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

1. **Scope.** This Carahsoft Rider and the NovoDynamics, Inc. ('Manufacturer') End User License Agreement (EULA) 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 EULA 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 EULA 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 GSA contracts as set forth in GSA 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 EULA referencing termination or cancellation the Manufacturer's EULA are hereby deemed to be deleted. Termination shall be governed by the FAR 52.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions: Carahsoft may request cancellation or termination of the License Agreement on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section Q below or if such remedy is otherwise ordered by a United States Federal Court..
  - (f) **Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41 U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA 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 EULA 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 EULA 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 EULA are hereby deemed to be deleted.
- (j) **Customer Indemnities.** All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All Manufacturer EULA 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 EULA 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 EULA 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 EULA, 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 EULA 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 EULA and this Rider contain no confidential or proprietary information and acknowledges the EULA 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.

## END USER LICENSE AGREEMENT

This End-User License Agreement (the "EULA") is a legal agreement between NovoDynamics Inc., a Delaware corporation ("NovoDynamics") and you, the original consumer purchaser of the NovoDynamics software product identified above (the "Customer"), which product includes computer software and the associated audiovisual works and may include printed materials, and electronic or "online" documentation and/or related media (collectively, the "Software Product"). By installing and/or otherwise using the Software Product, you agree to be bound by the terms and conditions of this EULA. If you do not agree to all of the provisions of this EULA, do not install or otherwise use the Software Product. IF YOU ARE TINDER THE AGE OF EIGHTEEN (18), PLEASE HAVE A PARENT OR GUARDIAN READ THE ENTIRE EULA PRIOR TO INSTALLING OR OTHERWISE USING THE SOFTWARE PRODUCT.

### I. LICENSE GRANT.

NovoDynamics hereby grants Customer a non-exclusive, non-transferable license to use the Software Product solely in accordance with the terms and subject to the conditions of this EULA. The Software Product incorporates various intellectual property rights, that may, include, without limitation, copyrights, trademarks, patents, trade secrets and other proprietary rights (collectively, the "Intellectual Property Rights"). While customer owns the physical media (if any) on which the Software Product is distributed, NovoDynamics retains all rights, title and interests in and to the computer software and other materials comprising the Software Product and all Intellectual Property Rights relating thereto.

### 2. RIGHTS AND RESTRICTIONS.

The Software Product is protected by U.S. and foreign copyright laws and international copyright treaties, as well as by other such intellectual property laws and treaties. The Software Product is licensed (and not sold) to Customer, and any and all rights not expressly granted to Customer herein are reserved by NovoDynamics.

(a) Installation. Customer may install and use one copy of the Software Product on a single designated computer.

This NovoDynamics Software Product, the installed copies of the Software Product that Customer is entitled to create hereunder may not be shared or otherwise used simultaneously on more than one computer.

(b) Reverse Engineering. Customer shall not adapt or otherwise modify, create any derivative work, or decompile, disassemble, reverse engineer, or otherwise attempt to derive any source code from, the Software Product (or any portion thereof) except and only to the extent that, notwithstanding such limitation, said activity is expressly permitted by applicable law.

(c) Rental. Customer does not have the right to publicly perform, rent, lease, loan, or sublicense the Software Product, or to otherwise provide any third party with access to and the opportunity to use the Software Product.

(d) Support Services. NovoDynamics may provide Customer with support services relating to the Software Product (collectively, "Support Services"). Customer's use of any such Support Services shall be subject to NovoDynamics' applicable policies and programs described in the end-user manual for the Software Product, in "online" documentation (if any), and in other such materials published by NovoDynamics. Any supplemental computer software (if any) provided by NovoDynamics as part of its Support Services shall be considered part of the Software Product for all intents and purposes and shall be governed by the provisions of this EULA. Any information that you disclose or provide in connection with the Support Services may be used by NovoDynamics for its business purposes, including, but not limited to, product development and support.

(d) Upgrades. NovoDynamics may from time to time, at its sole discretion, make an upgrade or other such revised version of the Software Product (an "Upgrade") available and notify Customer of the applicable terms and conditions for receiving any such Upgrade, which may require Customer to return certain components of the Software Product prior to receiving the subject Upgrade.

(e) Component Parts. The Software Product is licensed for use as a single product, and the component parts of the Software Product may not be separated for use in any other application(s) or for use on more than one computer (except as otherwise expressly authorized by NovoDynamics in writing).

### 3. THIRD PARTY SOFTWARE

The Software Product may include redistributable files, and/or other files provided by a third party vendor ("Third Party Product"). Since use of Third Party Product might be subject to license restrictions imposed by the third party vendor, you should refer to the on-line documentation (if any) provided with Third Party Product for any license restrictions imposed by the third party vendor. In any event, any license restrictions imposed by a third party vendor are in addition to, not in lieu of, the terms and conditions of this License.

### 4. LIMITED WARRANTY.

NovoDynamics warrants that the media on which the Software Product is recorded will be free from defects in materials and workmanship for a period of ninety (90) days after the date of the original Customer's purchase thereof. NovoDynamics' sole liability and obligation with respect to any breach of this limited express warranty is, at NovoDynamics' sole option, to (i) repair or replace any such defective media, or (ii)

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refund the purchase price (if any) paid by Customer for the Software Product, provided Customer returns such media to NovoDynamics (together with a copy of Customer's dated receipt regarding his/her purchase of such product) within one (1) week after the expiration of the applicable warranty period and provided that NovoDynamics can confirm the existence of the defective condition alleged by Customer. Customer shall be responsible for the costs of freight and insurance in returning any defective media to NovoDynamics, and NovoDynamics shall be responsible for the costs of shipping the repaired or replaced media back to Customer.

The foregoing limited warranty shall be inapplicable to any media that has been modified or subjected to accident, abuse, or unusual physical or electrical stress, or to any problem with the media that is unrelated to any defect in materials or workmanship. Any repaired or replacement media will be warranted for the remainder of the original warranty period or for thirty (30) days, whichever is greater. The limited express warranty set forth herein gives Customer certain legal rights, and Customer may also have certain other rights which vary from state to state and from jurisdiction to jurisdiction.

#### 5. NO OTHER WARRANTIES.

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 3, ABOVE, THE SOFTWARE PRODUCT AND ANY UPGRADE THERETO IS/ARE PROVIDED TO CUSTOMER ON AN "AS IS" BASIS, WITHOUT WARRANTY OF ANY KIND OR NATURE, NOVODYNAMICS AND ITS SUPPLIERS MAKE, AND CUSTOMER RECEIVES, NO WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF ANY THIRD-PARTY RIGHTS, AND THEIR EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION, REGARDING THE SOFTWARE PRODUCT AND/OR ANY UPGRADE THERETO.

#### 6. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOVODYNAMICS SHALL NOT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR OTHER DAMAGES OF ANY KIND OR NATURE ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE PRODUCT AND/OR ANY UPGRADE THERETO, EVEN IF NOVODYNAMICS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES, AND CUSTOMER HEREBY ASSUMES ALL RISKS AS TO TTM QUALITY, PERFORMANCE, OPERATION OF AND/OR INABILITY TO OPERATE THE SOFTWARE PRODUCT AND/OR ANY UPGRADE THERETO. IN NO EVENT SHALL NOVODYNAMICS' LIABILITY HEREUNDER EXCEED THE PRICE WHICH CUSTOMER PAID FOR THE ITEM(S) WHICH IS/ARE THE SUBJECT OF ANY CLAIMED LIABILITY. Some states do not allow the

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exclusion or limitation of incidental or consequential damages or of implied warranties, so certain of the foregoing provisions may not apply to Customer.

#### 7. U.S. GOVERNMENT RESTRICTED RIGHTS.

The Software Product and all Upgrades (if any) thereto are provided with restricted rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. "Manufacturer", as such term is used therein, is NovoDynamics Inc., 123 N. Ashley Street, Suite 210, Ann Arbor, MI 48104-1316, U.S.A.

#### 8. EXPORT LIABILITY ASSURANCES.

Customer acknowledges and agrees that the Software Product will not be exported outside the United States except as authorized and permitted by the laws and regulations of the United States. If the Software product has been rightfully obtained by Customer outside the United States, Customer agrees that he/she will not re-export the Software Product except as permitted by the laws and regulations of the United States and the laws and regulations of the jurisdiction in which Customer obtained the Software Product.

#### 9. TERMINATION.

Without prejudice to any of NovoDynamics' other rights and remedies under applicable law, NovoDynamics may, at its sole discretion, terminate this EULA if Customer fails to comply with any of the terms or conditions of this EULA. In the event this EULA is terminated, Customer must promptly destroy all copies of the Software Product (including all components thereof) and of each Upgrade thereto.

#### IO. GOVERNING LAW.

This EULA shall be governed by and construed under the laws of the State of Michigan, excluding that body of law related to choice of laws, and of the United States of America.

#### 11. USER REGISTRATION AND COMMUNICATION.

NovoDynamics reserves the right to gather end user registration, software usage, software version, hardware and Internet service provider information by means of registration as well as, if applicable, via the Internet client-server module included in the installation. This information will be used to notify customers and make decisions about technical support, product issues, upgrade notifications, and relevant marketing information. Notification to customers may be communicated to customers through aforementioned Internet client-server module included in the installation of the NovoDynamics product.

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## 12. Entire Agreement.

This EULA constitutes the entire agreement and understanding of the parties regarding Customer's possession and use of the Software Product and the related subject matter hereof, and supersedes the provisions of any earlier end-user license agreement(s) applicable to any programs that constitute part of the Software product. The meanings or the Sections and subsections of this EULA are for convenience of reference only and shall not be of any binding force.

If any provision of this EULA (or any part thereof) is determined to be void, invalid or otherwise unenforceable, such provision shall be deemed deleted from this EULA, and the remaining provisions of this EULA shall continue in full force and effect. No failure or delay by either party in exercising any right, power or remedy under this EULA shall constitute a waiver of any such right, power or remedy.