

**Carahsoft Rider to Manufacturer Commercial Supplier Agreements
(for U.S. Government End Users)
Revised 20161213**

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").

- 2. Applicability.** The terms and conditions in the attached Manufacturer's CSA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a) (1) (B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule Contract, GS-35F-0119Y, including, but not limited to the following:
 - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", defined as an entity authorized to order under Government contracts as set forth in General Services Administration Order OGP 4800.2I, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

 - (b) Changes to Work and Delays.** Subject to General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of the GSAR and the FAR provisions shall take precedence.

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

- (d) Audit.** During the term of this CSA: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this CSA. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing suspension, termination or cancellation of the Manufacturer's CSA, the License, or the Customer's Account are hereby deemed to be deleted. Termination, suspension or cancellation shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section (q) below or if such remedy is otherwise ordered by a United States Federal Court.
- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41 U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w) (1) (x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer's CSA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w) (1) (iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

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

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

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

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

(u) Confidentiality. Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).

CYLANCE END USER LICENSE AGREEMENT

This Cylance End User License Agreement ("Agreement") is entered into by and between Cylance Inc., with an address of 18201 Von Karman, Suite 700, Irvine, CA 92612 USA ("Cylance", "we", "us" or "our") and the Government Ordering Activity identified in the Purchase Order or similar document ("INSERT CLIENT NAME", "you", "your" or "Client") and is effective upon the Government Contracting Officer's award of the Task or Delivery Order ("Effective Date"). The parties are accepting the terms of this Agreement and the Government Ordering Activity is registering for use of our proprietary software product (as defined in further detail below, the "Software"), or the organization or entity that has authorized you to accept this Agreement and register for access to the Software for its benefit (in either case "you", "your" or "Client"), and governs your access to and use of the Software, as a web-based hosted service made available by us (the "Service"), and as may be downloaded by you.

This Agreement includes the written ordering document issued to you by Cylance or an authorized Cylance distributor or reseller that identifies the Software licensed to you ("Ordering Document"), the terms and conditions of Carahsoft Technology Corporation's (Carahsoft's) GSA Multiple Award Schedule Contract, and any attached Cylance documentation, and constitutes the entire contract between you and Cylance with respect to the subject matter of this Agreement, and supersedes all prior agreements and understandings between you and us, whether written or oral. The terms of a purchase order or other ordering document must be negotiated and agreed to in advance by Cylance and Client. If any provision of an Ordering Document directly conflicts with, or expressly supersedes, any term within the main body of this Agreement, then the provision of the Ordering Document shall govern solely for the Software and Services described therein.

BY EXECUTING THIS AGREEMENT, OR REGISTERING FOR, DOWNLOADING, ACCESSING OR USING THE SOFTWARE OR SERVICE, YOU CONFIRM THAT (1) YOU HAVE READ THIS AGREEMENT, (2) YOU AND ANY ORGANIZATION OR ENTITY ON WHOSE BEHALF YOU ARE ENTERING IN TO THIS AGREEMENT AND/OR USING THE SOFTWARE AND/OR SERVICE, ACCEPT THE TERMS OF THIS AGREEMENT, AND (3) IF YOU ARE AN INDIVIDUAL, THAT YOU ARE AN EMPLOYEE OR AGENT OF THE ORGANIZATION OR ENTITY ON WHOSE BEHALF YOU ARE ACTING, AND HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF SUCH ORGANIZATION OR ENTITY.

1. License Grant. Subject to the terms and conditions of this Agreement (including without limitation payment of all applicable license fees), Cylance grants to you a worldwide, nonexclusive, non-transferable, non-sublicensable license to (i) to install and run the applications made available to you hereunder (together with all content therein, and all applications, programs, license keys, patches, updates, or upgrades provided by us from time to time, and any improvements, modifications, enhancements, fixes and revised versions of any of the foregoing, and any derivative works of any of the foregoing, and any combination of the foregoing, is collectively the "Software") during the period of time set forth in the Ordering Document (unless terminated earlier in accordance with this Agreement) ("Term"), in object code format only, on computers owned or controlled solely by you and your Affiliates, solely to process data solely owned or controlled by you and your Affiliates for internal operations and internal data processing purposes; and (ii) to access and use the Services solely in support of the foregoing license grant. "Affiliates" means any entity controlling, controlled by, or under common control with the referenced entity, where the term "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract, or otherwise. We reserve all rights not expressly granted herein and, except as expressly granted in this Section 1, no right or license is granted hereunder, express or implied or by way of estoppel, to any technology or intellectual property rights. As between the parties, we retain all right, title, and interest in and to the Software and Service and all copies and derivative works thereof, which rights include, but are not limited to, patent, copyright, trademark, trade secret, and all other intellectual property rights.

2. Restrictions on Use. You shall not directly or indirectly, nor authorize any person or entity to: (i) sell, rent, lease, distribute, redistribute or transfer the Software or any rights in any of the Software, or use the Software in a hosted or managed services environment except as hosted by us through the Service; (ii) reverse engineer, decompile, disassemble, re-engineer, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation, or otherwise create or attempt to create or permit, allow, or assist others to create or derive the source code of the Software, or its structural framework; (iii) modify or create derivative works of the Software; (iv) use the Software or Service in whole or in part for any purpose except as expressly provided under this Agreement; (v) remove any proprietary notice, labels, or marks on or in Software; or (vi) disable or circumvent any access control or related device, process or procedure established with respect to the Software (viii) disclose the results of any benchmark tests or other tests connected with the Product to any third party without the prior written consent of Cylance. You may not use the Software or Service for illegal or unlawful or malicious activities. While using the Service, you may not directly or indirectly, nor authorize any person or entity to: (a) access or use (or attempt to access or use) the account of another user without permission, or the login information of another user; (b) "frame" or "mirror" any portion of the Service; (c) use any robot, spider, site search/retrieval application or other manual or automatic device or process to retrieve, index, "data mine" or in

any way reproduce or circumvent the navigational structure or presentation of the Service; or (d) probe, scan or test the vulnerability of the Service, nor breach the security or authentication measures on the Service, or take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Service, such as a denial of service attack. You are responsible for use of the Software and Service by you and your Affiliates and your respective users, and for all their compliance with this Agreement, and any breach of this Agreement by any Affiliate or user shall be deemed to have been a breach by you.

3. Potentially Malicious Code and Anonymous Data.

3.1 Transmission of Files. You acknowledge that a feature of the Software is to facilitate analysis of files and processes (including but not limited to portable executable files or other executable code) that exist on, or are being introduced into your computer systems or networks (“Files”) to identify potential or actual malicious code, malware or other intrusive artifacts or processes therein (“Potentially Malicious Code”). Therefore, you acknowledge and agree that, in certain configurations, to function optimally and for purposes in connection with our support of Software, the Software may transmit Files to servers owned or controlled by us, and we may otherwise analyze or classify Files.

3.2 Anonymous Data. We may reduce Potentially Malicious Code to a cryptographic hash, and we may deconstruct, analyze and catalogue Potentially Malicious Code to determine functionality and potential to cause instability or damage to your systems or networks. We may also use the cryptographic hash to identify files on other systems as Potentially Malicious Code, and use and distribute the unique file hash to promote awareness, detection and prevention of internet security risks, in which case the unique file hash will be without attribution to you, your operations, or your systems or networks (“Anonymous Data”). We may also extract, compile, synthesize, and analyze non-personally identifiable data transmitted by the Software from your systems or networks, or information resulting from your use of the Software, in each case to the extent such data or information does not identify you, your operations, or your systems or networks or any person, which is also “Anonymous Data”. You agree that we may use, copy, modify, distribute and display Files, Anonymous Data and Potentially Malicious Code for our business purposes, including without limitation for developing, enhancing, and supporting products and services. Without limiting the foregoing, we will not identify you as the source of any Files or Potentially Malicious Code.

3.3 Risks Regarding Potentially Malicious Code. If the Software identifies Potentially Malicious Code, certain configurations of the Software may block Potentially Malicious Code from execution, in which case you may either allow execution of the Potentially Malicious Code, or alternatively quarantine it. Or, you may determine that Potentially Malicious Code is acceptable for use on your systems, and need not be blocked or quarantined. You acknowledge that blocking the execution of or quarantining or running Potentially Malicious Code may result in a loss of functionality of Files, applications, or your systems and networks, and cause other potential harm or loss. YOUR DECISION TO BLOCK, QUARANTINE OR ENABLE EXECUTION OF POTENTIALLY MALICIOUS CODE IS AT YOUR OWN RISK. YOU ACKNOWLEDGE THAT WE HAVE NO CONTROL OVER THE SPECIFIC CONDITIONS UNDER WHICH YOU USE THE SOFTWARE OR ALLOW OR DISALLOW POTENTIALLY MALICIOUS CODE TO EXECUTE. THE SOFTWARE AND ANY RELATED SERVICE DO NOT REPLACE YOUR OBLIGATION TO EXERCISE YOUR INDEPENDENT JUDGMENT WITH RESPECT TO THE EXISTENCE OR SUITABILITY OF POTENTIALLY MALICIOUS CODE EXISTING ON YOUR COMPUTER SYSTEMS OR THE SECURITY OF YOUR COMPUTER SYSTEMS OR NETWORKS.

4. Support and Maintenance; Other Services. We will provide you with ongoing Software support and maintenance services in accordance with the attached support and maintenance policy, attached hereto as Exhibit A, which may be amended from time to time by Cylance, through the normal contract amendment process. Please note that we are not obligated to provide support or maintenance in connection with any discontinued Software beyond 1 year from its discontinuance. If you have purchased ThreatZero Services including but not limited to, Planning and Deployment, or Compromise Assessment (“TZ Services or ThreatZero Services”) from us in an Ordering Document, then (i) we will perform TZ Services in accordance with the Statement of Work for ThreatZero Services (attached hereto as Exhibit B)) and (ii) without limiting any other provision in this Agreement, you acknowledge and agree that in performing TZ Services we may use the Software to access, use and manipulate your systems, network and infrastructure, and that we may operate the Software, retrieve data or otherwise connect with your network on your behalf. In this case, you hereby grant us a limited license and right to access and use your systems, network and infrastructure, and to operate the Software on your behalf, in both cases to perform TZ Services.

5. Payment. You will make all payments identified on the Ordering Document in accordance with its terms, or in any case not more than 30 days from the date of invoice. All amounts are payable in U.S. Dollars, are nonrefundable, and are not subject to any deduction or set-off. All fees are exclusive of all taxes, duties, shipping fees, and similar amounts, all of which are your responsibility (excluding taxes based on our income). If you default in making any payment when due, we may, without prejudice to our other available remedies, assess a late payment charge, at the lower rate of 1.5% per month, or the maximum rate under applicable law, and/or suspend delivery of any product or service hereunder. Your failure to pay amounts when due shall be deemed a material breach of this Agreement.

6. Termination. A party may terminate this Agreement if the other party materially breaches any term or condition of this Agreement and does not cure such breach within thirty (30) days after receipt of notice of such breach. Either party may terminate this Agreement upon notice to the other if the other party is adjudged insolvent or bankrupt, or upon the institution of any proceedings by or against the party seeking relief that are not dismissed within ninety (90) days, or upon its reorganization or arrangement under any laws relating to insolvency, or upon making an assignment for the benefit of creditors, or upon the appointment of a receiver, liquidator or trustee of any of its property or assets, or upon its liquidation, dissolution or winding up. Termination or expiration of this Agreement shall immediately terminate the Term and the license granted in Section 1. Immediately upon any termination or expiration of this Agreement, you shall: (a) pay all outstanding amounts owed to us thereunder; (b) un-install and cause all users to un-install all copies of the Software, and cease and cause all users to cease all use of the Software and Service; (c) upon request, return to us (or destroy) all copies of the Software in your possession or control; and (d) upon request, certify in writing your compliance with (b) and (c). Upon termination or expiration of this Agreement, each party shall return or destroy the Confidential Information of the other party that is the possession or control of such party. Any terms of this Agreement which by their nature extend beyond termination as well as any rights or obligations that have accrued prior to termination or expiration, will survive such termination, and the following Sections shall survive the termination or expiration of this Agreement: 3.2, 6, 7, 8, 9, 10 and 11.

7. Confidentiality.

7.1 Definition. "Confidential Information" means all non-public information that either party provides to the other party hereunder and reasonably considers to be of a confidential, proprietary or trade secret nature. Our Confidential Information includes but is not limited to: (i) the Software, (ii) fees payable hereunder, and (iii) all technology, information, data and know-how, whether in tangible or intangible form, whether designated as confidential or not, and whether or not stored, compiled or memorialized physically, electronically, graphically, photographically, or in writing. Confidential Information does not include any information which the receiving party can demonstrate by evidence: (a) is, as of the time of its disclosure, or thereafter becomes, part of the public domain through no fault of the receiving party; (b) was rightfully known to the receiving party without obligation of confidentiality to the disclosing party prior to the time of its disclosure, as evidenced by its records kept in the ordinary course of its business; (c) is uploaded in connection with your use of the Software to us for analysis; or (d) is, subsequent to disclosure hereunder, rightfully learned from a third party not under a confidentiality obligation to the disclosing party with respect to such Confidential Information, as evidenced by its records kept in the ordinary course of its business.

7.2 Obligations. Each party shall: (a) not use the Confidential Information of the other party for any purpose except in performance of its rights and obligations hereunder; (b) disclose Confidential Information of the other party only to the employees and agents of such party who need to know the Confidential Information in support of the performance of this Agreement by the receiving party, provided that such individuals have previously agreed, either as a condition to employment or in order to obtain the Confidential Information, to be bound by terms and conditions no less restrictive than those of this Section 7; and (c) treat all Confidential Information of the other party with the same degree of care as such party accords its own Confidential Information of a similar nature, but in no case less than reasonable care. This Section shall survive for five (5) years from expiration or termination of the Term.

7.3 Authorized Disclosure. Confidential Information of the disclosing party that is required to be disclosed by the other party pursuant to a duly authorized subpoena, court order, or government authority may be disclosed by the receiving party to the extent required, and shall continue to be the Confidential Information of the disclosing party for all other purposes and the receiving party shall, prior to disclosing pursuant to a subpoena, court order, or government authority, provide prompt notice and assistance to the disclosing party prior to such disclosure so that the disclosing party may seek a protective order or other appropriate remedy to protect against or limit disclosure.

7.4 Your Information. You acknowledge that the Software may collect information about your systems and applications in connection with the support of the Software including, without limitation, usernames, filepath, MAC Addresses, network information, hardware type, model number, hard disk size, CPU type, disk type, RAM size, systems architecture, operating system, versions, locale, BIOS version, BIOS model, system telemetry, device ID, IP address, location, information about third party products, and other configurations, settings and artifacts including metadata related to the execution of Potentially Malicious Code, and you hereby consent that such information may be transferred to and processed in the USA for purposes of performance of this Agreement by Cylance. We will not transfer such information to any third party, except to our vendors who support the platforms that we use in the regular course of our business, and who have agreed in writing to keep such information confidential.

8. Warranties; Disclaimer; Acknowledgments.

8.1 Limited Warranty. We warrant that, under normal use for a period of 60 days following the first date of delivery to you, the Software will operate substantially as described in our published documentation and user manual accompanying such delivery

("Documentation"). If the Software fails to meet the foregoing warranty ("Warranty") during the foregoing warranty period, then we will use commercially reasonable efforts to correct the nonconformity. The Warranty does not apply (i) to the extent the Software is subjected to misuse, negligence or accident, or is used in an environment or a manner or purpose for which it was not designed as specified in the Documentation, or other than permitted herein, (ii) for claims resulting from the acts or omission or the installation, modification, alteration or repair of the Software by a person or entity other than by us or our authorized agents, or (iii) any other cause or circumstance outside of our control. We further warrant that we have the right to enter into this Agreement and that we have used commercially reasonable efforts to prevent the Software, when delivered to you, from containing any malicious code or virus. If we cannot correct the Software as described in this Section, your sole and exclusive remedy, and our sole liability, for breach of Warranty shall be a refund of the fees paid by you to us for the nonconforming Software during the period of non-compliance.

8.2 Disclaimer. EXCEPT AS WARRANTED IN SECTION 8.1, ALL SOFTWARE, DELIVERABLES, INFORMATION AND SERVICES PROVIDED OR MADE AVAILABLE BY US TO YOU HEREUNDER ("Items") ARE PROVIDED "AS IS" AND WITHOUT ANY WARRANTY WHATSOEVER, AND WE EXCLUDE AND DISCLAIM ALL OTHER WARRANTIES OF ANY KIND WHATSOEVER RELATING TO THE ITEMS, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE ITEMS WILL BE ERROR-FREE, COMPLETELY SECURE, OR BE PROVIDED (OR BE AVAILABLE) WITHOUT INTERRUPTION. WE MAKE NO WARRANTIES OR REPRESENTATIONS REGARDING ACCURACY OF INFORMATIONAL CONTENT OR SYSTEM INTEGRATION, OR THE APPROPRIATENESS OF THE SOFTWARE FOR ANY PARTICULAR SYSTEM. THE SOFTWARE AND SERVICE ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HAZARDOUS ENVIRONMENT REQUIRING FAIL-SAFE PERFORMANCE OR OPERATION. THE SOFTWARE AND SERVICE ARE NOT FOR USE IN THE OPERATION OF AIRCRAFT NAVIGATION, NUCLEAR FACILITIES, OR COMMUNICATION SYSTEMS, WEAPONS SYSTEMS, DIRECT OR INDIRECT LIFE-SUPPORT SYSTEMS, AIR TRAFFIC CONTROL, OR ANY APPLICATION OR INSTALLATION WHERE FAILURE COULD RESULT IN DEATH, SEVERE PHYSICAL INJURY OR PROPERTY DAMAGE. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU, BUT THIS SECTION SHALL BE ENFORCEABLE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8.3 Your Obligations, Acknowledgments and Warranties.

8.3.1 You acknowledge that the Software is designed to supplement other sources of information and is not intended to replace your professional discretion and judgment. You accept responsibility for, and acknowledge that you exercise your own independent and professional judgment in, the selection and use of Software and any results obtained therefrom. You warrant that you have the right to enter into this Agreement and to install the Software on any machine, equipment, device, network or system where the Software is installed.

8.3.2 You warrant that you will not upload to the Software or Service, or cause or allow to be uploaded to the Software or Service, any data or information for which you do not have sufficient rights. YOU ACKNOWLEDGE AND WARRANT THAT YOU ARE SOLELY RESPONSIBLE AND LIABLE FOR VERIFYING THE ACCURACY AND ADEQUACY OF ANY OUTPUT FROM THE SOFTWARE AND SERVICE, AND FOR ANY RELIANCE THEREON AND TO THE MAXIMUM EXTENT PERMITTED BY LAW YOU WAIVE ANY AND ALL CAUSES OF ACTION OR CLAIMS AGAINST US ARISING THEREFROM OR RELATING THERETO. WE CANNOT AND DO NOT WARRANT THE RESULTS THAT MAY BE OBTAINED BY THE USE OF THE SOFTWARE OR SERVICE.

8.3.3 You acknowledge and agree that our access, analysis and associated transmission of data, including personal data, shall be deemed authorized by you for purposes of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 et seq., the Electronic Communications Privacy Act, 18 U.S.C. § 2701 et seq., and all other applicable international, federal, state and local laws, rules and regulations that relate to, regulate, or impact the subject matter of the Software.

9. Indemnification.

9.1 By Cylance. We will defend, indemnify and hold harmless you and your officers, directors, employees and agents ("Indemnified Party" or "Indemnified Parties") from and against any third party claims, actions, suits and proceedings brought against any Indemnified Party alleging that the Software, in the form as delivered to you hereunder, infringes the U.S. copyrights or patents of such third party; provided that you provide us with (i) prompt written notice of the claim; (ii) all necessary assistance, information and authority necessary for us to defend the claim and perform our obligations under this Section 9 (at our expense); and (iii) sole control of the defense of such claim and all associated settlement negotiations. If a claim of infringement is made or appears likely to be made with respect to the Software, we may, at our expense and discretion, enable you to continue to use the affected Software, modify the Software to make it non-infringing, replace the Software with a substantially functional equivalent, or terminate this Agreement in whole or with respect to the affected Software and provide you with a credit equal to the price paid for the affected Software, less depreciation calculated on a straight-line basis for the applicable term. THIS SECTION STATES OUR SOLE OBLIGATION AND LIABILITY, AND YOUR SOLE AND EXCLUSIVE REMEDY, REGARDING CLAIMS OF INFRINGEMENT.

9.2 Exclusions. Cylance will have no liability or responsibility to indemnify the Indemnified Parties under Section 9.1 with respect to any claim based upon (i) any information, component or application provided or made available by you or any third party (including without limitation Files); (ii) any modification of the Software by a party other than Cylance or our authorized agents; (iii) the combination, operation or use of the Software with non-Cylance software programs or data; (iv) the use of other than the latest release of the Software if such claim could have been avoided by use of the latest unmodified release; (v) your continuance of allegedly infringing activity after being notified thereof, or after being notified of modifications (to be made at no cost) that would have avoided the alleged infringement.

9.3 By You. You will defend, indemnify and hold harmless Cylance, its Affiliates, and its and their officers, directors, employees and agents ("Cylance Indemnitees") from and against any claims, actions, suits and proceedings brought against any Cylance Indemnitee arising from or related to (a) Files; and/or (b) use of the Software delivered hereunder, except to the extent such claim is covered by the indemnification obligation of Cylance in Section 9.1. We will provide you with (i) prompt written notice of the claim; (ii) all necessary assistance, information and authority necessary for you to defend the claim (at your expense); and (iii) sole control of the defense of such claim and all associated settlement negotiations; provided, however, that you may not settle any claim that does not fully and unconditionally release the Cylance Indemnitees from any and all liability.

10. Limitations of Liability and Damages Cap. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOSS OR DAMAGE FOR LOST PROFITS OR REVENUES OR LOST DATA OR SIMILAR ECONOMIC LOSS, REGARDLESS OF HOW SUCH LOSSES OR DAMAGES ARE CHARACTERIZED, OR FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF WE HAVE BEEN ADVISED OF SUCH CLAIM. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL OUR TOTAL, AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS AGREEMENT (INCLUDING FOR NEGLIGENCE, STRICT LIABILITY, BREACH OF CONTRACT, WARRANTY, AND OTHER CONTRACT OR TORT CLAIMS) EXCEED THE AMOUNT OF DIRECT DAMAGES ACTUALLY INCURRED BY YOU UP TO THE AMOUNT OF FEES PAID BY YOU TO US HEREUNDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CAUSE OF ACTION OR CLAIM. This Section shall not limit damages caused by our fraud, misrepresentation or gross negligence, or to amounts payable by us to a third party pursuant to our indemnification obligation in Section 9.1. The foregoing limitations will apply even if the above stated remedy fails its essential purpose.

11. Additional Terms.

11.1 Compliance With Laws. The Software and Service are provided solely for lawful purposes and use. We make no representation that the Software or Service is appropriate for use in any given country of use. You are solely responsible for, and agree to comply with, all applicable laws, statutes, ordinances, and other governmental authority, however designated, with respect to the use of and access to the Software and Service, including without limitation United States government laws, regulations, orders or other restrictions regarding export from the United States and re-export from other jurisdictions of software, technical data and information or derivatives of such software, or technical data and information. You acknowledge that none of the Software or underlying information or technology may be downloaded, or otherwise exported or re-exported into (or to a national or resident of), or used in any countries or by any individual subject to U.S. any trade embargo or exclusion, including without limitation Iran, Cuba, Syria, North Korea and Sudan. You warrant that you will not, directly or indirectly, without obtaining prior authorization from the competent government authorities as required by those laws and regulations: (1) sell, export, re-export, transfer, divert, or disclose or provide Software or Documentation to any prohibited person, entity, or destination; or (2) use the Software or Documentation for any use prohibited by the laws or regulations of the United States or your country of residence or location. You will reasonably cooperate with us, and will provide us promptly upon request with any certificates or documents, in each case as are reasonably requested to obtain approvals, consents, licenses and/or permits required for any payment or any export or import of Software or Documentation under this Agreement. Nothing in this Agreement shall preclude us from cooperating in any legal proceeding or government inquiry. Cylance reserves the right at any time to request a certificate signed by your authorized representative confirming your compliance with the requirements of this Section 11.1. You acknowledge and agree that you are solely responsible for complying with any local import rules and regulations relating to your performance of this Agreement, including obtaining any approvals and licenses that may be required.

11.2 Governing Law. This Agreement shall be governed in all respects by the federal laws of the United States. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.

11.3 Severability; Amendment. If any provision of this Agreement is held to be illegal or unenforceable for any reason, then such provision shall be deemed to be restated so as to be enforceable to the maximum extent permissible under law; the remainder of this Agreement shall remain in full force and effect. Amendments or changes to this Agreement must be in writing and be executed by both the government contracting officer acting on behalf of the GSA and Carahsoft to be effective. You acknowledge that you

have not relied upon any written or oral representations of Cylance in entering into this Agreement other than the representations, if any, expressly set forth in this Agreement.

11.4 Use of Names. Cylance may request use of your name and logo in our marketing efforts, including being publically identified as a customer of Cylance. Cylance will first obtain written approval by you prior to any use of your name and/or logo.

11.5 United States Governmental End Users. The Software is copyright protected Commercial Computer Software and Computer Software Documentation as those terms are defined in 48 C.F.R. 2.101. The U.S. Government shall obtain only those rights to the Software as are authorized by 48 C.F.R. 12.212 or 48 C.F.R. 227.7202-3, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software by the U.S. Government shall be governed solely by this Agreement. The Software is deemed to be “commercial computer software” and “commercial computer software documentation,” respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.6 Personal Data and Privacy Policy. The privacy policy of Cylance (the “Privacy Policy”), attached hereto as Exhibit C, and may be amended from time to time by Cylance applies to all personal data transmitted by the Software or otherwise provided by you to Cylance in connection with this Agreement. With respect to personal data originating in the European Economic Area (“EEA”), prior to making any such personal data available to Cylance, directly or through the operation of the Software, you shall obtain consent from all persons, whether employees of you, your customers, or other third parties, whose personal data may be transmitted by the Software, to the transfer of such personal data to the USA or other countries in accordance with the Privacy Policy, and to the processing of such information for the purposes described in the Privacy Policy and/or this Agreement, or otherwise ensure the admissibility of such transfer and processing. You also shall obtain all authorizations and give all notices to data protection authorities within the EEA that are required by applicable law prior to the transfer of such personal data to Cylance. For purposes of personal data originating in the EEA, the terms “personal data” and “processing” shall have the meanings set forth in the Data Protection Directive 1995 (Directive 95/46/EC). With respect to personal data originating in any other jurisdiction, you shall obtain all consents, or otherwise ensure the admissibility of such transfer and processing, and take all other actions required under applicable laws to make the transfer and processing of such personal data as contemplated in the Privacy Policy and/or this Agreement fully consistent with the requirements of all applicable laws of the jurisdiction where such personal data originated.

11.7 Assignment. You may not assign or otherwise transfer this Agreement, or its rights or duties hereunder, in whole or in part, by operation of law or otherwise, without our prior written consent. Any assignment or transfer without the consent of Cylance will be null and void and of no force or effect. We may assign this Agreement or its rights or duties hereunder, in whole or in part, by operation of law or otherwise, upon a sale of all or substantially all of our business or assets to which this Agreement pertains, or transfer this Agreement to an affiliate or subsidiary. Subject to the forgoing, this Agreement shall be binding upon and inure to the benefit of the parties’ successors and permitted assigns.

11.8 General. The parties are independent contractors for all purposes under this Agreement. Neither party shall be liable for any delay or failure due to force majeure and other causes beyond its reasonable control; provided that the foregoing shall not apply to your payment obligations. The parties do not intend that any term of this Agreement be enforceable by any third party. Any waiver or failure to enforce any provision of this Agreement will not be deemed a waiver of any other provision or of such provision on any other occasion. Any notices or consents under this Agreement to either party must be in writing and personally delivered or sent by certified or registered mail, return receipt requested, or by nationally recognized overnight express courier, and will be delivered upon receipt. Notices sent to you will be sent to the address specified in the Ordering Document or such other address as you may specify in writing by notice. Notices to us shall be sent to Cylance Inc., Attn: Legal, 18201 Von Karman, Suite 700, Irvine, CA 92612 USA.

Upon the issuance of a Purchase Order or other ordering document by Client for Cylance Software, and intending to be legally bound herein, the parties agree to be bound by the terms and conditions of this Agreement.

Exhibit B
Statement of Work for ThreatZero Services

This Statement of Work (“SOW”) for ThreatZero Services (“TZ Services”) is attached to and subject to the Cylance End User License Agreement (the “Agreement”) entered into by and between Cylance and the Government Ordering Activity accepting the Agreement and registering for use of the proprietary software product of Cylance thereunder (“you” or “Client”). Capitalized terms used but not defined in this SOW have the meanings ascribed to them in the Agreement.

Summary of ThreatZero Services

ThreatZero Services include:

- Planning Deployment and Implementation related to CylanceProtect (the “Product” or the “Software”)
- Compromise Assessment related to Product findings

Planning Deployment and Implementation

Planning:

- Conduct planning meetings to identify project scope and review prerequisites for Product deployment and implementation.
- Draft and finalize a project plan and deployment task list, identifying and synthesizing feedback received from relevant Client stakeholders regarding topics including but not limited to systems and software requirements, asset inventory and access requirements.
- Validate and approve the project plan.

Implementation

- Guided by input from Client stakeholders, Cylance will participate in the deployment plan, installing the Product leveraging a combination of native and custom deployment methodologies.
- Conduct daily and weekly update meetings with client to validate the implementation to ensure continuity modify plan, as required.
- Conduct training to Client stakeholders, providing substantial knowledge transfer regarding the operational and structural aspects of the Product.
- Develop operational documentation memorializing configurations policies, settings, zones and other aspects of the Product deployment.
- Manage the Product implementation and learning phase, tuning Product attributes based on Client input to achieve the desired outcomes for Client.

Compromise Assessment

The Cylance Pre-Response Compromise Assessment methodology starts as a simple script consisting of several non-invasive commands. These commands are native to each operating system and require no agent or software to be installed on target workstations. The data from each host is collected and analyzed by Cylance or in collaboration with Client to identify issues including:

- Data Loss or Sabotage
- User Profile Propagation
- Lateral Movement
- Indicators of Compromise
- Build and Application Inconsistencies

Schedule

Where applicable, a project manager may create a mutually agreed upon Engagement Schedule and the scope of this project will be executed based upon that plan. Notwithstanding the foregoing, all timelines, deliverables and implementation efforts outlined are estimates only.

Expenses

If requested by Client in connection with the engagement, Carahsoft, acting on behalf of Cylance, shall invoice Client for allowable and reasonable travel and lodging expenses incurred by Cylance in connection with the Project, such as airfare, lodging, meals and ground transportation. Cylance travel must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Federal Government per diem rates will apply to all Cylance travel.

All travel and related expenses will be billed to Client at the end of the Project, unless the Project extends beyond thirty (30) days, in which case expenses will be billed monthly.

In the absence of an agreement addressing payments, General Services Administration Acquisition Regulation (GSAR) 552.212-4(g) Invoice and (i) Payment shall govern.

Acceptance

Where applicable, within ten (10) days of receipt of a deliverable, Client shall review and inspect all deliverables and all deliverables shall be deemed accepted following a ten (10) day period unless otherwise rejected in writing by Client. Notwithstanding the foregoing, acceptance shall be in accordance with GSAR 552.212-4(a) Inspection/Acceptance.

Project Specific Assumptions

Client will:

- Identify point of contact for engagement.
- Provide Cylance with administrative access to the Cylance Product user interface of the Client
- Be responsible for network availability at all times during the Project; lack of network readiness or access to specific files or other data may result in lack of productivity by Cylance or may otherwise affect the accuracy of the results.
- Ensure all devices within the desired environment will be accessible via network connectivity and accessibility prior to the engagement commences.
- Provide the Cylance consultant with necessary documentation related to the engagement, and with relevant information on proposed applications and computing systems, on an as needed basis.
- Provide the Cylance consultant with access to all necessary facilities and computer systems (to include passwords) while on site.
- Provide the Cylance consultant office space or a desk while onsite, as needed.
- Schedule any interviews with the appropriate individuals as requested by the Cylance project manager.

1. ADDITIONAL TERMS.

1.1. Amendment of Statements of Work. If at any time, Client requests a change to this SOW, Cylance will meet with Client to discuss the proposed change and the parties shall attempt to agree upon an addendum to this SOW reflecting the requested change. The addendum shall be deemed part of this SOW upon written authorization by Client and Cylance.

1.2. Obligations of Client. Client acknowledges that timely provision by Client of (and any and all access by Cylance to) relevant Client assistance, cooperation, and complete and accurate information and data, and securing all necessary third party consents and approvals, is essential to the performance of the TZ Services, and Cylance shall not be liable for any deficiency in performing the TZ Services if such deficiency results from the failure of Client to provide the foregoing. Client shall provide Cylance with appropriate information concerning, and reasonable access to, the computer systems of the Client and provide all information, access and full, good faith cooperation reasonably necessary to facilitate the TZ Services, including one or more employees of Client who have substantial computer systems and network and project management experience to act as a liaison between Client and Cylance. If Client fails or delays in its performance of any of the foregoing, Cylance shall be relieved of its obligations hereunder to the extent such obligations are dependent on such performance.

2. OWNERSHIP.

2.1. By Client. Subject to the Client fulfilling its payment obligations under the SOW, Client shall own all right, title and interest in and to the deliverables. As used herein "Data" means all data and information (i) submitted to Cylance by Client or (ii) which is Client created and/or owned data and information to which Cylance has access in connection with the provision of TZ Services, Data shall not include files submitted to the Software for analysis. All Data to shall remain the property of Client. Notwithstanding the former, Client grants Cylance a non-exclusive, irrevocable, perpetual, royalty-free, worldwide license to use, copy, or modify, Data and information uploaded for analysis by the Software. Cylance shall not reveal Client as the source of any hash or file uploaded for analysis by the Product.

2.2. By Cylance. Except as explicitly set forth in this SOW, all methods or processes used or developed by or for Cylance in or for the provision of TZ Services, and all documentation, records, raw data, materials, work product, concepts, information, inventions, improvements, designs, programs, formulas, know-how, or writings related thereto, other than

deliverables, authored, prepared, created, made, developed, delivered, conceived or reduced to practice, in whole or in part, by Cylance in the course of providing the TZ Services (collectively, the “Cylance IP”) are and will be the sole and exclusive property of Cylance. Client shall not by virtue of the Agreement, this SOW or the performance thereof by either party obtain any intellectual property or other ownership rights in any Cylance IP.

3. WARRANTY.

3.1. TZ Services Warranty. Cylance warrants to the Client that Cylance will perform TZ Services in a professional manner by qualified personnel and in a manner consistent with industry standards. The sole and exclusive remedy of Client for a breach of the foregoing warranty by Cylance shall be to provide Cylance with a written description of such breach within thirty (30) days from the date of performance of the nonconforming TZ Services (or portion thereof, if applicable), in which case Cylance shall promptly and at its expense, use commercially reasonable efforts to re-perform such TZ Services (or portion thereof). If Cylance cannot re-perform such TZ Services in conformity with this warranty, then Cylance will refund fees paid by Client to Cylance in respect of the Services that fail to meet this warranty. If no written rejection is given to Cylance by Client within such thirty (30) days, such Deliverable or TZ Services shall be deemed accepted. This Section represents the sole liability of Cylance, and the sole and exclusive remedy for Client, for a breach of the TZ Services warranty.

3.2. Disclaimer and Acknowledgements. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 3.1, CYLANCE MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO ANY OTHER MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE TZ SERVICES OR DELIVERABLES, AND CYLANCE HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR NEED, ACCURACY, NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

3.3 Client Warranties. Client accepts responsibility for, and acknowledges that it exercises its own independent and professional judgment in, the selection and use of Software and any results obtained therefrom. Client warrants that it has the right to enter into the Agreement and this SOW, and to install the Software on any machine, equipment, device, network or system where the Software is installed. Client warrants that it will not upload to the Software or Service, or cause or allow to be uploaded to the Software or Service, any data or information for which Client does not have sufficient rights. Client warrants that it has the right to grant Cylance access to and use of Client systems, networks and infrastructure as provided herein. CLIENT ACKNOWLEDGES AND WARRANTS THAT IT IS SOLELY RESPONSIBLE AND LIABLE FOR VERIFYING THE ACCURACY AND ADEQUACY OF ANY OUTPUT FROM THE SOFTWARE AND SERVICE, AND FOR ANY RELIANCE THEREON AND TO THE MAXIMUM EXTENT PERMITTED BY LAW CLIENT WAIVES ANY AND ALL CAUSES OF ACTION OR CLAIMS AGAINST CYLANCE AND ITS AFFILIATES ARISING THEREFROM OR RELATING THERETO. CYLANCE CANNOT AND DOES NOT WARRANT THE RESULTS THAT MAY BE OBTAINED BY THE USE OF THE SOFTWARE OR SERVICE. THE DECISION BY CLIENT TO BLOCK, QUARANTINE OR ENABLE EXECUTION OF POTENTIALLY MALICIOUS CODE IS AT ITS OWN RISK. CLIENT ACKNOWLEDGES THAT CYLANCE HAS NO CONTROL OVER THE SPECIFIC CONDITIONS UNDER WHICH CLIENT USES THE PRODUCT OR POTENTIALLY MALICIOUS CODE. THE SOFTWARE AND SERVICE DO NOT REPLACE THE OBLIGATION OF CLIENT TO EXERCISE ITS INDEPENDENT JUDGMENT WITH RESPECT TO POTENTIALLY MALICIOUS CODE. Client acknowledges and agrees that Cylance’s access, analysis and associated transmission of Files shall be deemed authorized by Client for purposes of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 et seq., the Electronic Communications Privacy Act, 18 U.S.C. § 2701 et seq., and all other applicable international, federal, state and local laws, rules and regulations that relate to, regulate, or impact the subject matter of the Software.

4. LIMITATION OF LIABILITY AND DAMAGES CAP.

Notwithstanding Section 10 of the End User License Agreement, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW IN NO EVENT WILL CYLANCE BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) ARISING FROM OR RELATING TO THIS SOW, EVEN IF CYLANCE KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF, OR COULD REASONABLY HAVE PREVENTED, SUCH DAMAGES. IN NO EVENT SHALL THE TOTAL LIABILITY OF CYLANCE ARISING FROM OR RELATING TO THE AGREEMENT OR THIS SOW, WHETHER SUCH DAMAGES ARE BASED ON TORT, CONTRACT, OR ANY OTHER LEGAL THEORY, EXCEED THE AMOUNT OF FEES PAID TO CYLANCE UNDER THIS SOW.

5. INDEMNITY.

In connection with the TZ Services performed under this SOW, each party agrees to defend, indemnify, and hold harmless the other, its officers, directors, employees and agents (each of the foregoing, an "Indemnified Party") from and against any and all third party claims, losses, liabilities, expenses (including reasonable attorneys' fees and legal expenses related to such defense), fines, penalties, taxes or damages (collectively, "Liabilities") alleging personal injury or property damage to the extent caused by the gross negligence or willful misconduct of other party in connection with this SOW. In addition, Client will defend, indemnify and hold harmless Cylance, its affiliates, and its and their officers, directors, employees and agents ("Cylance Indemnitees") from and against any claims, actions, suits and proceedings brought against any Cylance Indemnitee arising from or related to Files. The obligations under this Section 5 are conditioned upon the party seeking indemnification giving the indemnifying party prompt written notice of any claim, action, suit or proceeding; (ii) granting complete control of the defense and settlement to the indemnifying party; and (iii) reasonably cooperating with the indemnifying party at the expense of the indemnifying party.

6. TERMINATION.

6.1. For Cause.

By written notice to the other party, a party may terminate for cause this SOW, or all or any portion of the TZ Services, in the following circumstances:

- a) Immediately in the event of a material breach by the other party that remains uncured after thirty (30) days written notice; and
- b) Immediately if the other party is adjudged insolvent or bankrupt, or upon the institution of any proceedings by or against the party seeking relief, reorganization or arrangement under any laws relating to insolvency, or upon assignment for the benefit of creditors, or upon the appointment of a receiver, liquidator or trustee of any of property or assets of the party which relate to the TZ Services, or upon liquidation, dissolution or winding up of the business of the party.

6.2. Survival.

Notwithstanding anything else in this SOW payment obligations of the Client and the provisions of Sections 2, 3.2, 3.3, 4, 5, 6 and 7 of this SOW will survive termination or expiration of this Agreement for any reason.

7. GENERAL PROVISIONS.

7.1. Non-Exclusivity.

Nothing in this SOW will restrict or limit Cylance from performing any consulting, implementation, integration, development, training, maintenance, support or other services on behalf of itself or any other entity in any industry, and Cylance may enter into agreements with other companies for the provision of services similar to the TZ Services at any time.

7.2 Subcontracting. Cylance shall have the right, in its sole discretion, to subcontract portions of any TZ Services authorized hereunder; provided, however, that Cylance shall require any such subcontractor to adhere to the obligations imposed upon Cylance with respect to the services subcontracted; and provided, further, however, that Cylance shall remain fully liable to Client for any services subcontracted by Cylance.

7.3 Order of Precedence

In the event of any conflict between or among the provisions contained in this SOW and the End User License Agreement, the provisions of this SOW will supersede only if it expressly identifies the specific Section(s) of the End User License Agreement that are being amended; in all other cases, the End User License Agreement shall supersede and govern.