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

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

2. **Applicability.** The terms and conditions in the attached Manufacturer Agreement 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 Agreements are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft' s contract #GS-35F-0119Y, including, but not limited to the following:

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

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

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

(d) **Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement.

Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

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

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

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

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

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

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

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

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

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

(m) Future Fees or Penalties. All Manufacturer Agreement clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.

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

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

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

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

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

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

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

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

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

Breezy License and Services Agreement

This Breezy License and Services Agreement (this "Agreement"), effective as _____ ("Effective Date"), is entered into by and between BreezyPrint Corporation ("Breezy"), a Delaware corporation with its principal office at 160 Franklin Street, Suite 105, Oakland, California 94607; and [**Licensee Name**] ("Licensee"), a _____, with a principal office at _____. The parties shall be referred to collectively as the "Parties".

Licensee wishes to purchase from Breezy, and Breezy wishes to sell to Licensee, the number of Seat Licenses (defined below), allowing Licensee's designated employees, guests, clients, or other specifically designated end users ("Users") to use the software applications developed by Breezy and known as the Breezy Connector and the Breezy mobile applications (collectively, the "Software"). In consideration of the mutual covenants of the Parties herein and of other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. <u>License Grant</u>.

   (a) <u>Seat Licenses</u>: The term "Seat License" shall mean the ability of one User to install and use the Software on an unlimited number of mobile devices and computers, solely for its intended use (*viz.*, to permit Users to print and fax documents from their mobile devices).

   (a) <u>Grant</u>: Subject to the terms of this Agreement and conditioned upon payment by Licensee of the License Fee set forth below, Breezy hereby grants, and Licensee accepts, [___] Seat Licenses, provided that Licensee may at any time increase the number of Seat Licenses by means of an internet-based tool provided by Breezy. In the event of such increase in the number of Seat Licenses, Licensee agrees to pay promptly any additional License Fees payable in respect of such additional Seats Licenses.

   (c) <u>Restrictions</u>: The Software is the confidential and proprietary property of Breezy or third parties from which Breezy has obtained rights thereto. Licensee shall not sublicense, modify, or permit third parties to use or otherwise access the Software. Licensee receives no rights to and will not sell, assign, lease, transfer, encumber, or otherwise suffer to exist any lien or security interest (other than those of Breezy) on, nor allow any third person, firm, corporation, or other entity to copy, reproduce or disclose in any manner, in whole or in part, the Software. Licensee receives no rights to and shall not create nor attempt to create by reverse engineering, reverse assembly, decompiling or otherwise any part of the source code from any Software or permit any third party to do so, except as permitted by law. Licensee shall take all reasonable steps both during and after the term of this Agreement to insure that no unauthorized persons shall have access to the Software and that no unauthorized copy thereof, in whole or in part, in any form shall be made.

   (d) <u>Copies</u>: Licensee may make a reasonable number of copies of the Software only for archival purposes and for back-up purposes. All legends, trademarks, tradenames, copyright legends and other identifications must also be copied when copying the

Software. At Breezy's request, Licensee will provide Breezy with a list of copies currently in Licensee's possession or under its control.

4.   Non-Infringement of Intellectual Property. Breezy represents and warrants that the Software, and the use thereof by Licensee in accordance with the terms of the Agreement, does not and will not infringe, or constitute an infringement or misappropriation of, any intellectual property rights of a third party.

5. Limitation of Warranties. Breezy does not warrant that the Software will meet Licensee's requirements or be error free. ALL SOFTWARE IS PROVIDED "AS-IS." BREEZY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AND DISCLAIMS ANY WARRANTIES WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

6. Limitation of Liability. BREEZY'S CUMULATIVE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED ONE HUNDRED DOLLARS, REGARDLESS OF WHETHER BREEZY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE. BREEZY SHALL NOT BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTES, LOSS OF PROFITS, INTERRUPTION OF BUSINESS, OR FOR ANY OTHER INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

7. Term and Termination.

    (a) Term: This Agreement is entered into as of the Effective Date and shall continue for one year (the "Initial Term").

    (b) Termination: Licensee may terminate this Agreement at any time for any reason by giving Breezy written notice of such termination.

    (c) Effect of Termination: Within thirty (30) days after the date of termination or expiration of this Agreement, Licensee shall furnish to Breezy written notice certifying that the original and all copies, including partial copies, of the Software and any other materials received from Breezy have been returned or destroyed.

8. Assignment. Licensee may not delegate, assign or transfer this Agreement or any of its rights and obligations under this Agreement and any attempt to do so shall be void.

9. Notices. Notices to the parties shall be sent to the addresses first stated above, Attention: Legal, or such new address as a party specifies to the other in writing.

10. Governing Law. This Agreement will be governed by the federal laws of the United States, without regard to its conflicts of laws principles. This Agreement is prepared and executed and shall be interpreted in the English language only. 11. General.   This

Agreement , the underlying GSA Schedule Contract, the Schedule Pricelist and any applicable Orders, including all exhibits and attachments, if any, is the complete and exclusive statement of the agreement between the parties and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.   This Agreement shall not take precedence over the terms of the underlying GSA Schedule Contract or any specific, negotiated terms on the Ordering Activity's Purchase Order.   This Agreement may be modified only by a written instrument duly executed by authorized representatives of the parties. No failure by any Party to enforce any condition, term or provision of this Agreement shall not be construed as a waiver thereof, and no waiver by any Party of any condition, term or provision hereof shall be construed as a waiver of any other condition, term or provision. If any provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first stated above.

[Licensee Name]   **BreezyPrint Corporation**

By: By:

Name: Name: Jared Hansen

Title: Title: Chief Executive Officer

Phone: Phone: 415-830-4205

Email: Email: jared@breezy.com

Exhibit A

Pricing Terms for License and Services Agreement

The following pricing and discounts shall apply to the initial Term of this Agreement.

The pricing and discounts referred to below are contingent upon execution and delivery by Licensee of this License and Services Agreement by the close of business on December 31, 2011.

License fee per user per year	
Less Early Adopter Discount (50% for first year of License)	($
Initial Number of Licensed Seats	
License Fee for First Year of License	$
Less Pilot Program Fee	)
Total Due Upon Execution of This License and Services Agreement	**$**