

ATTACHMENT VII

END USER LICENSE AGREEMENT



End User License Agreement

1. Registration and Use Text2Them, Inc. ("T2T" or "Service"). T2T, Inc. shall provide you with the terms and conditions embodied in this Agreement (the "Agreement"). T2T may, from time to time, notify you of changes or additions to this Agreement, and your continued use of the service after T2T so notifies you will signify that you agree to such changes or additions. You agree that this Agreement is personal to you and that you will not knowingly allow other individuals to use the login name or password to access your T2T account (the "Account") without prior written approval from T2T provided, however, that only you or one other such individual may use your account at any particular time and you may not resell or redistribute any portion of the Service or provide access to your Account to any third party for financial gain. You agree to provide to the individuals referenced in the preceding sentence a copy of this Agreement and to inform them that their use of T2T is subject to the terms and conditions hereof. You agree that you are fully responsible for such individuals' conduct while using T2T, and for any consequences if such individual misuses the Service, violates this Agreement, or accesses material or information which you feel is objectionable.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE ACCESSING T2T BY USING THE LOGIN NAME AND PASSWORD TO ACCESS T2T, YOU WILL BE ACKNOWLEDGING THAT YOU HAVE AGREED TO BECOME A PARTY TO, AND TO BE LEGALLY BOUND BY THIS AGREEMENT. IF YOU DO NOT WISH TO BE BOUND BY THESE TERMS AND CONDITIONS, DO NOT ACCESS OR USE THE SERVICE.

2. Fees and Payment Regardless of whether or not you use the service, T2T will charge you the fees you selected during registration for your T2T account. Any and all charges will appear on your monthly credit card statement or your chosen payment method. T2T reserves the right to change its fees at any time for any reason, provided, however, that whenever possible, T2T will give you reasonable notice of such change. From time to time, T2T may add or modify certain services relating to T2T and T2T reserves the right to charge you additional or different fees in consideration for providing such new or modified services to you. You will also be liable for all attorney and collection fees arising from efforts to collect any unpaid balances on your Account.

3. Uncensored Internet Access YOU ASSUME TOTAL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SERVICE. T2T DISCLAIMS ANY AND ALL RESPONSIBILITY FOR CONTENT CONTAINED IN ANY THIRD PARTY MATERIALS PROVIDED THROUGH LINKS FROM THIS T2T INTERNET SITE.

4. Termination of Service You may terminate your Account by e-mailing contactus@text2them.com but you will remain liable for all charges accrued until your password has been deactivated, including full monthly charges for the month during which the Termination Date occurred. T2T may modify, suspend or terminate this Agreement or the Account at any time and for any reason without prior notice to you and without refunding any fees you have paid to T2T. T2T reserves the right to require you to change your login name or password, and to delete any or all program or data files associated with the Account upon termination of this Agreement.

You understand that this Agreement is effective from the date you create an account with T2T and shall continue until the contract is complete or the account is terminated either by you or by T2T. T2T MAY CONTAIN A DISABLING DEVICE THAT WILL PREVENT IT FROM BEING USED UPON TERMINATION OF THIS LICENSE. YOU WILL NOT TAMPER WITH THIS DISABLING DEVICE OR THE PROGRAM. YOU SHOULD TAKE PRECAUTIONS TO AVOID ANY LOSS OF DATA THAT MIGHT RESULT WHEN THE PROGRAM CAN NO LONGER BE USED. T2T may terminate this Agreement immediately if: i) you fail to comply with the terms of this Agreement; ii) your account is dormant for a period of 60 consecutive days; iii) the

T2T Service is discontinued; or iv) you have an overdue balance for any Services or products purchased on or through T2T. If T2T terminates your account, you must immediately stop using T2T and associated documentation, including sample documents provided within T2T and all copies you made of them.

Agreements may only be terminated by providing written notice to T2T's billing department contactus@text2them.com. Cancellation must be completed prior to the next billing period which occurs on the first (1st) of the month. If account is not cancelled by the first (1st), all Service fees will continue to be charged. You will not be entitled to any refund of fees paid. In the event that you are on a contract and terminate said contract before it has completed, you agree to pay an early termination fee equal to the higher of a) the amount remaining on the contract, or b) the difference between the highest equivalent non-contract monthly rate charged and the amount you actually paid for each month of Service under the agreement. T2T may terminate this Agreement or the Services, disable your account or put your account on inactive status, in each case at any time with or without cause, and with or without notice. T2T shall have no liability to you or any third party because of such termination or action. Should T2T take any such action, it will delete any of your archived data within 30 days after the date of termination. After termination, T2T will provide upon request, the list of unsubscribe requests from within 30 days of your last email campaign, but will not process said requests. If your account is classified (at T2T's sole discretion) as inactive for over 60 days, T2T has the right to permanently remove your subscriber data. T2T will attempt to contact you via email prior to taking any permanent removal actions.

5. Disclaimers of Warranty

THE T2T IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND YOUR USE OF T2T IS ENTIRELY AT YOUR OWN RISK. IT IS ALSO SOLELY YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS, USEFULNESS OR VALIDITY OF ALL T2T SERVICES, PROMOTIONS, AND ADVERTISEMENTS PROVIDED THROUGH T2T. NEITHER T2T, NOR ITS AFFILIATES OR SUBSIDIARIES, MAKE ANY REPRESENTATIONS, WARRANTIES OR ENDORSEMENTS, EXPRESSED OR IMPLIED, WITH REGARD TO T2T INFORMATION OR SERVICE PROVIDED THROUGH T2T, OR AS TO THE ACCURACY, QUALITY, COMPLETENESS TITLE, NON-INFRINGEMENT, OWNERSHIP, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE OF ANY MATERIALS ACCESSED THROUGH T2T HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

6. Limitation of Liability

T2T WILL NOT BE RESPONSIBLE TO YOU OR ANY THIRD PARTIES UNDER ANY CIRCUMSTANCES FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES WHICH YOU MAY INCUR IN CONNECTION WITH T2T OR YOUR USE THEREOF, OR ANY OF THE DATA OR OTHER MATERIALS TRANSMITTED THROUGH OR RESIDING ON T2T, REGARDLESS OF THE TYPE OF CLAIM OR THE NATURE OF THE CAUSE OF ACTION, EVEN IF T2T HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGE OR LOSS. IN NO EVENT SHALL T2T'S LIABILITY FOR ANY DIRECT DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT OR T2T INTERNET EXCEED THE GREATER OF T2T INTERNET CHARGES INCURRED BY YOU DURING THE SIX (6) MONTH(S) IMMEDIATELY PRECEDING ACCRUAL OF SUCH CAUSE OF ACTION OR THIRTY-SIX DOLLARS (\$36) THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION. FURTHERMORE, SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO YOU. You understand that if you become dissatisfied with the Service, your sole and exclusive remedy will be to discontinue the Service in accordance with Section 4 of this Agreement.

7. Privacy Your communications with and through T2T will, in most cases, be viewed only by you and by anyone to whom you address such communications, including, without limitation, electronic mail and bulletin boards. When reasonably practicable, T2T will attempt to preserve the confidentiality of such communications. However, you agree that T2T has the right to monitor the Service electronically from time to time and to disclose any information as necessary to satisfy any law, regulation or other government request, to operate the Service properly, or to protect itself or its subscribers. T2T has no obligation to monitor Internet. However, T2T reserves the right to refuse to post or to remove any information or materials, in whole or part, that, in its sole discretion, are unacceptable or in violation of this Agreement.

8. Confidentiality You acknowledge that T2T possesses valuable trade secrets and agrees to maintain the confidentiality of T2T's proprietary materials.

T2T agrees to maintain, as confidential, your e-mail, phone, fax, physical mailing addresses, instant message handles and cell phone list(s). T2T agrees not to compile, buy, sell, rent, or trade your e-mail, phone, fax, physical mailing addresses, instant message handles or cell phone list(s), or send unauthorized emails, instant messages, wireless text messages (SMS), direct mail, voice messages or pictures to any individual or entity on your list(s). T2T further agrees not to use your customer list(s) or any other customer information for any other purposes than those intended with the Service. Your customer information shall not be shared with any other third parties unless required by law. T2T will provide you with reasonable advance notice prior to disclosing confidential information on this basis and agrees to stipulate to any orders necessary to protect said information from public disclosure.

9. Services Provided T2T shall provide some or all of the following services, depending on services availability, and the service contract purchased: account management platform; sms text messaging, e-mail messaging and other services as may become available; and reasonable technical and administrative support (collectively, "Service" or "Services").

T2T is accountable for providing the Services, but provides said Services "as is" and is only responsible for ensuring that the client's messages leave the T2T network. T2T is not and cannot be responsible for the ultimate delivery of the client's messages, and makes no such warranty or guarantee.

T2T reserves the right to send, dispatch, remit, transmit and/or forward any type, category or form of communication to you including, but not limited to, e-mails, SMS/text messages, facsimiles and/or telephone calls to address or discuss any issue related to T2T's Services.

10. System Rules You agree to be bound by rules that are important for the proper use of the Service. Your failure to follow these rules, whether set out in this Agreement, or in bulletins posted at various points by T2T may result in T2T terminating this Agreement and your Account. You agree to the following rules: (i) except as otherwise provided herein, you will not tell others your password or let your Account be used by anyone except yourself, (ii) you will not attempt to, or cause others to attempt to, log in more than once at the same time on your Account without specific permission from T2T; (iii) you will not post or transmit any unlawful, threatening, abusive, libelous, defamatory, profane or otherwise objectionable information of any kind; (iv) you will not upload, post, publish, transmit, reproduce, or distribute in any way, information, software, or other material which is protected by copyright, or other proprietary right, without obtaining permission of the owner of such rights; (v) you will not use our Service to commit a crime, or to plan, encourage or help others to commit a crime; and (vi) you will not impersonate another user or otherwise falsify one's user name in any post or transmission during your use of the Service.

11. Indemnity You agree to defend and indemnify and hold harmless T2T and its officers, directors, employees, affiliates and subsidiaries from and against any and all claims, proceedings, damages, injuries, liability, losses, costs and expenses claims, proceedings, damages, injuries, losses, costs and expenses (including, without limitation, reasonable attorneys' fees) arising out of or relating to any acts by you or materials or information transmitted by you in connection with the Service, regardless of the type of claim or nature of the cause of action.

12. Proprietary Rights By posting messages, inputting data, or engaging in any form of communication (collectively, "Communications") in or through T2T you are granting to T2T a perpetual, worldwide license (the "License") to use, copy, modify, adapt or document such Communications. T2T shall use the Communications solely in conjunction with providing, promoting, distributing or otherwise exploiting the Service. The License does not, however, grant T2T any ownership rights in or to your Communications. You shall have no recourse against T2T for any alleged or actual infringement of any proprietary rights to which you may claim ownership. T2T or our suppliers own all rights, title and interest in and to all components of the Service, but expressly excluding content owned by third parties that may be accessible through the Service and/or the Internet generally. T2T's ownership rights in the Service include, but are not limited to, the look and feel of the end-user interfaces associated with the Service, the name of the Service, and the collective works consisting of all public messages on the Service. You may not reproduce any sequence of messages from our Service without our permission. In addition, you may not copy, modify, adapt, reproduce, translate, distribute, reverse engineer, decompile, or disassemble (i) any aspect of the Service which we or our suppliers own, or (ii) any service, information or materials supplied by a third party content provider and which you may access through T2T.

13. Restrictions T2T maintains a Global Permanent Removal List which contains addresses and domains which it will not allow any customer to add to a database. You understand and agree that T2T has full discretion to block the uploading of any e-mail address which it has placed on such a list, and will not be liable for the blocking of any such address from any customer database.

You shall not: (1) use or copy T2T's platform, network, marks or web site or its associated documentation except as provided in this License Agreement; (2) modify or merge T2T's platform, network, marks or web site or its associated documentation; (3) publish, display, disclose, rent, lease, modify, loan, distribute, create or otherwise make available the derivative works based on T2T's platform, network, marks or web site or its associated documentation or any part thereof, in whole or in part, to any other person or entity; (4) remove, obliterate, or cancel from view any copyright, trademark, confidentiality or other proprietary notice, mark, or legend appearing on T2T's platform, network, marks or web site or its associated documentation; (6) reverse engineer, decompile, translate, adapt, or disassemble T2T's platform, network, web site or its associated documentation, nor shall you attempt to create the source code from the object code for T2T's platform, network, or web site or its associated documentation; (7) sublicense or assign the license for T2T's platform, network, marks or web site or its associated documentation; and (8) copy these terms and conditions or this License Agreement for you and your customers' own use. You shall have the right to copy specific sections as a means of complying with such section in your agreements with its independent contractors, e.g., your customers.

You agree to the attached T2T Anti-Spam Policy as well applicable local, state and federal regulations. You must include the relevant subscribe/unsubscribe information (as well as a physical address for the CAN SPAM act and an abuse link to T2T's abuse system) provided by T2T in each message you send using T2T's email platforms. You shall also honor in a timely manner all unsubscribe requests sent directly to you from those who elected not to use T2T's automated subscribe/unsubscribe features, regardless of how harsh or unpleasant the unsubscribe request may be.

You shall not use T2T or its networks to:

1. send unsolicited e-mails, instant messages, wireless text (SMS), voice messages, pictures or videos (a.k.a., "Spam") to anyone;
2. send unsolicited e-mails, instant messages, wireless text messages (SMS), voice messages or pictures to email addresses, phone/pager numbers, landline phones or fax machines, obtained from any purchased or harvested lists in which the recipient did not expressly request to receive your message (or your customers' messages);
3. send e-mails, instant messages, wireless text messages (SMS), voice messages or pictures that harass, embarrass, defame, abuse, threaten, libel, slander or otherwise violate the legal rights of any individual, group, or organization;
4. send e-mails, instant messages, wireless text messages (SMS), voice messages or pictures that contain or link to pornographic or sexually explicit content, racially or ethnically objectionable content, content that directly or indirectly promotes the use of any illegal substances, content that violates laws or regulations designed to protect minors, or other content deemed to be offensive or inappropriate by T2T;
5. send e-mails, instant messages, wireless text messages (SMS), voice messages or pictures that contains copyrighted material, including text, graphics (including trademarked material), software or other material protected by intellectual property law, for which you do not have a lawful authorization to reproduce, publish, or otherwise distribute;
6. send e-mails, instant messages, wireless text messages (SMS), voice messages or pictures that contain a computer virus or other code or file that could damage, harm, or otherwise disrupt the operation of anyone else's computer or storage device, or violate the privacy or security of any individual, group or organization;
7. perform or promote illegal activities such as starting or forwarding chain letters, illegal contests or promotions, or any other activity that is illegal;
8. impersonate, use the name of (without express permission) or misrepresent any individual, group or organization;
9. violate any applicable governmental laws or regulations or perform any activity that would cause Text2Them to violate any law, statute or regulation.

Although Text2Them has no obligation to monitor the content provided by you or your use of the Services, it may do so and may remove any such content or prohibit any use of the Services Text2Them believes may be (or is

alleged to be) in violation of the foregoing, provided that Text2Them provides you with reasonable notice prior to taking such action.

14. Miscellaneous This Agreement constitutes the entire agreement between T2T and you with respect to the Service. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland, without regard to conflicts of laws provisions. Sole and exclusive jurisdiction for any action or proceeding arising out of or related to this Agreement shall be an appropriate state or federal court located in Maryland. Any cause of action you may have with respect to the Service must be commenced within one (1) year after the claim or cause of action arises. If for any reason a court of competent jurisdiction finds any provision of the Agreement, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to affect the intent of the Agreement, and the remainder of this Agreement shall continue in full force and effect. You may not assign this Agreement or your rights or obligations hereunder without the prior written consent of Text Them In, Inc.

Text Messaging Terms of Service T2T ("the Service") and/or other affiliated entities controlled by, or under common control with such parties provides a text messaging service with registered members of T2T.com along with individuals who are messaging to T2T SMS numbers. Please read these terms and conditions prior to using the Service. By using the Service, you agree to be legally bound by these terms and conditions. If you do not agree with these terms, please do not use the Service

Privacy: The Service respects your privacy. We will only use information you provide to the Service to transmit your text message or as otherwise described in this document. Nonetheless, we reserve the right at all times to disclose any information as necessary to satisfy any law, regulation, or governmental request or to avoid liability. When you complete forms online or otherwise provide us information in connection with the Service, you agree to provide current, complete, true and accurate information. You agree not to use a false or misleading name or a name that you are not authorized to use. If we in our sole discretion believe that any such information is untrue, inaccurate, not current or incomplete, the Service may refuse you access to the Service and pursue any appropriate legal remedies. Please review our [Privacy Policy](#) and [Web Site Terms of Service](#) for further information. By using the Service, you agree to be legally bound to the terms and conditions of our Privacy Policy and our Terms of Service.

YOU UNDERSTAND AND AGREE THAT NEITHER TEXT 2 THEM INC., ITS LICENSORS NOR ITS AFFILIATES ARE RESPONSIBLE FOR, OR CAPABLE OF CONTROLLING SENDERS OF MESSAGES, AND TEXT 2 THEM INC., ITS LICENSORS AND AFFILIATES ASSUME NO LIABILITY FOR ANY DEFAMATORY, OFFENSIVE, INFRINGING OR ILLEGAL CONTENT OF ANY USER OF THIS SERVICE.



Anti-Spam Policy

Our Policy TheText2Them, Inc. group text messaging system allows only verified opt-in subscriptions. It ensures that all subscribers can opt-out quickly, easily, and permanently from unwanted SMS communications. This is done either from our website or by sending a text message from your phone to the short code with the word 'STOP, REMOVE, OPT OUT or CANCEL'.

Our Definition of Spam We consider any unsolicited, unexpected, or unwanted text message as Spam. We do NOT allow use of 3rd party lists, whether consent has been gathered or not. We believe that any type of communication sent to a subscriber about an unrelated subject, that the subscriber did not request, to be Spam.

Building Your Mobile Database When advising or requesting a client's mobile number for marketing, coupons or even general contact purposes should always place a statement similar to this near the solicitation:

Bob's Burgers Mobile Coupon Club. Five messages/month. Message and data rates may apply. By participating, you consent to receive text messages sent by an automatic telephone dialing system. Consent to these terms is not a condition of purchase. You may opt out at any time by texting "STOP" to 33733. T&C/Privacy Policy: www.bobsburger.com/mobiletc

(You should change all areas in red)

Text2Them Anti-Spam policy:

Text2Them follows an ANTI-SPAM policy for all of its communications protocols. This means that we do not condone UNSOLICITED TEXT MESSAGES; NOTIFICATIONS; ALERTS; OR ANY MESSAGES THAT YOU MAY RECEIVE FROM SOMEONE WHO SHOULD NOT HAVE YOUR MOBILE NUMBER. Please let us know about any abuse, including the sender ID, your Mobile Number (to be removed); the date and time you received it and the contents of the message. To report any abuse or violations of inappropriate use of our service, please contact us with your comments/complaints. Your report will be registered and the Client will be investigated for violations of our Anti-Spam Policy. The identity of any individual reporting abuse will be kept confidential.

SMS Text Messaging API

On our terms and conditions agreement, our Clients specifically agree NOT to use Text2Them to send unsolicited Text Messages or Spam. Upon incorporating a list Clients agree on the Opt-In only policy to their list. All Text Messages sent using Text2Them can be tracked and so removed from the sender list. We support OPT-OUT / REMOVE / UNSUBSCRIBE, Clients have the ability to remove mobile numbers. Text2Them maintains an OPT-OUT list that restricts our Clients from adding a mobile number to their list that has been previously Opted-Out, and a Global Block List. If we suspect a violation of our Anti-Spam policy, we will contact the Client and discuss the Client options, which may range from a warning, to termination of service for that Client. To the best of our knowledge, our system adheres to ALL state and national laws regarding sending unsolicited bulk / group text messages.

SPAM and ABUSE REPORT: OPT-OUT / REMOVE / UNSUBSCRIBE

If you wish to remove yourself from any list, please email us (at abuse@Text2Them) with an "OPT-OUT", "UNSUBSCRIBE", "STOP" or "REMOVE" in the subject line. You also may reply to the text Message received by using any of the aforementioned keywords. Finally, you may send a text message containing the word "STOP" to the number 839846 from your phone.

Please let us know about any abuse, including your Mobile Number, the date and time you received it and the contents of the message. You will be removed from that list and the Client will be restricted from adding your mobile number to their list in the future. Email: abuse@Text2Them

Please review and approve the attached Rider to accompany your EULA. The Rider is a pre-negotiated document that Carahsoft has with GSA to reduce the time it takes for GSA Legal to review your EULA.

Text2Them

6403 Gradys Walk Bowie, Maryland 20715

<http://www.text2them.com/>

EULA URL (if available)

By signing the below you are confirming that you agree to the terms of the Carahsoft Rider.



Alvin Butler; President/CEO

2/7/15
Date

Text2Them

6403 Gradys Walk Bowie, Maryland 20715

<http://www.text2them.com/>

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

- 1. Scope.** This Carahsoft Rider and the Manufacturer Agreement 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 Agreement (www.text2them.com/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 Agreement's 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 Government contracts as set forth in Government 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 2000) (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 Agreement 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 Agreement 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 Agreement 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 Agreement 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 Agreement are hereby deemed to be deleted.
- (j) **Customer Indemnities.** All Manufacturer Agreement clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All Manufacturer Agreement 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 Agreement 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 Agreement 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 Agreement, 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 Agreement 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 Agreement and this Rider contain no confidential or proprietary information and acknowledges the Agreement 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.

ATTACHMENT VIII
PRODUCT LITERATURE

Please include a copy of your Product Literature.