

Amendment Number 3
to
Contract Number DIR-TSO-3926
between
State of Texas, acting by and through the Department of Information Resources
and
Carahsoft Technology Corporation

This Amendment Number **3** to **Contract** Number **DIR-TSO-3926** ("**Contract**") is between the Department of Information Resources ("DIR") and Carahsoft Technology Corporation ("**Vendor**"). DIR and Vendor agree to modify the terms and conditions of the **Contract** as follows:

1. **Introduction, Section C. Order of Precedence**, is hereby updated and restated as follows:

C. Order of Precedence

For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Proofpoint General Terms and Conditions; Appendix E, Proofpoint Security Products Exhibit; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-398, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-398, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Appendix E, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. **Contract, Section 6. Notification** is hereby updated and restated as follows:

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Hershel Becker or Successor in Office
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-4700

If sent to the Vendor:

Kia Hollenhorst
Carahsoft Technology Corporation
11493 Sunset Hills Rd, Ste 100
Reston, VA 20190
Phone: (703) 871-8501
Email: kai.hollenhorst@carahsoft.com

3. **Contract, Section 7. Software License Agreements**, are hereby renamed **Section 7. Software License Agreements and Service Agreements** and updated and restated as follows:

7. Software License Agreements and Service Agreements

A. Shrink/Click-wrap License Agreement

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.

B. Conflicting or Additional Terms

In the event that conflicting or additional terms in Vendor Software License Agreements, Shrink/Click Wrap License Agreements, Service Agreements or linked or supplemental documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract. In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this contract; provided further that any update to such linked documents shall only apply to purchases or leases of the associated Vendor

product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor's initial response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated.

In the event that different or additional terms or conditions would otherwise result from accessing a linked document, agreement to said linked document shall not be effective until reviewed and approved in writing by Customer's authorized signatory. Vendor shall not [without prior written agreement from Customer's authorized signatory,] require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer. If Vendor attempts to do any of the foregoing, the prohibited documents will be void and inapplicable to the contract between DIR and Vendor or Vendor and Customer, and Vendor will nonetheless be obligated to perform the contract without regard to the prohibited documents, unless Customer elects instead to terminate the contract, which in such case may be identified as a termination for cause against Vendor. The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer of Publisher.

C. Services Agreements

Services provided under this Contract for Proofpoint shall be in accordance with the Services Agreement as set forth in Appendix D Proofpoint General Terms and Conditions and Appendix E Proofpoint Security Products Exhibit of this Contract. No changes to the Services Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.

4. **Appendix A. Standard Terms and Conditions for Product and Related Services Contracts dated 9/29/2017**, is here by restated in its entirety and replaced with the attached **Appendix A. Standard Terms and Conditions for Product and Services Contracts dated 11/06/2019**.
5. **Appendix D, Proofpoint General Terms and Conditions**, is hereby added in its entirety (per Amendment 3).
6. **Appendix E, Proofpoint Security Products Exhibit**, is hereby added in its entirety (per Amendment 3).

All other terms and conditions of the **Contract**, not expressly amended herein, shall remain in full force and effect. In the event of conflict among the provisions, the order of precedence shall be this Amendment Number 3, then Amendment Number 2, then Amendment Number 1, and then the Contract.

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IN WITNESS WHEREOF, the parties hereby execute this amendment to be effective as of the date of the last signature.

Carahsoft Technology Corporation

Authorized By: Signature on File

Name: David Marshall-Pinko

Title: Contracts Specialist

Date: 1/11/2021 | 8:27 AM CST

The State of Texas, acting by and through the Department of Information Resources

Authorized By: Signature on File

Name: Hershel Becker

Title: Chief Procurement Officer

Date: 1/20/2021 | 3:15 PM CST

MH

1/20/2021 | 9:43 AM CST

Office of General Counsel: _____