

**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.).

FORUM SYSTEMS, INC.

PRODUCT LICENSE AGREEMENT TERMS AND CONDITIONS

As a condition of using Forum Systems, Inc.'s ("Forum Systems") products that are purchased or used by Licensee including the hardware (the "Hardware") and the software, including the device drivers, the configuration management tools and the standard issued versions of the software (collectively referred to as the "Software") and any related recorded media, documentation and all future orders (all items in this paragraph are collectively referred to as the "Products"), Licensee agrees to all of the terms and conditions of this Product License Agreement Terms and Conditions agreement (the "Agreement"), as stated below.

1. LIMITED LICENSE:

a. As part of Licensee's agreement to purchase or otherwise obtain the Products you shall be provided with the following limited license to individually use each of the Products purchased (the "License"):

- **Disaster Recovery** – Products may be used by Licensee on a temporary basis only during an emergency situation which constitutes a failure or disaster involving the system. License will permit use of Products to process production or test data temporarily until the failure or disaster has been corrected. A disaster recovery license cannot be used as a replacement for other license types. Licensee must provide Forum Systems with prompt written notice of any use of a disaster recovery license.
- **User Acceptance Test** – Products may be used by Licensee to process test data or to simulate a production environment with unlimited connections. Products may not be exchanged or upgraded or downgraded to another license type. License may be moved to another machine owned by Licensee with the prior written consent of Forum Systems and if it is covered by a current support and maintenance agreement.
- **Test and Development** – Products may be used by Licensee to process test data or to simulate a production environment with up to five connections. Products may not be exchanged or upgraded or downgraded to another license type. License may be moved to another machine owned by Licensee with the prior written consent of Forum Systems and if it is covered by a current support and maintenance agreement.
- **Production** – Products may be used by Licensee to process production transactions or data. Products may not be exchanged or upgraded or downgraded to another license type. License may be migrated to another machine owned by Licensee with the prior written consent of Forum Systems and if it is covered by a current support and maintenance agreement.

The License provides Licensee with the right to use the Software provided as part of the Products in accordance with the terms above and for the sole purpose of operating each of the individual Products and configuring each of the Products with Licensee's application or server control program. Licensee may use one copy of the Software for each copy purchased from Forum Systems. As part of the License, all Software and programs provided by Forum Systems, including, but not limited to, device drivers and configuration management tools, remain the exclusive property of Forum Systems or its licensors. As a condition of the License, the Software or any of its parts may not be removed from any of the Products nor used in any other application or device, which action would void the License in its entirety. As part

of the License, Licensee may merge the provided computer Software programs with other programs for this sole and express purpose and may make archival copies for back-up purposes. The License is nontransferable, without the express written consent of Forum Systems. Forum Systems shall have the right, upon reasonable advance notice, to review Licensee's use of the Products to verify that the Products are being used by Licensee in a manner that is consistent with the terms of the License purchased hereunder.

b. The License shall have the following duration:

Perpetual – A perpetual license is a one-time license fee that allows continued use of the software program for as long as the customer complies with all terms of the license agreement. Licensee may also purchase an annual support and maintenance plan to be provided by Forum Systems. Forum Systems' support and maintenance plan will cover bug fixes and minor releases. The support and maintenance plan will not cover future major version releases. The terms of the Forum Systems' support and maintenance plan are set forth in Exhibit A;

Term – A term license is for a specific, limited period of time, during which the user is allowed to access and use the software. Forum Systems' support and maintenance will be included for the term period for the major version licensed. Forum Systems' support and maintenance plan will cover bug fixes and minor releases. The support and maintenance plan will not cover future major version releases. The terms of the Forum Systems' support and maintenance plan are set forth in Exhibit A; and

Subscription – A subscription license is for a limited period of time (one-year minimum, two-year maximum), during which the user is allowed to access and use the software. Forum Systems' support and maintenance is included as part of the subscription period. All major and minor version releases during subscription period are included. The subscription of the Forum Systems' support and maintenance plan are set forth in Exhibit A.

Forum Systems agrees to continue to support the latest major release of the Software for a period of six (6) years from the date of initial release of such major version.

c. The License to use the Products does not extend to any use of the Products when used in or with any application that, in the event of failure of or defect in the Software, the Hardware or the Products, might involve risk of injury or death. If you have purchased or obtained the Products for such an application, you should immediately return the Products and the Documentation to Forum Systems for either replacement or a refund, at the sole discretion of Forum Systems. The License to use the Product does not extend to any use of the Product when used in or with any application that violates any law or regulation of the United States of America, any of its States or territories, or any other country.

d. You may not copy or reproduce all or any part of the Products, except as authorized in item 1 above. Removal, emulation or reverse-engineering of all or any part of the Products constitutes an unauthorized modification to the Products and is specifically prohibited. Such actions shall immediately void this License. Nothing in this License statement permits you to derive the source code of files that Forum Systems has provided to you in executable or object forms. Except as noted below, Forum Systems provides no other warranty at all to any person, other than the Product Warranty provided to the original purchaser of the Products as stated herein.

2. **COPYRIGHT:** Copyright in the Hardware, Software and Documentation are owned by Forum Systems and are protected by United States Copyright Laws and international treaty provisions. Additionally, the products are protected by patent and trademark statutory and common law.

3. **PRODUCT WARRANTY:** Forum Systems does not warrant that the operation of the Products will be uninterrupted or error free. The Products are warranted to be free from defects in materials and workmanship and will perform substantially in accordance with the Documentation for a period of ninety (90) days from the date of receipt. The Products are not warranted to any extent when used in or with any application that, in the event of failure of or defect in the Product, might involve risk of injury or death. This warranty is nontransferable, without the express written consent of Forum Systems executive management. Forum Systems reserves the right to either repair or replace, at the sole and exclusive option of Forum Systems, any defect in the Products that occurs under this warranty and within the warranty period. Any repairs to the Products must be made by the manufacturer. The warranty is void if the customer opens the Products, alters the Products or otherwise attempts to repair the Products without the express written consent of Forum Systems.

4. **CUSTOMER REMEDIES:** Forum Systems and its suppliers' entire liability and your exclusive remedy shall be, at Forum Systems' option, either (a) return of the price paid for the Products, or (b) repair or replacement of the portion of the Products that does not meet Forum Systems' product warranty and which is returned to Forum Systems with a copy of your receipt. The product warranty is void if failure of the Software has resulted from accident, abuse, or misapplication. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer. Warranty claims must be made in writing during the warranty period and within seven (7) days of the observation of the defect, accompanied by evidence satisfactory to Forum Systems. Products returned to Forum Systems shall be shipped with freight and insurance paid along with a written explanation of the problem claimed and the name, address and telephone number of the person or entity returning the Products.

5. **NO OTHER WARRANTIES: EXCEPT AS STATED ABOVE, FORUM SYSTEMS AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES IN THE PRODUCTS, INCLUDING THE SOFTWARE, THE HARDWARE, AND ANY DOCUMENTATION, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

6. **NO LIABILITY FOR CONSEQUENTIAL DAMAGES:** In no event shall Forum Systems or its suppliers be liable for any consequential, incidental or punitive damages whatsoever (including, without limitation, damages for loss of business profits or savings, business interruptions, loss of business information, or any other pecuniary loss arising out of the use of or inability to use these Forum Systems Products or for any claims by you based on any third-party claims) even if Forum Systems has been advised of the possibility of such damages. Any liability for any alleged damages shall not exceed the price you paid for the unit of Products that caused your alleged damages. In no event will Forum Systems be liable for any damages caused by your failure to perform your obligations or your failure to act in a reasonable manner.

THIS AGREEMENT SHALL NOT IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT'S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAR 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).

7. U.S. GOVERNMENT RESTRICTED RIGHTS: The Software and Documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the Government is subject to restriction as set forth in subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer software clauses at DFARS 252.227 – 7018 or subparagraphs (c) (1) and (2) of the Commercial Computer Software– Restricted Rights clause at 48 CFR 52.227-18, as applicable.

8. JURISDICTION: This agreement is governed by the federal laws of the United States. If you have any questions concerning this agreement, please write to Forum Systems – Legal Affairs. Forum Systems’ address can be found at www.forumsys.com.

9. EXPORT RESTRICTIONS: You agree that the products, including computer programs and technical information pertaining thereto may be export restricted by the U.S. Government or other governments and shall not be exported or re-exported, directly or indirectly (I) without all export or re-export licenses and governmental approvals required by applicable laws, or (ii) in violation of any applicable prohibition against the export or re-export of any part of the Products and associated Software.

Exhibit A
Support and Maintenance

Forum shall provide Support to Licensee for the Product and documentation with the following:

1. Definitions

- a. Authorized Contact. “Authorized Contact” means the individual designated by Licensee to be responsible for contacting Forum’s Support organization.
- b. Documentation. “Documentation” shall mean the documentation that Forum provides to licensees of its Product.
- c. Error. “Error” shall mean any verifiable and reproducible failure of the Product to substantially conform to the Specifications for such Product. Notwithstanding the foregoing, “Error” shall not include any such failure that is caused by: (i) the use or operation of the Product with any other software or programming languages or in an environment other than that set forth by Forum in accordance with the Documentation, (ii) modifications to the Product not made or approved by Forum made after delivery of the Product to Licensee, or (iii) any bug, defect or error in third-party software used with the Product.
- d. Error Correction. “Error Correction” shall mean either (i) a modification or addition to or deletion from the Product that substantially conforms such Product to the then-current Specifications, or (ii) a procedure or routine that, when exercised in the regular operation of the Product, eliminates any material adverse effect on Licensee caused by such error.
- e. License Agreement. “License Agreement” shall mean the license agreement under which the Product was licensed to Licensee.
- f. Major Release. “Major Release” means any additional or replacement code or Documentation for the Product provided by Forum that adds major new capabilities or functionality and that is designated by Forum, in its sole discretion, as a new Major Release of the Product. Major Release does not include new Options that are added to the Product to provide optional capabilities or functionality. Forum Systems’ support and maintenance plan will cover bug fixes and minor releases. The support and maintenance plan will not cover future major version releases.
- g. Option. “Option” means any additional or replacement code that can be added to an existing product to provide optional capability or functionality to
- h. that product. Optional capabilities are those that some licensees may require and other licensees may not.
- i. Specifications. “Specifications” shall mean the published description of the Product, as set forth in the Documentation for the Product.
- j. Update. “Update” means additional or replacement code or Documentation for the Product that is provided by Forum to remedy an Error. An Update is a new release of the Product that is made generally available to the public and may contain bug fixes and/or enhancements. This includes both minor and major release numbers. Forum Systems’ support and maintenance plan will cover bug fixes and minor releases. The support and maintenance plan will not cover future major version releases.
- k. Upgrade. “Upgrade” means any additional or replacement code or Documentation for the Product provided by Forum that adds incremental capabilities or functionality and that is designated by Forum, in its sole discretion, as a new version of the Product.

2. Maintenance Services

- a. New Product Releases. During the term of this Plan, Forum will provide Minor Release Product Updates to Licensee, as they become generally available. Maintenance does not cover Major Release Product Updates or new products being added to a product line or new functionality that is sold as a separate option and price. Forum will provide a single copy of that updated Product. Delivery of Product may be in the form of either electronic delivery or hard media.

- b. Current Release. Forum's obligations under this Plan are set forth in Section 3(a)(5) below. Consequently, Forum reserves the right to terminate Product Support for superseded releases at any time provided that 90 days written notice is given and at least one year has elapsed since the release of the Product in question was superseded by a newer version.
- c. Error Correction. During the term of this Plan, Forum shall use commercially reasonable efforts to provide Error Corrections for Errors in the Product reported by Licensee to Forum.
- d. Limitations. Forum shall have no obligation under this Plan to correct Errors which result from the breach by Licensee of this Plan or the License Agreement, or which cannot be remedied due to any modifications of the Product made by Licensee or any third party. If Forum agrees to remedy any errors or problems not covered by the terms of this Plan, Carahsoft Technology Corporation or Forum shall invoice Licensee for all such work performed by Forum's then-current standard professional services rates. Licensee acknowledges that Forum is under no obligation to perform services with respect to any hardware or any software which is not Forum's Product.

3. Support Services

- a. Authorized Contacts. Support under this Plan includes unlimited authorized technical contacts. Licensee may change its Authorized Contacts at any time upon ten (10) days written notice to Forum.
- b. Telephone Support. During the term of this Plan, Forum will provide 24x7x365 access to telephone consultation and advice to Authorized Contacts regarding technical support of the Product. Response times are based upon the severity of the problem.
- c. Email Support. During the term of this Plan, Forum will respond to email messages sent to Support by Authorized Contacts during normal business hours. Unless otherwise specified, email issues will be treated with default level of Severity 3 (see Section 4.a below).
- d. Premium Support Account Manager. During the term of this Plan, Forum will assign a senior support account manager to provide expedited resolution of issues.
- e. Customer Set Initial Severity Levels. Customer established initial severity level assigned to each Case based on the impact of the issue.
- f. Interactive Knowledge Base and Online Helpdesk Ticketing System. During the term of this Plan, technical contacts will have access to online support knowledge base resources. The online support knowledge base includes the ability to raise Helpdesk Tickets for requesting technical support.
- g. Limitations. Licensee acknowledges that Forum is under no obligation to perform services with respect to any hardware or any software which is not Forum's Product.
- h. Supported Releases. Forum will provide technical support for the current shipping release of the Product and the one previous release for up to one year after the release has stopped shipping. In order to correct or troubleshoot certain problems, the Licensee may be required to update said Product to the then Current Release as set forth in Section 2(b). Forum Systems' support and maintenance plan will cover bug fixes and minor releases. The support and maintenance plan will not cover future major version releases.

4. Service Expectations

- a. Problem Classification. The following Problem Classification Table definitions are used for classifying Licensee's issues. These classifications insure consistent treatment of problems handled by support. Severity 3 (Normal) is the default severity level to which all cases are initially set unless otherwise specified by the Licensee or support engineer. The support engineer handling the case will work with the Licensee to establish what severity should be assigned. The following are the four levels used by Forum to prioritize a Licensee's problem. The Problem Classification Table is below:

Error Classification	Criteria
Severity 1 (Urgent)	The problem is affecting time-critical applications with production work at a standstill. The system is completely unusable and no workaround is currently known. The affected system must be for production purposes.
Severity 2 (High)	The system is significantly impaired such that the key business processes cannot be conducted and no known workaround is currently available.
Severity 3 (Normal)	The system does not function as designed, but key business processes are not interrupted.
Severity 4 (Low)	Problems are of little or no consequence to Licensee's daily business processes.

- b. Response Expectations. In the event that an error is discovered in the Product that causes the Product not to operate in conformance with the published specifications or applicable documentation, Licensee shall notify Forum in writing (email or online Helpdesk) of the error (including a reasonable description and severity level based on the Problem Classification Table). If Licensee chooses to make the initial notification via phone, then it shall follow up with the writing described above within 24 hours. Forum shall respond to such notice and will make reasonable efforts to assign engineers to resolve problems at the level of effort indicated by the Response Expectation table. If unspecified by the Licensee, most new cases will be set to Severity level of 3 until a clearer determination can be made.

The following Response Expectation table specifies the level of response that will be given to a Licensee issue at each step of the process based upon the assigned severity of the problem. The table specifies the maximum amount of time elapsed to complete each step.

Step 1 represents the acknowledgement of a Licensee's problem and the beginning of information gathering and the trouble shooting process.

Step 2 represents the time frame in which the problem will be actively addressed and a patch, correction, or workaround is provided. The goal will be to provide a fix or a workaround for a problem as soon as possible. Critical issues will be worked on continually during the business day until a satisfactory problem resolution can be reached.

Step 3 represents when a permanent solution will be available as part of the official product line. This may be in the form of a tested permanent patch or a completely new release depending upon the specific problem requirements and time table.

Severity	Step 1	Step 2	Step 3
1 (Urgent)	1 business hour	Work will be started immediately upon acknowledgement and will continue during the business day until resolved.	Within 60 calendar days.
2 (High)	2 business hours	1 to 4 business days	Within 90 calendar days.
3 (Normal)	4 business hours	Within 10 business days	Next scheduled release of Software.
4 (Low)	16 business hours	Worked on a time available basis	As appropriate

- c. **Escalation Process.** All new cases will initially be taken and handled by the support representatives on duty at the time of the call. All problems with a Severity of 1-3 will be escalated if a solution or plan of resolution cannot be achieved within the designated amount of time described below. To ensure that progress can continue, Licensee with Severity 1 (Urgent) issues must provide Forum with a highly available contact during this period who will assist the Support and Development organizations with data gathering, testing, and applying all fixes to Licensee's environment. If Forum cannot duplicate the problem in-house, then Support may request access to the Licensee's computing environment.

Support management will be made aware of issues according to the time frames set forth below in the Escalation Table. Forum requires that as succeeding levels of Forum management become involved in the resolution process, the Licensee must provide contacts at similar levels within their organizations, to ensure the level of management involvement matches the decision-making level dictated by the resolution requirements of the problem. Elapsed time represents the number of business hours (not clock hours) that have passed since the issue was first opened by Forum Support.

Elapsed Time	Severity 1 (Urgent)	Severity 2 (High)	Severity 3 (Normal)
Immediate	Team Lead		
2 hours	Support Manager		
4 hours	Support VP	Team Lead	
8 hours		Support Manager	
16 hours	VP Development		Team Lead
24 hours		Support VP	
32 hours			Support Manager
40 hours	SVP / CTO	VP Development	
80 hours	President / CEO	SVP / CTO	Support VP

Severity 4 issues are not escalated except in the case where they become reclassified with a new severity level due to changes with the licensee's environment.

- d. **Hardware Replacement:** In the event that there is a hardware failure of any of the devices installed, Forum Systems will make every effort to repair or replace the hardware, at Forum Systems sole discretion, within forty-eight hours. In the event that both parties agree that the hardware needs replacement, every effort will be made by Forum Systems to provide replacement hardware as quickly as is reasonably possible. Cross-shipments may be considered in the cases where the outages are affecting production systems and quality of service.

5. **Proprietary Rights.**

Any corrections, additions, or modifications to the Product or Documentation effected or delivered under this Plan and any Updates or Upgrades supplied under this Plan shall be deemed part of the applicable Product and subject to all of the provisions of the License Agreement.

6. **Revision Control and Update Management.**

Technology upgrades and product improvements revisions will be accomplished at regular intervals. All product revisions will be supported for no less than one year, prior to upgrade, unless agreed to by both parties. Forum Systems' support and maintenance plan will cover bug fixes and minor releases. The support and maintenance plan will not cover future major version releases.

7. **Proactive Security Notification.**

In the event that Forum Systems is made aware of a documented security breach or vulnerability of the systems installed under this agreement, Forum Systems will immediately notify the Licensee of the breach or vulnerability.

8. Support Reinstatement Policy

A 25% reinstatement fee is applied to any product reinstated under a support contract after a lapse of coverage. Products that have lapsed support coverage will no longer be eligible for the hardware replacement policy. Return and repair RMA support is provided on reinstated products and repair cost estimates will be provided for repairs as per standard RMA process. Any products that are not reinstated on a support contract for 90 days past the termination of an active contract will be decommissioned in future product software releases which will prevent any of those products not covered under a support and maintenance contract from running any versions of future software patch releases.

FORUM APPLIANCE - LIMITED HARDWARE WARRANTY

General Terms

This limited hardware warranty (Warranty) applies only to original purchasers using Forum Systems Appliances. The term "Hardware" means the hardware portion of a Forum Systems Appliance. The term "Hardware" does not include any software programs, whether pre-loaded with the Hardware, installed subsequently or otherwise.

Nothing in this Warranty affects any statutory rights of consumers that cannot be waived or limited by contract.

Limited Hardware Warranty

Forum Systems (Forum) warrants that the Hardware ("Hardware") shall be free from material defects in design, materials, and workmanship and will function, under normal use and circumstances, materially in accordance with the documentation provided with the Hardware for a period of 90 days from receipt.

Customer's sole and exclusive remedy, and Forum System's sole and exclusive liability for defective Hardware shall be, subject to the terms and conditions contained herein, and solely upon confirmation of a defect or failure of Hardware to perform as warranted, to replace the nonconforming Hardware. All replacement Hardware furnished to Customer under this Warranty shall be new or reconditioned to be functionally equivalent to new. Replacement Hardware is warranted to be free of defects in material or workmanship for the remainder of the limited hardware warranty period of the original Hardware. All defective Hardware, which has been replaced, shall become the property of Forum Systems. All replacement Hardware shall remain Customer's property.

Warranty Claims

By submitting a warranty claim, Customer accepts and agrees to be bound by all the terms and conditions contained herein.

To request warranty service, contact Forum Systems Customer Support within the warranty period. If warranty service is required, Forum will issue a Return Merchandise Authorization ("RMA"). Upon receiving an RMA number, Customer must package the Hardware in its original or equivalent packaging with the RMA number clearly marked on the outside of the package. In no event will Forum Systems accept any returned Hardware without a valid RMA number. The package must then be mailed or otherwise shipped to Forum Systems or its designated representative with all costs of mailing/shipping/insurance prepaid. Forum Systems does not accept liability for loss or damage to the Hardware during shipment and requires that the return be insured for its full value. Forum Systems will ship the replacement Hardware to Customer freight prepaid upon receiving proof of such shipment. If Forum Systems does not receive the defective Hardware within 90 days of receiving the proof of shipment, Forum Systems will invoice Customer for the full price of the new Hardware and freight charges.

Warranty Restrictions and Disclaimer

The foregoing warranties and remedies shall be void due to any of the following: (1) if the Hardware has been opened, modified, altered, or repaired, except by Forum Systems or its authorized agents, (2) if the Hardware has not been installed or maintained or used in accordance with instructions provided by Forum Systems, (3) misuse, abuse, accident, thermal or electrical irregularity, theft, vandalism, fire, water or other peril, (4) damage caused by containment and/or operation outside the environmental specifications for the Hardware, (5) connection of the Hardware to other systems, equipment or devices or use with other software (other than those specifically approved by Forum Systems) without the prior approval of Forum Systems, or (6) removal or alteration of identification labels on the Hardware or its parts (7) failure to comply with all warranty return terms and conditions as set forth herein. Forum Systems shall not be responsible for any software, information, or memory data of Customer contained in, stored on, or integrated with any Hardware returned to Forum Systems for replacement whether under warranty or not. Customer is responsible for backing up its programs and data to protect against loss or corruption.

The Hardware is not designed, manufactured or intended for use in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, direct life-support machines, or any other application in which the failure of the Hardware could lead directly to death, personal injury, or severe physical or property damage or environmental damage (collectively, "High Risk Activities"). Forum Systems expressly disclaims any express or implied warranty of fitness for such High Risk Activities.

EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN THIS SECTION, THE HARDWARE IS PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED. FORUM SYSTEMS DOES NOT WARRANT THAT THE HARDWARE WILL MEET THE CUSTOMER'S REQUIREMENTS OR THAT ITS OPERATION WILL BE UNINTERRUPTED OR ERROR FREE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FORUM SYSTEMS DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. Some jurisdictions do not allow the exclusion of implied warranties or limitations on how long an implied warranty may last, so the above limitations may not apply to Customer.

Limitation of Liability

IN NO EVENT WILL FORUM SYSTEMS OR ITS AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, OR LOST DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR TECHNOLOGY OR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OF ANY KIND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF FORUM SYSTEMS OR ITS AFFILIATES OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, AND WHETHER OR NOT ANY REMEDY PROVIDED SHOULD FAIL OF ITS ESSENTIAL PURPOSE. THE TOTAL CUMULATIVE LIABILITY TO CUSTOMER, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY WILL BE LIMITED TO AND WILL NOT EXCEED THE PURCHASE PRICE OF THE FORUM SYSTEMS APPLIANCE PAID BY CUSTOMER. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to Customer.

THIS AGREEMENT SHALL NOT IMPAIR THE U.S. GOVERNMENT'S RIGHT TO RECOVER FOR FRAUD OR CRIMES ARISING OUT OF OR RELATED TO THIS CONTRACT UNDER ANY FEDERAL FRAUD STATUTE, INCLUDING THE FALSE CLAIMS ACT, 31 U.S.C. 3729-3733. FURTHERMORE, THIS CLAUSE SHALL NOT IMPAIR NOR PREJUDICE THE U.S. GOVERNMENT'S RIGHT TO EXPRESS REMEDIES PROVIDED IN THE GSA SCHEDULE CONTRACT (E.G., CLAUSE 552.238-75 – PRICE REDUCTIONS, CLAUSE 52.212-4(H) – PATENT INDEMNIFICATION, AND GSAR 552.215-72 – PRICE ADJUSTMENT – FAILURE TO PROVIDE ACCURATE INFORMATION).