality or content. You agree that We may make changes to the Web Application over time for any reason, without limitation, and that We may not continue to provide or support older versions of the Web Application. We may invite You to try other Web Applications and options to Web Applications. Any such additional Web Applications and options may be subject to additional or separate terms and fees. In the event that such other Web Applications and options are trials or beta products, we will have no liability for any harm or damage arising out of Your use of such.

3. FEES, PAYMENT, AND TERM

3.1. Fees and Payment. You will pay all fees specified in the Order Form plus any applicable taxes, levies, duties, or similar governmental assessments of any nature. Except as otherwise specified herein or in an Order Form, (a) fees are based on the purchased use and not actual incremental usage, (b) payment obligations are non-cancelable and fees paid are non-refundable, (c) fees shall be paid in accordance with the terms of GSA MAS 70 Contract GS-35F-0119Y and the applicable GSA Order, (d) quantities or add-ons purchased cannot be decreased during the relevant subscription term, and (e) unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information and notifying Us of any changes to such information.

3.2. Non-Payment or Failure to Pay. We may pursue remedies for late payments, non-payment of fees and failure to pay fees in accordance with the Prompt Payment Act, the applicable GSA Order and the terms and conditions GSA Schedule Contract GS-35F-0119Y. We may also pursue remedies, to include termination, pursuant to the Contract Disputes Act and FAR 52.233-1.

3.3. Term of Agreement. This Agreement will continue for the period defined in the Order Form. Upon termination, any licenses granted by Us under this Agreement are immediately revoked.

4. PROPRIETARY RIGHTS, LICENSES, AND CONFIDENTIALITY

4.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, We and Our licensors reserve all of Our/their rights, titles, and interests in and to the Web Application, including all of Our/their related intellectual property rights. You understand that We may at our sole discretion replace vendors or suppliers related to Content or Web Application functionality at any time without notice. You agree that any works commissioned or undertaken by Us pursuant to or in supplement to this Agreement shall be and remain Our property. No rights are granted to You hereunder other than as expressly set forth herein.

4.2. Preservation of Notices. You agree to include, and not to remove or obscure, any copyright, trademark, patent, or other notices appearing within our Web Application including any visual or printed depictions of the same.

4.3. License to Host Your Data. You grant Us a limited-term license to host, copy, adapt, modify, transmit, and display Your Data, as necessary for Us to provide the Web Application to You. You reserve all title, interest and intellectual property rights to Your Data.

4.4. License to Collect Data and Use Feedback. You agree that We may collect and use information gathered as part of the Web Application to improve Our technology, products, and internal processes. You grant Us a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Web Application any suggestion, enhancement request, recommendation, correction, or other feedback provided by You or Your Users.

5. CONFIDENTIALITY

5.1. Trade Secrets and Confidential Information. The Web Application is based on and includes Our proprietary trade secrets and confidential information. You will not modify, adapt, translate, reverse engineer, decompile, attempt unauthorized access to, or disassemble any portion of the Web Application. You will treat the Web Application with at least the same degree of care (and no less than a reasonable degree of care) as that which You would treat Your own trade secrets and confidential information. You will not disclose the terms of this Agreement or any Order Form to any third party.

6. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

6.1. Our Warranties. EXCEPT FOR ANY EXPRESS WARRANTIES PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR OTHERWISE. WE PROVIDE THE WEB APPLICATION ON AN "AS IS," "AS AVAILABLE" BASIS. WE MAKE NO REPRESENTATION, WARRANTY, OR COVENANT WHATSOEVER REGARDING PERFORMANCE, FUNCTIONALITY, AVAILABILITY, ACCURACY, OR SECURITY OF THE WEB APPLICATION OR YOUR DATA. WE MAY ALTER, REDUCE THE FUNCTIONALITY OR CONTENT OF, AND/OR TERMINATE THE WEB APPLICATION AT ANY TIME WITHOUT CAUSE IN OUR SOLE DISCRETION. NO AGENT OF DMP IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF DMP AS SET FORTH HEREIN.

NEITHER US NOR ANY THIRD PARTY PROVIDERS, PARTNERS OR AFFILIATES WARRANT THAT THE WEB APPLICATION, SERVERS, OR ANY E-MAIL SENT ARE FREE OF ERRORS, OMISSIONS, VIRUSES OR OTHER HARMFUL COMPONENTS. BY ACCEPTING THIS AGREEMENT, YOU DISCLAIM ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS OF OURS AND ANY OF OUR THIRD PARTY PROVIDERS, PARTNERS, OR AFFILIATES EXCEPT AS EXPRESSLY PROVIDED HEREIN.

6.2. Limitation of Liability. Our aggregate and maximum liability in connection with any claim arising out of or relating to this Agreement shall be limited to a refund of fees paid by You to Us up to a limit of one year's worth of fees. We shall not be liable for any special, indirect, incidental, or consequential damages of any kind (including attorneys' fees) arising in connection with Your use of the Web Application, or any failure by Us to perform our obligations, regardless of any negligence alleged.

6.3. Indemnification. We will defend and indemnify You against a third-party action, suit, or proceeding against You to the extent such claim is based upon an allegation that the Web Application or Content under this Agreement infringes a valid United States patent or copyright or misappropriates a third party's trade secret.

7. ADDITIONAL PROVISIONS

7.1. Non-Assignability. Neither party may assign or transfer this Agreement without the prior written consent of the other party. Any unauthorized assignment or transfer will be null and void. This Agreement is binding upon any authorized successor or assignee.

7.2. Entire Understanding. This Agreement, including the applicable GSA Order and terms and conditions of GSA MAS 70 Contract GS-35F-0119Y, is the parties' entire agreement relating to its subject, and supersedes any prior or contemporaneous agreement. Any amendment must be in writing and expressly state that it is amending this Agreement.

7.3. Governing Law & Arbitration. This Agreement is governed by the Federal laws of the United States.

7.4. Headings Not Controlling. All captions and headings in this Agreement are for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

7.5. Severability. If any provision of this contract is held to be illegal, invalid, or unenforceable, such provision is fully separable, and the remaining provisions of the contract shall remain in full force and effect.

Initials

Date