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

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

2. **Applicability.** The terms and conditions in the attached Manufacturer EULA (www._____/us.html) are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41. U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 § U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's EULA are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft' s contract #GS-35F-0119Y, including, but not limited to the following:

   (a) **Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under GSA contracts as set forth in GSA ORDER 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

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

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

   (d) **Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon

Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

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

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

(f) **Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.

(g) **Force Majeure.** Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer EULA referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.

(h) **Assignment. All** clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer EULA are hereby deemed to be deleted.

(i) **Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer EULA are hereby deemed to be deleted.

(j) **Customer Indemnities.** All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.

(k) **Contractor Indemnities.** All Manufacturer EULA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.

(l) **Renewals.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.

(m) **Future Fees or Penalties.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the

Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.

(n) Taxes. Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all federal, state, local taxes and duties.

(o) Third Party Terms. Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.

(p) Installation and Use of the Software. Installation and use of the software shall be in accordance with the Rider and Manufacturer EULA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.

(q) Dispute Resolution and Venue. Any disputes relating to the Manufacturer EULA and to this Rider shall be resolved in accordance with the FAR, and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Ordering Activity expressly acknowledges that Carahsoft, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.

(r) Limitation of Liability: Subject to the following:

Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

(s) Advertisements and Endorsements. Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

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

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

SOFTWARE LICENSE AGREEMENT

This Software License Agreement ("Agreement") is made and entered into as of _____, 20__ ("Effective Date"), by and between Dataguise, inc., a Delaware corporation, ("Dataguise"), and _____, a _____ corporation ("Licensee"). Accordingly, the parties agree as follows:

1. **LICENSE GRANT.** Subject to the terms of this Agreement, Dataguise hereby grants Licensee a limited, personal, non-sublicensable, non-transferable, royalty-free, nonexclusive license to use the software that Licensee is about to download ("Software") only for its personal use and only in accordance with any documentation that accompanies it. Licensee may download, install and use the Software only on a single computer.

2. **LICENSE RESTRICTIONS.** Except as expressly and unambiguously permitted by this Agreement, Licensee shall not, nor permit anyone else to, directly or indirectly: (i) copy (except for a reasonable number of backup copies), modify, or distribute the Software; (ii) reverse engineer, disassemble, decompile or otherwise attempt to discover the source code or structure, sequence and organization of the Software (except where the foregoing is required by applicable local law, and then only to the extent so permitted); (iii) rent, lease, or use the Software for timesharing or service bureau purposes; or, (iv) use the Software for performing comparisons or other "benchmarking" activities, either alone or in connection with any software (and Licensee will not publish any such performance information or comparisons). Licensee shall maintain and not remove or obscure any proprietary notices on the Software, and shall reproduce such notices exactly on all permitted copies of the Software. As between the parties, title, ownership rights, and intellectual property rights in and to the Software, and any copies or portions thereof, shall remain in Dataguise and its suppliers or licensors. Licensee understands that Dataguise may modify or discontinue offering the Software at any time. The Software is protected by the copyright laws of the United States and international copyright treaties. This Agreement does not give Licensee any rights not expressly granted herein.

3. **INTELLECTUAL PROPERTY; CONTENT.** As a condition to Licensee's use of the Software, Licensee represents, warrants and covenants that Licensee will not use the Software: (i) to infringe the intellectual property rights or proprietary rights, or rights of publicity or privacy, of any third party; (ii) to violate any law, statute, ordinance or regulation; (iii) to disseminate information or materials in any form or format ("Content") that is harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, or otherwise objectionable; or (iv) to disseminate any software viruses or any other computer code, files or programs that may interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment. Licensee, not Dataguise, remains solely responsible for all Content that Licensee uploads, posts, e-mails, transmits, or otherwise disseminates using, or in connection with, the Software. Licensee acknowledges that all Content that Licensee accesses using the Software is at Licensee's own risk and Licensee will be solely responsible for any damage to any party resulting therefrom.

4. **SUPPORT AND UPGRADES.** This Agreement does not entitle Licensee to any support, upgrades, patches, enhancements, or fixes for the Software (collectively, "Support") unless Licensee makes separate arrangements for Support with Dataguise and pays any fees associated with such Support. Any such Support for the Software that may be made available by Dataguise shall become part of the Software and subject to this Agreement.

5. **FEES.** Licensee shall pay Dataguise the license fees for the Software as set forth in the purchase order agreement, including, but not limited to, upfront and annual license fees, and any support fees if Licensee requests Support from Dataguise. All fees shall be non-refundable, and payable in US dollars on the date they come due. Licensee shall also pay all sales, use, value-added and other taxes, tariffs and duties of any type assessed against Dataguise except for taxes on Dataguise's income.

6. **INDEMNITY.** Licensee agrees that Dataguise shall have no liability whatsoever for any use Licensee make of the Software. Licensee shall indemnify and hold harmless Dataguise from any claims, damages, liabilities, costs and fees (including reasonable attorney fees) arising from Licensee's use of the Software as well as from Licensee's failure to comply with any term of this Agreement.

7. **WARRANTY DISCLAIMER.** DATAGUISE PROVIDES THE SOFTWARE "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, AND NON-INFRINGEMENT. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS SO THE FOREGOING LIMITATIONS MAY NOT APPLY TO YOU.

8. **LIMITATION OF LIABILITY.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, SHALL DATAGUISE OR ITS SUPPLIERS OR RESELLERS BE LIABLE TO LICENSEE OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR DAMAGES RESULTING FROM YOUR USE OF THE SOFTWARE. DATAGUISE'S LIABILITY FOR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID BY LICENSEE HEREUNDER. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF COMPANY SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSION MAY NOT APPLY TO YOU.

9. **TERM AND TERMINATION.** This Agreement shall commence on the Effective Date and shall continue until terminated as set forth in this section. Licensee may terminate this Agreement at any time. Dataguise may terminate this Agreement immediately if Licensee violates any provision of this Agreement. Any termination of this Agreement shall also terminate the licenses granted hereunder. Upon termination of this Agreement for any reason, Licensee shall destroy and remove from all computers, hard drives, networks, and other storage media all copies of the Software. Sections 2 and 6 through 13, and all accrued rights to payment, shall survive termination of this Agreement.

10. **HIGH RISK USES.** Licensee acknowledges that the Software is not intended for use in connection with any high risk or strict liability activity (including, without limitation, air travel, space travel, fire fighting, police operations, power plant operation, military operations, rescue operations, hospital and medical operations or the like) and Licensee agrees not to use or allow the use of the Software or any portion thereof for, or in connection with, any such activity.

11. **GOVERNMENT USE.** If Licensee is part of an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software is restricted in accordance with the Federal Acquisition Regulations as applied to civilian agencies and the Defense Federal Acquisition Regulation Supplement as applied to military agencies. The Software is a "commercial item," "commercial computer software" and "commercial computer software documentation." In accordance with such provisions, any use of the Software by the Government shall be governed solely by the terms of this Agreement.

12. **EXPORT CONTROLS.** Licensee shall comply with all export laws and restrictions and regulations of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control

("OFAC"), or other United States or foreign agency or authority, and Licensee shall not export, or allow the export or re-export of the Software in violation of any such restrictions, laws or regulations. By downloading or using the Software, Licensee agrees to the foregoing and represents and warrants that Licensee is not located in, under the control of, or a national or resident of any restricted country.

13. **MISCELLANEOUS.** This Agreement represents the complete agreement concerning this license between the parties and supersedes all prior agreements and representations between them. This Agreement may be amended only by a writing executed by both parties. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable. The failure of Dataguise to act with respect to a breach of this Agreement by Licensee or others does not constitute a waiver and shall not limit Dataguise's rights with respect to such breach or any subsequent breaches. This Agreement is personal to Licensee and may not be assigned or transferred for any reason whatsoever without Dataguise's consent and any action or conduct in violation of the foregoing shall be void and without effect. Dataguise expressly reserves the right to assign this Agreement and to delegate any of its obligations hereunder. This Agreement shall be governed by and construed under California law as such law applies to agreements between California residents entered into and to be performed within California. The sole and exclusive jurisdiction and venue for actions arising under this Agreement shall be the State and Federal courts in Santa Clara County, California; Licensee hereby agrees to service of process in accordance with the rules of such courts. The party prevailing in any dispute under this Agreement shall be entitled to its costs and legal fees.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Dataguise, Inc.

_____
(Licensee)

By:_____   By:_____

Printed:_____   Printed:_____

Title:_____   Title:_____