

GroundWork, Inc.
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**Carahsoft Rider to Application Security End User License Agreements
(for U.S. Government End Users)**

1. **Scope.** This Carahsoft Rider and the Application Security, Inc. ('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.

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- (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.

GROUNDWORK ORDER FORM

Subscriber Name:	<Agency, Department, Company, or Organization Name>
Effective Date:	
Order Form #:	<001 for the initial order and subscription agreement, increment for others>

This Order Form is for the purchase by the company specified above (the "Subscriber") of Products and Services of GroundWork Open Source, Inc. ("GW") and is governed by and subject to the terms and conditions attached hereto as Exhibit A (this Order Form together with the attached terms and conditions shall be referred to hereinafter as the "Agreement" and when executed by both parties, the Order Form shall become part of the agreement.) This Order Form can be used to purchase the initial subscription, and for renewals of subscriptions, added quantities of subscriptions, and GW products not included in earlier orders as well as GW services. Order line items for Professional Services shall reference mutually agreed Statement(s) of Work which shall also be executed by both parties and attached to the Order Form which references them.

ORDER					
Product Name	SKU	Unit Quantity	Subscription Term	Unit Price	Extended Fee

Designated Support Contacts:		Designated Management Contact
First Technical Support Contact Name: _____ Title: _____ Email: _____ Cell #: _____	Second Technical Support Contact Name: _____ Title: _____ Email: _____ Cell #: _____	Designated Management Contact (Needed for Support Escalation Process) Name: _____ Title: _____ Email: _____ Cell #: _____

1. Please enter PO# if required for invoicing or initial if purchase order is not required. _____.
2. The offer contained in this Order Form expires _____.
3. Any discount offers contained on this Order Form are specific to this order and not applicable to any future orders

Accepted and agreed by the authorized representative of each party:

SUBSCRIBER:

Name: _____
 Title: _____
 Phone: _____
 Date: _____
 Signature: _____

GROUNDWORK OPEN SOURCE, INC.

Name: C. David Lilly
 Title: Chief Executive Officer
 Phone: 415-992-4551
 Date: _____
 Signature: _____

EXHIBIT A**SUBSCRIPTION AND SERVICES AGREEMENT**

1. **License Grant.** GW hereby grants Subscriber a non-exclusive, non-transferable, non-assignable, non-sublicensable right to use GW's proprietary software (the "GW Product") specified on the applicable order form (the "Order Form") in the quantity, for the time period (the "Subscription Term") and any other limitations listed on the Order Form, subject to the terms and conditions listed herein. At the conclusion of the Subscription Term, Subscriber agrees to discontinue use of the GW Product. This license grant is made subject to the following conditions: (a) Subscriber may only use the GW Product for its internal use. This license does not entitle Subscriber to use the GW Product within Subscriber's or any other software products. (b) Subscriber may not nor allow any third party to cause, permit or encourage others to publish, translate, reverse engineer, reverse compile, decompile, disassemble, create derivative or collective works from or otherwise attempt to derive the source code from the Software or any portion thereof. (c) Except for the limited license rights expressly provided above, GW and its suppliers have and will retain all rights, title and interest in and to the GW Product (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) and all copies, modifications and derivative works of the GW Product. Subscriber acknowledges that it is obtaining only a limited license right to the GW Product and that no ownership rights are being conveyed to Subscriber under this Agreement or otherwise. (d) All copies of the GW Product reproduced by Subscriber must include all proprietary marks, legends and copyright notices that appear on the original copies of the GW Product provided to Subscriber. (e) This license grant does not include rights to the source code of the GW Product.

2. **Services.**

(a) **Support Services.** During the Subscription Term, GW will provide technical assistance to Subscriber for the GW Product as specified below. GW will provide technical assistance to Subscriber by making commercially reasonable efforts to correct problems arising from the use of the GW Product by updating documentation, providing a work around that allows the Subscriber to avoid the problem or reduce the impact of the problem, issue a software patch that corrects the support issue or reduces the impact of the problem, or commit the resolution of the support issue to a future release of the GW Product. Support services are available subject to the following conditions: (i) GW Products must be installed on the supported platforms listed in the Documentation and (ii) Access to GW support processes and personnel is granted to the specific named support contacts listed in the Order Form. Support services will not be available under the following conditions (i) errors not attributable to the GW Products (ii) additions or modifications to GW Products made by Customer or any third party that are not approved by GW; (iii) Virtual Appliances that have been changed or modified beyond their initial configuration or function or (iv) a GW Product more than two releases prior to the current release.

(b) **Professional Services.** Any Professional Services purchased by Subscriber shall be specified in a written mutually agreed Statement of Work ("SOW") referenced on an Order Form. GW grants Subscriber non-exclusive, non-transferable, non-assignable, non-sub-licensable right to use any deliverable provided as part of the Professional Services solely as necessary for and in conjunction with Subscriber's use of the GW Product, but GW shall retain all right, title and interest in and to any such deliverable and any derivative, enhancement or modification thereto.

3. **Confidential Information.** This section shall not apply so long as GW and Subscriber are parties to an effective non-disclosure agreement that would govern the disclosure of information

hereunder. Any information that a receiving party knows or has reason to know is confidential or proprietary (because such information is identified by the disclosing party orally or in writing as such or is not generally known in the relevant industry), is "Confidential Information" and shall remain the sole property of the disclosing party. Neither party shall disclose, use, modify, copy, reproduce or otherwise divulge Confidential Information of the other, except as required by law or in furtherance of the relationship between the parties. This section shall not apply to information disclosed in published materials, generally known to the public, lawfully obtained from any third party, or known to or independently developed by the receiving party, including, but not limited to, anonymous user data collected by GW. Neither party shall use the other party's name, logo or marks without the other party's prior written consent except that GroundWork may use Subscriber's Name and Logo solely within lists of customers displayed on its website. The GW Product and Documentation and all Order Forms shall be deemed Confidential Information of GW.

4. **Fees.** Subscriber agrees to pay GW the subscription fees and any other fees specified in the Order Form or Statement of Work ("SOW"). Payment terms are in US dollars and are due upon execution of Order Form for on-line purchases or within thirty (30) days from the invoice date otherwise. Fees for Professional Services ordered by Subscribers are invoiced in accordance with each SOW. All fees are non-refundable, including Subscription or services fees not used during a Subscription Term. The Subscriber agrees to pay GW additional fees if the Subscriber exceeds the quantity of Devices specified on the Order Form at GW's then current list price. Any late payments shall be subject to a late fee equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less. Except for taxes based on the net income of GW, Subscriber shall be responsible for all taxes, withholdings, duties and levies (including interest and penalties for late payment) arising from the order, whether or not listed on GW's invoice.

5. **Term; Termination.** The Subscription Term set forth in an Order Form may be renewed upon the mutual written consent of the parties. Termination of an individual Order Form shall not terminate any Subscription Term or any other Order Forms. Either party may terminate this Agreement (including all related Order Forms and SOWs) if the other party fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach. Termination is not an exclusive remedy, and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise. Termination shall not relieve obligation to pay all fees that have accrued or are otherwise owed by Subscriber, including any late payment fees. Upon any termination of this Agreement by GW pursuant to a breach, Subscriber shall cease any and all use of any GW Product and destroy all copies thereof and so certify to GW in writing. Sections 3, 4 and 5, the last sentence of Section 6, and Sections 7, 8 and 9 shall survive any expiration or termination of this Agreement.

6. **Limited Warranty.** GW warrants that, for a period of thirty (30) days from the date of delivery of the GW Product (the "Warranty Period"), it shall perform substantially in accordance with the Documentation. Subscriber's sole and exclusive remedy for any breach of the foregoing warranty shall be to have GW or its representatives, at their option, modify such GW Product to correct the defect giving rise to such breach within a reasonable period. If GW is unable to modify the defective GW Product in such a way as to correct the said defect, then, unless GW is able to provide Subscriber with another method of achieving the desired effect, GW shall be entitled to terminate the Agreement by giving written notice

thereof. In such event, Subscriber shall be entitled to a refund, of any subscriber fees paid by Subscriber to GW for such defective GW Product.

GW warrants that it will perform any Professional Services purchased hereunder in a manner consistent with industry standards reasonably applicable to the performance of such services. As Subscriber's sole and exclusive remedy, and GW's sole liability for any breach of the preceding warranty, GW shall re-perform such services at no additional charge. If the Professional Services are not performed as warranted or the work product does not so comply, then, upon Subscriber's written request, GW shall promptly re-perform, or cause to be re-performed, such Professional Services, at no additional charge to Subscriber. Such warranties and other obligations shall only survive for thirty (30) days following the completion of the Professional Services. Such re-performance shall be Subscriber's exclusive remedy and GW's sole liability for any such non-performance.

EXCEPT FOR THIS LIMITED WARRANTY THE GW PRODUCTS ARE PROVIDED TO SUBSCRIBER "AS IS." THIS WARRANTY IS GIVEN IN LIEU OF, AND SUBSCRIBER HEREBY WAIVES, ALL OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE.

7. Indemnification for Infringement. GW shall defend and indemnify, at its expense, any claim or suit brought by a third party against Subscriber alleging that GW Product infringes a patent, copyright, or trademark and shall pay all costs and damages finally awarded. GW's indemnification obligations are conditioned on the following: (i) Subscriber provides prompt written notice of such claim or suit (but in any event notice in sufficient time for GW to respond without prejudice), (ii) Subscriber's provides commercially reasonable assistance to the defense of such claim or suit and (iii) GW has the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim.

If Subscriber's use of the GW Product under the terms of this Agreement is, or in GW opinion is likely to be, enjoined due to infringement, then GW will, at its sole option and expense, (i) obtain the right to continue using GW Product, (ii) replace or modify the GW Product so that it becomes non-infringing, or (iii) if the remedies set forth in clauses (i) and (ii) are not available on a commercially reasonable basis, terminate the Agreement and refund to Subscriber a pro-rata amount of the Subscription fees paid by Subscriber based on the time remaining in the Subscription Term after removal of the GW Product from Subscriber's systems and Subscriber's return of the GW Product to GW.

GW shall have no liability for actual or alleged infringement based upon the use of GW Product outside the scope herein, in combination with other products, devices or software not furnished by GW, or arising out of modifications made to GW Product by Subscriber or any third party to the extent the claim or suit of infringement would not have occurred but for such combination or modification.

WITH RESPECT TO ANY CLAIMS OR ACTIONS RELATING TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS WITH REGARD TO THE GW PRODUCTS OR THIS AGREEMENT, THE REMEDIES SET FORTH IN THIS SECTION 7 SHALL BE SUBSCRIBER'S SOLE AND EXCLUSIVE REMEDY AND GW'S SOLE OBLIGATION.

8. Limitation of Liability. IN NO EVENT WILL GW OR ITS SUPPLIERS BE LIABLE FOR ANY LOSS OF DATA, LOSS OF INCOME, LOSS OF OPPORTUNITY OR PROFITS, OR COST OF

RECOVERY OR FOR ANY OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES ARISING HEREUNDER INCLUDING SUBSCRIBER'S USE OF THE GW PRODUCTS, ACCOMPANYING DOCUMENTATION, EXTENSIONS, THIRD PARTY SOFTWARE RELATED TO THE GW PRODUCTS, SUPPORT SERVICES, OR PROFESSIONAL SERVICES HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY. THIS LIMITATION WILL APPLY EVEN IF GW OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IN NO EVENT SHALL GW'S LIABILITY HEREUNDER EXCEED THE AGGREGATE AMOUNT PAID BY SUBSCRIBER TO GW UNDER THE APPLICABLE ORDER FORM FOR THE PRODUCT OR SERVICE GIVING RISE TO SUCH LIABILITY. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT GW'S FEES REFLECT THIS ALLOCATION OF RISK. THE PARTIES AGREE THAT THE LIMITATIONS SPECIFIED IN THIS SECTION WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE.

9. Miscellaneous Provisions. This Agreement shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. Unless waived by GW in its sole discretion, the jurisdiction and venue for actions arising out of and related to the subject matter hereof shall be the state or United States federal courts located in California, and both parties hereby submit to the personal jurisdiction of such courts. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. GW may assign this Agreement to any affiliate or to any assignee of all or substantially all of GW assets (whether pursuant to a merger, change of control or otherwise). Subscriber may not assign or transfer this Agreement, in whole or in part, without GW' prior written consent (whether pursuant to a merger, change of control or otherwise). Any attempt to transfer or assign this Agreement in violation of this Section will be null and void. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. No provision of any purchase order or other business form employed by Subscriber will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect. Any notice or report hereunder shall be in writing to the and shall be deemed given: (i) upon receipt if by personal delivery; (ii) upon receipt if sent by certified or registered U.S. mail (return receipt requested); or (iii) one day after it is sent if by next day delivery by a major commercial delivery service. The terms of this Agreement shall prevail over any conflicts with terms of a Subscriber's purchase order. No supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. With prior notice of at least 10 days, GW may audit the use of the GW Products in use by Subscriber, provided such audit is during regular business hours and Subscriber agrees to pay for the cost of any audit in which a discrepancy greater than 10% is found. Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events which occur after the signing of this Agreement and which are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster or refusal of a license by a government agency. The GW site may contain information, products, and services provided by third parties and links to the third party web sites. This information and these products, services, and links are provided only as a convenience. GW does not make any representations or warranties, express or implied, regarding this

information or these products, services, or web sites. Inclusion of any of the foregoing in the GW Product does not constitute or imply an endorsement, authorization, sponsorship, or affiliation by GW.