

## **LICENSE GRANT**

In accordance with the terms and conditions of this Master Agreement, ASG Federal, LLC ("ASG") hereby grants to Ordering Activity, and Ordering Activity hereby accepts from ASG a non-assignable, non-exclusive and non-transferable license to use the proprietary software system(s) including programs ("Licensed Product(s)"), technical and other user documentation ("Documentation"), and any associated data and information listed on the attached Product Schedule(s) and for the term provided for on the attached Product Schedule(s).

Ordering Activity shall have the right to use the Licensed Product(s) solely for its own internal use and benefit and for the benefit of Ordering Activity's parent company, or any subsidiary, affiliate, company, partnership, or other entity controlling or controlled by Ordering Activity, or under common control by Ordering Activity and only on the equipment and at the location(s) designated in the attached Product Schedule(s). For purposes of this Master Agreement, "control" shall be defined as fifty percent (50%) or greater ownership. Ordering Activity shall not transfer, sublease, assign the Product Schedule(s) or the Agreement or deliver Licensed Product(s) to other equipment, another location, or another company – including but not limited to as a consequence of a merger, acquisition, divestiture, change of ownership, or change of control - or provide or otherwise make Licensed Product(s) available to anyone other than Ordering Activity 's personnel, including contractors acting within the scope of their duty with the Ordering Activity, or do processing for the benefit of any entity other than as stated above, unless Ordering Activity shall have obtained ASG's prior written consent and paid any applicable fees. Should Ordering Activity intend to increase its capacity or usage of the Licensed Product(s), Ordering Activity agrees to provide ASG with prior written notice of such change and Carahsoft Technology Corporation, acting on behalf of ASG shall invoice Ordering Activity for the upgrade fee specified in the applicable Product Schedule(s). Ordering Activity is authorized to use the Licensed Product(s) on back-up equipment, at no additional charge, when the designated equipment is temporarily inoperable until operable status is restored and processing on the back-up equipment is completed. In addition, Ordering Activity may install the Licensed Product(s) on non-production test equipment, for a total of thirty (30) days per annum, solely for testing, provided ASG is given prior written notice of such testing. Ordering Activity expressly agrees that it shall neither apply nor benefit from the functionality of the Licensed Product(s) under such testing, except in the case of disaster.

## **LICENSED MATERIALS**

ASG shall furnish Ordering Activity, either electronically or in hard copy, one (1) full set of the Documentation for each Licensed Product listed on the attached Product Schedule(s). Ordering Activity may duplicate the Documentation associated with the Licensed Product(s) for internal use only, provided all proprietary markings and legends are retained on the duplicated copies. Ordering Activity agrees that the Documentation and all copies thereof shall remain the sole property of ASG. Additional copies may be obtained by Ordering Activity, from ASG, upon payment to ASG of ASG's published price for such materials. Unless otherwise agreed on the applicable Product Schedule(s), Ordering Activity shall be responsible for obtaining and installing all proper hardware and support software (including operating systems) and for proper installation of and training concerning the Licensed Product(s).

## **TERM**

Each license granted hereunder shall become effective upon the date specified in the Product Schedule(s) and shall remain in force for the term provided for on the attached Product Schedule(s) unless terminated as provided in this Agreement.

## **ANNUAL MAINTENANCE FEES**

Should the Product Schedule allow Maintenance to be cancelled, Ordering Activity may cancel Maintenance by giving ASG written notice of its intent to discontinue Maintenance no less than ninety (90) days prior to the anniversary of the Effective Date specified in the Product Schedule and after the end of any applicable committed Maintenance period. Should Maintenance be canceled or otherwise expire for any reason, Ordering Activity will lose all rights to receive new releases and support for the Licensed Product(s) as of the last day of the covered Maintenance period. For the avoidance of doubt, there shall be no grace period following the end of the Maintenance period. For avoidance of doubt, ASG Maintenance for a given Licensed Product is only available on an all-or-nothing basis.

## MAINTENANCE SERVICES

Only those users licensed to utilize the Licensed Product(s) under this Master Agreement may access ASG Maintenance. Notwithstanding the foregoing, termination or cancellation of the Maintenance Agreement shall be in accordance with General Services Administration Acquisition Regulation (GSAR) 552.212-4(l) Termination for the Ordering Activity's Convenience, GSAR 552.212-4 (m) Termination for Cause, GSAR 552.212-4(d) Disputes, and the Contract Disputes Act.

Provided the Annual Maintenance Fee has been paid, but only during the period covered by such Maintenance, ASG shall provide Ordering Activity with all enhancements, improvements, and updates to the Licensed Product(s) which ASG similarly provides or offers to provide to its other clients who have elected to subscribe to Maintenance. Ordering Activity shall not be eligible to receive any enhancements, improvements, or updates unless that request is submitted to ASG during the period covered by Maintenance – even if the enhancement, improvement, or update was available but not requested during the period covered by Maintenance. For the avoidance of doubt, Ordering Activity may not request enhancements, improvements, or updates after the period of Maintenance has expired. ASG will attempt to correct any material errors or malfunctions or other nonconformities in the Licensed Product(s) for the term of this Agreement, provided Ordering Activity's system, under which the Licensed Product(s) are licensed, and an Ordering Activity representative, is made readily available to ASG to assist in the diagnosis of the nonconformity. All requests for support services shall provide details sufficient to diagnose or reproduce said failure. With respect to the foregoing, any modification or attempted modification of the Licensed Product(s) by Ordering Activity not in accordance with the user Documentation supplied by ASG, or any failure by Ordering Activity to implement the current release of the Licensed Product(s) or the release immediately preceding the current release within six (6) months of the current release's availability shall void the obligations of ASG under this section unless Ordering Activity has obtained prior written authorization from ASG permitting such modification, attempted modifications or failure to implement.

When Ordering Activity updates and/or upgrades a Licensed Product to either (i) a later release of the same Licensed Product available during the course of the Maintenance, or (ii) a successor Licensed Product available during the course of the Maintenance, such an update/upgrade does not increase Ordering Activity's total license entitlement. For the avoidance of doubt, Ordering Activity does not have rights to utilize both releases simultaneously at the total licensed quantity each. If Ordering Activity elects to keep multiple releases of the Licensed Product installed following such an update/upgrade, the total license installation/usage across all versions of the Licensed Product may not exceed the maximum license entitlement granted in this Agreement. Notwithstanding the foregoing, Ordering Activity shall be authorized to exceed temporarily the maximum license entitlement, for no longer than ninety (90) days and solely for transitional purpose during the upgrade.

## WARRANTY

ASG represents and warrants that it is the owner or authorized licensor of the Licensed Product(s). ASG further warrants that at the time of initial delivery of the Licensed Product(s) and for a period of ninety (90) days thereafter, the Licensed Product(s) will conform in all material respects to the Documentation supplied to Ordering Activity. Provided that written notification is received by ASG within the warranty period, ASG shall, at ASG's sole cost and expense, attempt to correct or replace any material nonconformity in the Licensed Product(s) which ASG determines to be necessary to cause the Licensed Product(s) to substantially conform to its Documentation. Should ASG be unable to bring the Licensed Product(s) into substantial conformance with the Documentation within sixty (60) days after Ordering Activity's written notification, Ordering Activity and ASG may agree to extend this time period or, at Ordering Activity's option, Ordering Activity may elect to terminate this Agreement for the nonconforming Licensed Product(s) and ASG shall refund the license fees paid by Ordering Activity related to the nonconforming Licensed Product(s). Upon such termination, Ordering Activity shall abide by the termination provisions of this Agreement. The foregoing remedy is exclusive and shall constitute Client's sole remedy with respect to any claim relating to breach of warranty, including, without limitation, any remedy relating to recourse against any third party manufacturer of the Licensed Product(s). The warranty shall not apply if (i) an item of the Licensed Product(s) was not used in accordance with ASG's instructions; (ii) an item of Licensed Product(s) shall have been altered, modified or converted by Ordering Activity without ASG's written approval; or (iii) any of Client's equipment shall malfunction causing the defect in Licensed Product(s). **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

## INTELLECTUAL PROPERTY INFRINGEMENT

Subject to 28 U.S.C. § 516, In the event of a United States copyright, trade secret, or patent infringement claim as a result of the use of Licensed Product(s) under the terms and conditions of this Agreement, under normal use and not in combination with other items, provided that ASG is promptly notified of such claim in writing, ASG shall, at its own expense, defend such claim, or ASG may at its option and its own expense: (i) procure for Ordering Activity the right to continue using all or part of the Licensed Product(s); (ii) replace Licensed Product(s) with functionally equivalent non-infringing Licensed Product(s); (iii) modify the Licensed Product(s) so as to become non-infringing; or (iv) if none of the foregoing alternatives is reasonably available to ASG using its commercially reasonable efforts, terminate the license for the Licensed Product(s). This shall constitute the entire liability of ASG with respect to a copyright, trade secret or patent infringement claim.

## **PROPRIETARY RIGHTS IN LICENSED PRODUCT(S)**

The Licensed Product(s) are, and shall at all times remain, the property of ASG and its licensors, and Ordering Activity shall have no right, title, or interest therein, except as expressly set forth in this Agreement. Ordering Activity further acknowledges that the Licensed Product(s) contain proprietary and confidential information of ASG (whether or not any portion thereof may be validly copyrighted or patented). Ordering Activity agrees to keep Licensed Product(s) strictly confidential and will use all reasonable care and take all necessary steps to ensure that no unauthorized persons shall have access to the Licensed Product(s), and Ordering Activity will take appropriate action, by instruction, agreement or otherwise, with any persons permitted access to the Licensed Product(s), including representatives of the Ordering Activity to restrict the disclosure, duplication or reproduction of the Licensed Product(s) so as to enable Ordering Activity to satisfy its obligations hereunder. Ordering Activity agrees not to reverse compile, disassemble, or otherwise attempt to obtain the source code for Licensed Product(s) except through ASG. Ordering Activity agrees that an enhancement to the Licensed Product(s) developed by ASG, whether or not developed in conjunction with Ordering Activity's employees or agents, shall be the exclusive property of ASG. Ordering Activity further agrees that enhanced versions of the Licensed Product(s) do not constitute a program different from the Licensed Product(s) and as such, fall under the terms and conditions of this Agreement.

## **VERIFICATION AND AUDIT**

Upon ASG's request and subject to Ordering Activities security policies, but not more frequently than annually for the same Licensed Product(s) without reasonable cause, Ordering Activity shall furnish ASG with a signed statement (the "Verification Statement") verifying that the Licensed Product(s) are being used pursuant to the provisions of this Agreement. Ordering Activity agrees to provide the Verification Statement within fifteen (15) days of ASG's written request. ASG, at its option, may provide Ordering Activity with a pre-formatted Verification Statement for Ordering Activity's completion. If no such form is provided by ASG, Ordering Activity's Verification Statement shall include all relevant details of Ordering Activity's installation and/or usage of the Licensed Product(s) including but not limited to (i) the location, model, and serial number of any and all equipment on which the Licensed Product(s) are currently or previously installed and/or used, (ii) the total number of users who had access to the Licensed Product(s) in the prior year, and (iii) the peak and average usage of MIPS/ MSUs/ CPUs or other similar licensing metric in the prior year, as appropriate to the Licensed Product(s) in scope of the review. Should ASG have relevant questions about the information provided in, or missing from, the Verification Statement, Ordering Activity agrees to provide additional information to ASG to complete ASG's full understanding of the Licensed Product(s) installation and/or use. For software licensed for mainframe systems, Ordering Activity shall provide copies of the Sub Capacity Reporting Tool ("SCRT"), Resource Management Facility ("RMF") Partition Data Report, and/or other such system reports as ASG requests covering the previous year of mainframe usage.

## **TERMINATION**

Upon termination or expiration of this Agreement, Ordering Activity shall immediately return to ASG or destroy the Licensed Product(s) and any copies thereof and shall certify in writing to ASG that Ordering Activity no longer has any rights to use the Licensed Product(s) and that the original and all copies of the Licensed Product(s) have been returned to ASG or destroyed. The provisions of this Agreement relating to Warranty, Limitation of Liability, Proprietary Rights in Licensed Product(s), Nondisclosure and Confidentiality, Termination, and General Provisions, will survive and continue in full force and effect notwithstanding the termination or expiration of this Agreement.

## **GENERAL PROVISIONS**

This Agreement is expressly made subject to any U.S. government laws, regulations, and other restrictions regarding export from the U.S. or re-export of computer software and technology. Ordering Activity agrees not to export or re-export any Licensed Product(s) or derivative thereof in contradiction to any such applicable export restriction.