

**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.).

MR. BUZZ SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("Agreement") is made between Mr. Buzz, Inc. (dba (NLProc), a California corporation, with offices at 18775 Favre Ridge Rd., Los Gatos, CA, 95033 ("Mr. Buzz") and the Government customer identified in the Order ("Customer").

1. DEFINITIONS.

"**Affiliate**" means, with respect to a party, any entity which directly or indirectly Controls, is Controlled by, or is under common Control with such party.

"**Confidential Information**" has the meaning set forth in Section 10.

"**Control**" means ownership or control, directly or indirectly, of more than 50% of the voting interests of the subject entity.

"**Documentation**" means the description of the Mr. Buzz Software and Professional Services purchased by Customer contained in the Software specification sheet.

"**Order**" means an order for the Software and/or Professional Services signed by Mr. Buzz or a Reseller.

"**Professional Services**" means the installation, implementation, training, or other professional services listed in Section 4 and further identified in an Order.

"**Reseller**" means a reseller authorized in writing by Mr. Buzz to provide the Software and Professional Services on Mr. Buzz's behalf.

"**Software**" means any Mr. Buzz software programs (in object code format) licensed by Mr. Buzz to Customer together with all Updates, as further described in the Documentation in an Order.

"**Support**" has the meaning set forth in Section 7.

"**Taxes**" means any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, sales, use or withholding taxes.

"**Term**" means the Term applicable to each Mr. Buzz Product, or if no such term period is defined, twelve (12) months, commencing on the Effective Date.

"**Updates**" means all Software updates and enhancements that Mr. Buzz generally makes available at no additional charge to its customers of the Software licensed hereunder who are current in payment of applicable fees.

"**Users**" means Customer's and its Affiliates' employees, agents, contractors, and consultants who are authorized by Customer to use the Mr. Buzz Software.

2. TERMS OF THE MR. BUZZ SOFTWARE. Subject to the terms of the Agreement, Mr. Buzz grants Customer and its Affiliates a non-exclusive, non-transferable (except to a successor in interest as permitted hereunder) license to use the Mr. Buzz Software listed under an Order during the Term. Customer's right to use the Mr. Buzz Software is limited to the tier and other restrictions contained in an Order and the Documentation.

3. CUSTOMER RESPONSIBILITIES RELATING TO USE OF THE MR. BUZZ SOFTWARE.

3.1 As between the parties, Customer is responsible for, (i) all activities conducted under its User logins, (ii) obtaining and maintaining any Customer Equipment and any ancillary software and/or services needed to connect to, access or otherwise use the Mr. Buzz Software and, (iii) ensuring that it has the proper Splunk and/or other licenses to make use of the Software with.

3.2 Customer shall use the Mr. Buzz Software solely for its internal business purposes, in compliance with applicable law, and shall not: (a) resell, sublicense, lease, time-share or otherwise make the Mr. Buzz Software available to any third party; (b) process, send, or store infringing or unlawful material using the Mr. Buzz Software; (c) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Mr. Buzz Software or the data contained therein; (d) modify, copy or create derivative works based on the Mr. Buzz Software; (e) reverse engineer the Mr. Buzz Software; (f) propagate any virus, worms, Trojan horses, or other programming routine intended to damage any system or data; (g) access the Mr. Buzz Software for the purpose of building a competitive product or service

or copying its features or user interface; or (h) use the Mr. Buzz Software, or permit it to be used, for purposes of product evaluation, benchmarking or other comparative analysis intended for publication without Mr. Buzz's prior written consent.

3.3 Notwithstanding the grant in Sections 2 and 3.1 – 3.2, Customer and its Affiliates acknowledge that the Software includes or may include some software components that are licensed to Customer and its Affiliates under "free software" or "open source" licenses which, among other rights, permit the user to copy, modify and redistribute certain programs, or portions thereof, and/or have access to the source code for such components ("Free Software Licenses"). Mr. Buzz shall provide a list of open source components for a particular version of the Software upon Customer's request. To the extent stated in any applicable Free Software License, the terms of such licenses will apply in lieu of the terms of Sections 2 and 3.1 - 3.2 of this Agreement. To the extent the terms of any Free Software License prohibit any of the restrictions in this Agreement with respect to such components, such restrictions will not apply to such components.

4. PROFESSIONAL SERVICES. Mr. Buzz provides Professional Services in the following three forms and any such Professional Services will be identified as such in an Order. "Set-Up" Professional Services include standard product installation and configuration and are further defined in the Mr. Buzz Set-Up specification sheet. "Mr. Buzz Service Units" are Professional Services bought in bulk in pre-paid amounts and are further described in the Mr. Buzz Service Unit specification sheet. "Additional Services" may be provided by Mr. Buzz in unique circumstances and will first be agreed upon in a mutually executed statement of work that specifically incorporates this Agreement by reference.

5. OWNERSHIP.

5.1 Customer shall retain all ownership rights in and to all Customer data passing through or generated by the Software and Customer Confidential Information. Mr. Buzz shall have and retain all ownership rights in the Mr. Buzz Software and all work developed or created by Mr. Buzz during the course of providing Support or Professional Services to Customer (if any). Mr. Buzz hereby grants Customer a royalty-free, fully paid-up, nonexclusive, license to use the foregoing on the same terms and conditions as the Mr. Buzz Software.

5.2 Mr. Buzz shall own any suggestions, enhancement requests, recommendations, or other feedback provided by Customer or its Users relating to the operation of the Mr. Buzz Software.

5.3 No license, right or interest in any Mr. Buzz or Customer trademark, copyright, trade name or service mark is granted hereunder.

6. FEES.

6.1 The Fees for the Mr. Buzz Software are as stated in an Order. Unless otherwise stated therein, Fees for the Term are due and payable upon the Effective Date and are payable to Mr. Buzz or Reseller, as applicable. Any additional Fees that are calculated in arrears will be invoiced at the end of the month that they were accrued for. Fees for any other Terms are due in accordance with the above, except that they are due on the effective date of the renewal. Fees may be paid by wire (without deduction for any wire fees) or by check to Mr. Buzz or Reseller using Mr. Buzz's or the Reseller's instructions.

6.2 Upon execution of this Agreement, payment obligations are non-cancelable and, except as expressly provided in this Agreement, upon payment, all payments made by Customer are non-refundable. All undisputed fees due hereunder shall be due and payable within thirty (30) days of receipt of invoice. Any payment not received from Customer by the due date may accrue (except for amounts then under reasonable and good faith dispute) late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. Failure to make payments in accordance with this Section may result in suspension of Customer's ability to access the Mr. Buzz Software until payment is made. In the event Customer issues purchase orders in its normal course of business, Customer shall provide Mr. Buzz with a purchase order upon execution of this Agreement, or if Customer does not provide Mr. Buzz with such purchase order, Customer authorizes Mr. Buzz to accept this Agreement in lieu of a purchase order.

6.3 Customer is responsible for monitoring Customer's use of the Software. If Customer is aware that its use of the Software is found to be greater than the number of tier restrictions licensed hereunder, Customer shall notify Mr. Buzz or Reseller of such excess use. Mr. Buzz or Reseller will invoice Customer for the additional Fees for the period commencing on the date of excess use through the remainder of the Term, and the unpaid Fees shall be payable in accordance with Section 6.1.

6.4 Unless otherwise provided, the fees do not include any Taxes. Customer is responsible for paying all Taxes, including, but not limited to sales, use, GST, and VAT taxes, associated with its purchases hereunder, excluding Taxes based on Mr. Buzz's or Reseller's net income or property. If an invoice includes Taxes, Customer is responsible for such Taxes, unless Customer provides a valid tax exemption certificate authorized by the appropriate taxing authority upon execution of this Agreement. Taxes not included on an invoice shall be the responsibility of the Customer to remit to the appropriate tax authorities as necessary.

7. SUPPORT. Mr. Buzz shall provide Support provided Customer is current on payment of Support fees and all other Fees. Support shall be provided in accordance with the terms and conditions described in Mr. Buzz's technical support policy, as attached.

8. WARRANTIES.

8.1 Each party represents and warrants that (i) it has the legal power to enter into and perform under this Agreement; and (ii) it shall comply with all other applicable laws in its performance hereunder.

8.2 Mr. Buzz warrants (i) it will provide the Professional Services in a professional and workmanlike manner consistent with good industry standards and practices; and (ii) that for a period of thirty (30) days after completion, the Professional Services will conform to the representations in Section 4. As Customer's sole and exclusive remedy and Mr. Buzz's entire liability for any breach of the foregoing warranty, Mr. Buzz will re-perform the Professional Services, or, if Mr. Buzz is unable to do so, return the fees paid to Mr. Buzz for such deficient Professional Services.

8.3 Mr. Buzz warrants to Customer that for a period of three (3) months from delivery, the Software will substantially conform in all material respects to the Documentation ("Software Warranty"). The Software Warranty does not apply to: (a) Software that has been modified by any party other than Mr. Buzz; or (b) Software that has been improperly installed or used in a manner other than as authorized under the Agreement to the extent such modification(s) or improper installation cause the Software to be nonconforming. As Customer's sole and exclusive remedy and Mr. Buzz's entire liability for any breach of the foregoing warranty, Mr. Buzz will repair or replace any nonconforming Software so that it operates as warranted or, if Mr. Buzz is unable to do so, terminate the license for such Software and return the license fees paid to Mr. Buzz for the nonconforming Software. Any claim submitted under this

Section 8.3 must be submitted in writing to Mr. Buzz within the specified warranty period.

8.4 EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. MR. BUZZ DOES NOT WARRANT THE OPERATION OF THE MR. BUZZ SOFTWARE AND RESULTS OF THE PROFESSIONAL SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

9. PATENT AND COPYRIGHT INDEMNITY.

9.1 Mr. Buzz shall defend, indemnify and hold Customer harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings ("Claims") made or brought against Customer by a third party alleging that the use of the Mr. Buzz Software as contemplated hereunder infringes the U.S. intellectual property rights of such third party, provided that Customer (a) promptly gives written notice of the Claim to Mr. Buzz; (b) gives Mr. Buzz sole control of the defense and settlement of the Claim (provided that Mr. Buzz may not settle any Claim unless it unconditionally releases Customer of all liability); and (c) provides to Mr. Buzz, at Mr. Buzz' cost, all reasonable assistance.

9.2 Mr. Buzz may, at its sole option and expense: (i) procure for Customer the right to continue using the Mr. Buzz Software under the terms of this Agreement; (ii) replace or modify the Mr. Buzz Software to be non-infringing without material decrease in functionality; or (iii) if the foregoing options are not reasonably practicable, terminate the license for the infringing Mr. Buzz Software and refund Customer the prepaid fees for the remainder of the then-current Term after the date of termination.

9.3 Mr. Buzz shall have no liability for any Claim to the extent the Claim is based upon (i) the use of the Mr. Buzz Software in combination with any other product, service or device not furnished, recommended or approved by Mr. Buzz, if such Claim would have been avoided by the use of the Mr. Buzz Software, without such product, service or device; or (ii) Customer's use of the Mr. Buzz Software other than in accordance with this Agreement.

9.4 The provisions of this Section 9 set forth Mr. Buzz's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement or misappropriation of third party intellectual property rights of any kind.

10. CONFIDENTIALITY.

10.1 As used herein, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure including pricing and other terms reflected under this Agreement, the Mr. Buzz Software, Documentation, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to Disclosing Party; (ii) was known to Receiving Party prior to its disclosure by Disclosing Party without breach of any obligation owed to Disclosing Party; (iii) was independently developed by Receiving Party without breach of any obligation owed to Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to Disclosing Party.

10.2 Receiving Party shall not disclose any Confidential Information of Disclosing Party for any purpose outside the scope of this Agreement, except with Disclosing Party's prior written consent. Receiving Party shall protect the confidentiality of Disclosing Party's Confidential Information in the same manner that it protects the confidentiality of its own confidential information of like kind (but in no event using less than reasonable care). Notwithstanding the foregoing, Mr. Buzz may use, for its business purposes, heartbeat data generated by the use of the Mr. Buzz Software in anonymized

format. Each party represents and warrants that it will collect, maintain and handle all personal data in compliance with all applicable data privacy and protection laws. Receiving Party shall promptly notify Disclosing Party if it becomes aware of any actual or reasonably suspected breach of confidentiality of Disclosing Party's Confidential Information.

10.3 If Receiving Party is compelled by law to disclose Confidential Information of Disclosing Party, it shall provide Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if Disclosing Party wishes to contest the disclosure.

10.4 Upon any termination of this Agreement, the Receiving Party shall continue to maintain the confidentiality of the Disclosing Party's Confidential Information as long as it remains confidential and, upon request, return to the Disclosing Party or destroy (at the Disclosing Party's election) all materials containing such Confidential Information.

11. LIMITATION OF LIABILITY.

11.1 EXCEPT (i) FOR THE PARTIES' INDEMNIFICATION OBLIGATIONS; (ii) FOR CUSTOMER'S FAILURE TO PAY ANY FEES DUE UNDER THIS AGREEMENT; (iii) IN THE EVENT OF EITHER PARTY'S UNAUTHORIZED USE, DISTRIBUTION OR DISCLOSURE OF THE OTHER PARTY'S INTELLECTUAL PROPERTY; OR (iv) EITHER PARTY'S MATERIAL BREACH OF SECTION 10 ("CONFIDENTIALITY"), IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE SUBSCRIPTION FEES PAID TO MR. BUZZ DURING TWELVE MONTHS PRIOR TO WHEN THE CLAIM ACCRUED.

11.2 IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER FOR ANY LOST PROFITS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. TERM AND TERMINATION.

12.1 This Agreement commences on the Effective Date and continues until all licenses granted in accordance with this Agreement have expired or have been terminated.

12.2 A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach of this Agreement if such breach remains uncured at the expiration of such period; (ii) immediately upon written notice if the other party becomes the subject of a bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceeding; and (iii) as otherwise provided herein.

12.3 The parties' rights and obligations under Sections 5, 6, 8.4, 9, 10, 11, 12.3, 12.4, and 13 shall survive termination of this Agreement.

12.4 Within thirty (30) days after termination of this Agreement, Customer shall certify in writing to Mr. Buzz that all copies of the Software, Updates, and Documentation in any form, including partial copies within modified versions, have been destroyed or returned to Mr. Buzz.

13. General

13.1 The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created hereby. There are no third party beneficiaries to this Agreement.

13.2 Notices shall be in writing, sent using a recognized private mail carrier or the United States Postal Service and effective on proof of delivery.

13.3 Each party may include the other's name in its customer or vendor lists.

13.4 No amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by Customer and Mr. Buzz. To the extent of any conflict between this

Agreement and any other schedule or attachment, this Agreement shall prevail unless expressly stated otherwise. Notwithstanding any language to the contrary therein, no terms stated in a purchase order or in any other order document (other than a statement of work, or other mutually executed order document expressly incorporated herein) shall be incorporated into this Agreement, and all such terms shall be void. This Agreement, which includes all documents referenced herein, statements of work and attachments hereto, represents the entire agreement of the parties, and supersedes all prior or contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Notwithstanding the foregoing, any conflict between the terms and conditions of the Agreement, incorporated documents or orders and the terms and conditions of GSA Schedule Contract GS-35F-0119Y shall be resolved in accordance with General Services Administration Acquisition Regulation 552.212-4(s) Order of Precedence.

13.5 No failure or delay in exercising any right hereunder shall constitute a waiver of such right. Except as otherwise provided, remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect.

13.6 Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to a natural disaster, actions or decrees of governmental bodies or communications line failure which (i) hinders, delays or prevents a party in performing any of its obligations, and (ii) is beyond the control of, and without the fault or negligence of, such party, and (iii) by the exercise of reasonable diligence such party is unable to prevent or provide against ("Force Majeure Event").

13.7 Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety, without consent of the other party, to its successor in interest in connection with a merger, reorganization, or sale of all or substantially all assets or equity not involving a direct competitor of the other party. Any attempted assignment in breach of this Section shall be void. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

13.8 This Section 13.8 shall apply only if Customer is a federal government entity. Mr. Buzz provides the Software, including related technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Software include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If greater rights are needed, a mutually acceptable written addendum specifically conveying such rights must be included in this Agreement.

13.9 Each party agrees to comply fully with all applicable regulations of the United States Department of Commerce and with the United States Export Administration Act, as amended from time to time, and with all applicable laws and regulations of other jurisdictions with respect to the importation and use of the Mr. Buzz Software.

13.10 This Agreement shall be governed exclusively by Federal law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

STANDARD SUPPORT SERVICES FOR MR. BUZZ CUSTOMERS

Overview: The standard support services described herein are provided by Mr. Buzz, Inc. (“Mr. Buzz”) for the Mr. Buzz products (“Software”) licensed by customer and are pursuant to the terms and conditions of the software license agreement (“Agreement”) between customer and Mr. Buzz or between customer and an authorized Mr. Buzz partner (“Customer”). Capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement.

1. Standard Support consists of the following:

1.1 Error Corrections. Mr. Buzz shall use commercially reasonable efforts to correct and/or provide a work-around for any error reported by Customer in the current unmodified release of the Software in accordance with the priority level reasonably assigned to such error by Mr. Buzz.

1.2 Software and Documentation Updates. Mr. Buzz shall provide to Customer one (1) electronic copy of all updated revisions to the Documentation and one (1) electronic copy of generally released Software updates. Updates do not include products or options that are designated by Mr. Buzz as new products or options for which Mr. Buzz charges a separate fee. Software releases are supported for the current and prior release that are designated by a change to the right of the decimal (e.g. 1.1 to 1.2).

1.3 Support Requests and Named Support Contacts. Technical support is available 9-5 pacific time. Customer may initiate electronic Support requests via email to Mr. Buzz at any time. Support request submitted via email will be addressed by Mr. Buzz during the support hours listed above. Customer will promptly identify two internal resources that are knowledgeable about Customer’s operating environment and operation of the Mr. Buzz Products (collectively, “Named Support Contacts”). Named Support Contacts will serve as primary contacts between Customer and Mr. Buzz.

2. Priority Levels of Errors and Responses

In the performance of Support services, Mr. Buzz will apply the following priority ratings.

Priority Levels

Priority	Definition	Initial Response Goal	Restoral Time Goal	Resolution Commitment	Escalation Plan
P1 – Critical	Production system is inoperative and business operations are critically impacted. No work can be done.	4 hours	24 hours	Develop suitable workaround, patch, or other temporary correction to restore operation. Apply permanent fix to next maintenance release. Customer will need to upgrade. Mr. Buzz and Customer agree to each provide engineering resources that are knowledgeable in the problem to work as closely as reasonably possible on a continuous efforts basis until the problem is resolved.	24 hours without resolution-Notify Mr. Buzz VP Technical Support who will update Customer senior IT person at the site 2x daily until resolved 48 hrs. without resolution-Notify Mr. Buzz Executive team
P2 – High	Production/development system is adversely affected or development system is inoperative. Productivity is compromised; work can be	8 hours	5 days	Provide corrective code; addenda or substitute pages for documentation; or both.	5 days without resolution-Notify Mr. Buzz VP Technical Support who will update Customer

	done but is severely limited.			Include fix in next or subsequent maintenance release.	senior IT person at the site 1x daily until resolved 7 days without resolution-Notify Mr. Buzz Executive team
P3 – Standard	Production or development system has encountered a non-critical problem or defect and/or questions have arisen about Software use. Software is usable but non-critical features may not function.	1 day	N/A	Provide corrective code; addenda or substitute pages for documentation; or both. Include fix in next or subsequent maintenance release.	

3. Customer Cooperation.

Mr. Buzz's obligation to provide Support services is conditioned upon the following: (i) Customer's reasonable effort to resolve the problem after communication with Mr. Buzz; (ii) Customer's provision to Mr. Buzz of sufficient information and resources to correct the problem, including, without limitation, remote access as further discussed in these policies, (iii) Customer's prompt installation of all Software maintenance releases, bug fixes and/or work-around supplied by Mr. Buzz, and (iv) Customer's procurement and installation and maintenance of all hardware necessary to operate the Software. As related to Priority I Errors, Customer shall provide continuous access to appropriate Customer personnel and the Appliance (if applicable) during Mr. Buzz's response related to the Priority I Error or Mr. Buzz shall be permitted to change the Priority of the error.

4. Reproducing Problems; Remote Access.

Support services assistance is limited to Products on platforms that are fully supported and running unaltered on the proper hardware configuration. Where applicable for a reported error, Mr. Buzz will use commercially reasonable efforts to reproduce the problem so that the results can be analyzed. Mr. Buzz's obligation to provide the support services described herein, including without limitation meeting the response times set forth in Section 2 above, is subject to Customer providing shell or Web-based remote access to Customer's computer system(s) and network. Any such remote access by Mr. Buzz shall be subject to Mr. Buzz's compliance with Customer's security procedures and the confidentiality requirements set forth in the license agreement between Mr. Buzz and Customer. Any delay occasioned by Customer's failure to provide the foregoing remote access shall extend the response time periods set forth in Section 2 accordingly and resolution of the problem may be subject to payment of additional fees. Prior to proceeding with work that will be subject to additional fees, Mr. Buzz will notify Customer and will not start such work until Mr. Buzz receives authorization from Customer. If Customer fails to provide remote access to its computer system(s) and network and Mr. Buzz and Mr. Buzz and Customer cannot agree on a mutually satisfactory alternative method of reproducing the problem, Mr. Buzz shall not be obligated to resolve the problem.

5. Support Services Conditions.

5.1 Support Issues Not Attributable to Mr. Buzz. Mr. Buzz shall have no obligation to provide support to the extent any problem with the Software is due to (i) Software that has been altered, damaged or modified by Customer or Customer's agents without the consent of Mr. Buzz; (ii) Software that is not the then-current or previous sequential release; (iii) Customer's negligence, hardware malfunction or other causes beyond the reasonable control of Mr. Buzz; (iv) Software installed in an operating environment not specified in the Documentation; or (v) a failure that cannot be reproduced at Mr. Buzz's facility or via remote access to Customer's facility.

6. General Terms. Customer shall access Mr. Buzz's support web site for updates to this support policy, which may be modified at Mr. Buzz's sole discretion upon reasonable prior notice.