Hyperglance, Inc.

EC America Rider to Product Specific License Terms and Conditions
(for U.S. Government End Users)

1. **Scope**. This Rider and the attached Hyperglance, Inc. ("Manufacturer") product specific license terms establish the terms and conditions enabling EC America ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under EC America's GSA MAS IT contract number GS-35F-0511T (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.

2. **Applicability**. Whereas GSA and EC America agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law, including but not limited to GSAR 552.212-4 Contract Terms and Conditions-Commercial Items. To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:

   a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.2I, as may be revised from time to time.

   b) **Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.

   c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase 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) **Termination**. Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.

   e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal 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 Federal law, they will not apply to this Rider or the underlying Schedule Contract.

   f) **Equitable remedies**. Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.

   g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.

h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.

j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.

k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.

l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.

m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.

n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).

o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any.

q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that EC America as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.

r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.

s) **Public Access to Information.** EC America agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.

t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity 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. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

u) Alternate Dispute Resolution. The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a Federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.

3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

United States End User License Agreement (EULA)

1 INTRODUCTION

1.1 HYPERGLANCE INC., a Delaware corporation, with an office at 2880 Zanker Road, Suite 203, San Jose, CA 95134 ("Hyperglance") provides certain software applications, including without limitation cloud management software applications (collectively, "Software").

1.2 This Customer License Agreement forms an agreement (together with the Special Conditions (as defined herein), the "Agreement") between Hyperglance and the Ordering Activity under GSA Schedule contracts identified in the Order ("Customer" or "You") and governs all access to and use of the Software by You. BY EXECUTING A WRITTEN ORDER FORTHE SOFTWARE, YOU ARE REPRESENTING TO US THAT YOU ARE ELIGIBLE TO ACCESS AND USE THE SOFTWARE AND YOU ARE CONSENTING TO BE LEGALLY BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS OR CANNOT MAKE SUCH REPRESENTATIONS, PLEASE DO NOT USE THE SOFTWARE. IF YOU ARE USING THE SOFTWARE ON BEHALF OF AN ENTITY, ORGANIZATION, OR COMPANY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THAT ORGANIZATION THIS AGREEMENT AND YOU AGREE TO BE BOUND BY THIS AGREEMENT ON BEHALF OF THAT ORGANIZATION.

1.3 You and each user must be at least eighteen (18) years of age to use the Software. By using the Software, You confirm that You have read, accept and agrees to be bound by the terms of this Agreement, our Privacy Policy attached hereto, available at https://www.hyperglance.com/legal/privacy/, as may be non-materially amended from time to time, and all other instructions provided in relation to the Software.

1.4 Hyperglance reserves the right at any time to update, modify, improve, change, enhance, or discontinue any part or all of the Software. In the event

that Hyperglance discontinues or materially diminishes functionality of Software that You have contracted for, You shall be entitled to a pro rata refund for any fees paid not used.

1.5 Hyperglance reserves the right to non-materially amend this Agreement upon notice to Customer and continued use of the Software by Customer shall be deemed accepted of those amendments.

1.6 RESERVED.

2 TRIALS & BETA TESTING

2.1 The Software may be made available on a free trial basis (a "Trial") or for purposes of beta testing certain functions or features ("Beta Testing").

2.2 Unless specified otherwise by Hyperglance, the following restrictions shall apply during any Trial:

(a) the applicable number of resources shall be limited (and Customer may not run multiple Trials);

(b) there shall be limited delivery, download, access via specific cloud service, operating system, container or virtual machine - in each case, Customer shall remain responsible for delivery and access, in accordance with the terms of the third party provider and otherwise at the risk of Customer;

(c) TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED DURING A TRIAL AND HYPERGLANCE SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LIABILITY OR DAMAGES OF ANY KIND ARISING FROM CUSTOMER'S USE OF THE SOFTWARE DURING A TRIAL PERIOD.

(d) there shall be no support, maintenance and upgrades included during the Trial; and

(e) upon completion of the Trial, access to the Software will either (1) cease, or (2)

the subscription will commence as purchased Software and applicable Fees shall apply after the Trial.

2.3 Any Software made available for Beta Testing may contain errors, including errors that may cause the Software to malfunction or cause a loss of data or Content. Hyperglance is not obligated to correct errors, correct the effects of errors (e.g., fix any account or recover lost data or content), or provide any technical support related to use of the Software (including any account or data or content on it) in connection with Beta Testing. DURING BETA TESTING, TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED AND HYPERGLANCE SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LIABILITY OR DAMAGES OF ANY KIND ARISING FROM CUSTOMER'S USE OF THE SOFTWARE AS PART OF BETA TESTING.

3   LICENSE

3.1 Subject to payment of all applicable fees and compliance with the terms and conditions of this Agreement, Customer is granted a worldwide, revocable, limited, non-transferable, non-assignable and non-exclusive license to access the Software for the duration of the Term, in accordance with the terms and conditions of this Agreement and the Hyperglance Order Form.

3.2 This Agreement provides for a license of the Software only and is not a sale of the original Software or any copy of it.

3.3 The Software is licensed to Customer in respect of the business of Customer, subject to the Special Conditions (if any) and such further terms or limitations as Hyperglance sees fit. Customer must implement adequate controls to ensure that it complies with the terms and conditions of this Agreement.

3.4 Customer shall not copy, modify, distribute, sublicense, disclose, market, rent, lease, or offer remote computing services, networking, batch processing or transfer of,

the Software to any third party, or permit any person or entity to have access to the Software by means of a time sharing, remote computing services, networking, batch processing, service bureau or time sharing arrangement.

4 CONDITIONS OF USE

4.1 Customer agrees that it shall only use the Software for legal purposes and shall:

(a) limit use of the Software to the approved number of concurrent individua users for the applicable Fees;

(b) not designate more than the specified number of named users, nor model more that the specified number of resources (physical and logical);

(c) be responsible for Customer's operating systems, including compliance with third party terms and conditions;

(d) only display the Software in object code;

(e) not engage in any conduct that is unlawful, immoral, threatening, abusive or in a way that is deemed unreasonable by Hyperglance in its discretion.

(f) not use the Software in any manner inconsistent with this Agreement;

(g) not act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the Software or any operating system;

(h) not infringe our intellectual property rights or those of any third party in relation to use of the Software or any service (to the extent that such use is not licensed by this Agreement);

(i)   not transmit any material that is defamatory, offensive or otherwise objectionable in relation to use of the Software;

(j)   not use the Software in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and

(k) not collect or harvest any information or data from the Software or our systems or attempt to decipher any transmissions to or from the servers running any Software.

4.2   Any breach of these conditions by Customer shall entitle Hyperglance to terminate this Agreement in accordance with the Contract Disputes Act without prejudice to its rights to enforce other rights under this Agreement.

5 FEES

5.1 Fees are payable upon deployment for use of the Software as specified by Hyperglance.

5.2 Customer agrees to pay all Fees in the manner as directed by Hyperglance, at the time they are required and as a condition of using the Software. If the Software has been purchased from an Authorized Reseller, Customer must make all payments in accordance with any specific requirements of the Authorized Reseller.

5.3 Reserved.

5.4 Reserved.

5.5 Hyperglance or its authorized reseller as applicable shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with 552.212-4(k).

5.6 Customer shall not be entitled to set off or withhold any amount payable under this Agreement against any amount payable to Customer (whether under this Agreement or otherwise).

5.7 If Customer fails to pay an amount due under this Agreement by the due date, interest may be charged on the overdue amount at the Interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

6 ACCESS & USE

6.1 Hyperglance reserves the right to upgrade, maintain, tune, backup, amend, add or remove features, redesign, improve or otherwise alter the Software. In the event that Hyperglance discontinues or materially diminishes functionality of Software that You have contracted for, You shall be entitled to a pro rata refund for any fees paid not used.

6.2 Customer agrees and accepts that the functional elements of the Software may be hosted by Hyperglance or other third party, in which case the Software shall only be installed, accessed and maintained by Hyperglance or that third party using the internet or other connection to Hyperglance or other servers.

6.3 Subject to this Agreement, Customer may authorize users to access the Software. Hyperglance accepts no liability for access by users authorized by Customer or using login details of users authorized by Customer.

6.4 Customer is responsible for ensuring that users authorized to use the Software comply with this Agreement in full and are liable for any breach by them.

6.5 Hyperglance reserves the right, subject to Government security requirements and no more than once in any annual period, to audit Customer's use of the Software during normal business hours and with reasonable notice and to include means within the Software to limit Customer's use of the Software to the licensed number of resources.

6.6 Certain features of the Software permit Customer to conduct cloud automaton and remediation activities ("Automation") that may result in significant changes to Customer's systems and cloud infrastructure. Customer acknowledges and agrees that Hyperglance does not control or direct a Customer's access or use of the Automation and Customer is solely responsible for any use, decisions or instructions made by Customer with respect to Automation and the consequences thereof. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR IN THE CASE OF GROSS NEGLIGENCE, HYPERGLANCE IS NOT LIABLE FOR ANY DAMAGES OR LOSS RESULTING FROM CUSTOMER'S USE OF AUTOMATION, REGARDLESS OF WHETHER SUCH RESULTS WERE UNINTENDED OR UNEXPECTED, INCLUDING WITHOUTH LIMITATION ANY IMPACT ON CUSTOMER'S CLOUD INFRASTRUCTURE OR LOSS OF DATA, SYSTEMS, OR CONTENT.

7 INTELLECTUAL PROPERTY

7.1 Customer acknowledges that Hyperglance and its licensors retain ownership of all Intellectual Property in or to the Software. The Intellectual Property subject to this Agreement shall include:

(a) all source code, any compiler, similar computer program or other software which is necessary to convert the source code form into the object code form of the Software, and runtime software necessary to execute the source code form of the Software (including interpreters and templates) and any other documentation of the source code form of the Software;

(b) any Intellectual Property created or developed by Hyperglance in the process of providing the Software, including all derivative works, improvements, enhancements, updates and corrections (irrespective of invention, creation or authorship), source code, usage data, and ideas related to the Software; and

(c) all explanations, flow charts, schematics, algorithms, subroutine descriptions, class and object descriptions, memory and overlay maps, statements of principles of operations, architecture standards, data flow descriptions, class, base-class and sub-class descriptions, data structures and control logic of the Software.

7.2 The Software may use software, proprietary systems and Intellectual Property owned by Hyperglance, or for which Hyperglance has appropriate authority to use, and Customer agrees that such is protected by Intellectual Property rights, both domestically and internationally. Customer warrants that it shall not infringe on any Intellectual Property rights through the use of the Software or otherwise, including the Hyperglance trademark, logo and design.

7.3 Customer further warrants that by using the Software Customer will not

(a) use any Intellectual Property of Hyperglance without express permission;
(b) copy any part of the Software for Customer's own commercial purposes; or
(c) directly or indirectly copy, recreate, decompile, reverse engineer or otherwise obtain, modify or use any source or object code, architecture, algorithms contained in any documentation associated with it.

7.4 Customer may, from time to time, may submit comments, information, questions, data, ideas, description of processes, feature requests, suggestions, or other information to Hyperglance ("Feedback"). Customer hereby assigns all Intellectual Property in Feedback to Hyperglance and Hyperglance may in connection with any of its products or services freely use and otherwise exploit any Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. Hyperglance **acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.** To the extent that any derivative works of the Software are developed by or for Customer, Customer hereby assigns all Intellectual Property in and to such derivative works to Hyperglance. To the extent such derivative works cannot be assigned to Hyperglance, Customer hereby grants Hyperglance a perpetual and irrevocable (irrespective of the expiration or termination of this Agreement), non-exclusive, transferable, worldwide, sublicensable, and royalty-free license to reproduce, distribute, perform, and display any derivative works of the Software developed by or for Customer, and to use, make, have made, sell, offer to sell, import, export, and otherwise exploit any product based on any such derivative works.

7.5 Hyperglance is entitled to reasonable attribution of its Software, including specifying any relevant activities are 'Powered by Hyperglance'.

7.6 Nothing in this clause shall affect the ownership and responsibility of Customer for all Content relating to Customer (and not the Software itself), the networks and network devices, servers, server hardware, storage systems, computer systems, file systems, print systems, applications, software or software components, database management systems and related systems, used by the used by Customer to connect, exchange data, interface or otherwise interoperate or communicate with the Software.

7.7 Customer expressly consents to the collection and use by Hyperglance of designs, logos, images and other Content from Customer, authorizes the reproduction of such Content and grants to Hyperglance an irrevocable, royalty-free, non-exclusive, non-transferable, and worldwide license and right to use such Content for the purpose of providing the Software to Customer.

8 THIRD PARTY SERVICES & SOFTWARE

8.1 The Software may use native device functionality and other data from certain third party services ("TPS"), which will be governed by the applicable TPS terms & conditions. Hyperglance is not responsible and accepts no liability whatsoever for any TPS or any interruptions to the website of Customer due to the TPS under any circumstances. Without limiting the foregoing, the Software may include open source software, and to the extent the open source license provisions conflicts with this Agreement, the open source license provisions will apply.

9 SUPPORT SERVICES

9.1 Hyperglance shall use commercially reasonable efforts to provide the following support services during normal business hours for the Software to Customer ("Support Services") and respond within 24 hours to requests from Customers for Support Services:

(a) Ongoing updates and fixes for bugs and system instability;
(b) Email and online advice to assist with the downloading, installation and configuration of the Software;
(c) Assistance with troubleshooting to diagnose and fix errors in the Software; and
(d) Access to instructions, information and other materials relating to use of the Software.

9.2 Hyperglance may agree to provide additional service level support for individual Customers subject to payment of additional Fees.

9.3 In no circumstances whatsoever will Hyperglance have any obligation to support any customization, altered or modified Software, use with unapproved hardware, Software accessed or used in breach of this Agreement (including on unlicensed resources) or inconsistent with instructions from Hyperglance.

9.4 Hyperglance may specify a designated contact, subcontract and/or prioritize the provision of Support Services in its absolute discretion. If the Software has been purchased from an Authorized Reseller, Customer must contact the

Authorized Reseller to manage the provision of all Support Services.

10 LIMITED WARRANTY

10.1 HYPERGLANCE WARRANTS THAT THE SOFTWARE WILL, FOR A PERIOD OF SIXTY (60) DAYS FROM THE DATE OF YOUR RECEIPT, PERFORM SUBSTANTIALLY IN ACCORDANCE WITH SOFTWARE WRITTEN MATERIALS ACCOMPANYING IT. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, CUSTOMER AGREES THAT IT USES THE SOFTWARE ENTIRELY AT ITS OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY LAW, HYPERGLANCE DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL MEET CUSTOMER REQUIREMENTS.

10.2 TO THE MAXIMUM EXTENT PERMITTED BY LAW, HYPERGLANCE DISCLAIMS ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. HYPERGLANCE DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. NO RIGHTS OR REMEDIES REFERRED TO IN ARTICLE 2A OF THE UCC WILL BE CONFERRED ON YOU UNLESS EXPRESSLY GRANTED HEREIN. HYPERGLANCE SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES.

10.3 IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SOFTWARE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO SIXTY (60) DAYS FROM THE DATE OF DELIVERY.

10.4 NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY HYPERGLANCE, ITS DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN.

10.5 SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIE SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT

VARY FROM STATE TO STATE.

10.6 TO THE EXTENT PERMITTED BY APPLICABLE LAW, HYPERGLANCE'S SOLE
LIABILITY AND CUSTOMER'S SOLE REMEDY IN CONNECTION WITH ANY IMPLIED
WARRANTY THAT CANNOT BE EXCLUDED, IS RESTRICTED AT HYPERGLANCE'S
OPTION TO THE RE-SUPPLY OF SERVICES, OR PAYMENT OF THE COST OF RE-
SUPPLY OF SERVICES (IF APPLICABLE).

11 LIABILITY & INDEMNITY

11.1 Customer acknowledges that Hyperglance is not responsible for the conduct
or activities of any user and that Hyperglance is not liable for such under any
circumstances, including:

(a) any illegal conduct of any users of the Software (whether authorized by
Customer or not);

(b) any defect or fault in the Software resulting from customization or
modifications made by or on behalf of Customer;

(c) any use of the Software in violation of this Agreement or other breach any of the
terms or conditions set out in this Agreement.

11.2 Reserved.

11.3 TO THE MAXIMUM EXTENT PERMITTED BY APPLICBALE LAW, NEITHER
HYPERGLANCE NOR ITS SUPPLIERS SHALL BE LIABLE TO YOU OR ANY THIRD PARTY
FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, COVER OR CONSEQUENTIAL
DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES F THE INABILITY TO USE
EQUIPMENT OR ACCESS DATA, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS
INTERRUPTION OR THE LIKE), ARISING OUT OF THE USE OF, OR INABILITY TO USE,
THE SOFTWARE AND BASED ON ANY THEORY OF LIABILITY INCLUDING BREACH OF
CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT
LIABILITY OR OTHERWISE, EVEN IF HYPERGLANCE OR ITS REPRESENTATIVES HAVE
BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET

FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

11.4 TO THE MAXIMUM EXTENT PERMITTED BY APPLICBALE LAW, NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT OR ANY SPECIAL CONDITIONS, HYPERGLANCE AND ITS SUPPLIERS' ENTIRE AGREGGATE LIABILITY TO YOU WILL NOT EXCEED THE AMOUNT ACTUALLY PAID BY YOU TO HYPERGLANCE.

11.5 SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OF CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

11.6 Each party acknowledges that it has not relied on any representation, warranty or statement made by any other party, other than as set out in this Agreement.

11.7 Customer acknowledges and agrees that Customer is solely responsible for the accuracy, quality and legality of all Content managed using the Software.

12 BASIS OF THE BARGAIN

12.1 The Limited Warranty and Disclaimer, Exclusive Remedies and Limited Liability set forth above are fundamental elements of the basis of the agreement between Hyperglance and You. Hyperglance would not be able to provide the Software on an economic basis without such limitations. Such Limited Warranty and Disclaimer, Exclusive Remedies and Limited Liability inure to the benefit of Hyperglance's licensors.

13 US GOVERNMENT RESTRICTED RIGHTS

13.1 U.S. Government Restricted Rights. The Software and accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to FAR Section 12.212, as

applicable. Any use, modification, reproduction release, performance, display or disclosure of the software and accompanying documentation by the U.S. 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.

14 TERMINATION

14.1 This Agreement shall continue for the period specified on relevant website or as separately agreed with Hyperglance (the "Term") and maybe renewed for successive terms of the same length by executing a written order for the successive term unless terminated in accordance with this Agreement. In the event that no term is specified, the initial Term shall be twelve (12) months.

14.2 Customer may terminate this Agreement after the Term or otherwise or as separately agreed with Hyperglance prior to the end of the Term.

14.3 When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Hyperglance shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

14.4 Expiration or termination of this Agreement is without prejudice to and does not affect the accrued rights or remedies of any of the parties arising in any way out of this Agreement up to the date of expiration or termination.

14.5 All provisions of this Agreement which by their nature should survive termination shall survive termination, including intellectual property rights, limitation of liability, disclaimer of warranty and indemnification.

15 RESERVED.

16 RESERVED.

17 GOVERNING LAW

17.1 This Agreement will be governed by the Federal Government of the United States, without reference to or any other jurisdiction's conflict of laws principles. In addition, Each of the United Nations Convention on Contracts for the International Sale of Goods and the United Nations Convention on the Limitation Period in the International Sale of Goods is hereby expressly excluded and will not apply to this Agreement.

18 NOTICES

18.1 Customer can direct notices, enquiries, complaints and so forth to Hyperglance at the address as set out on the first page of this Agreement. Hyperglance will notify Customer of a change of details from time-to-time.

18.2 Hyperglance will send Customer notices and other correspondence to the details that Customer submits to Hyperglance, or that Customer notifies Hyperglance of from time-to-time. It is Customer's responsibility to update its contact details as they change.

18.3 A consent, notice or communication under this Agreement is effective if it is sent as an electronic communication unless required to be physically delivered under law.

19 ASSIGNMENT

19.1 Customer may only assign or otherwise transfer their rights under this Agreement with the written consent of Hyperglance.

19.2 Reserved.

20 GENERAL

20.1 Formation. This Agreement is formed when Customer acknowledges their consent to this Agreement, whether done electronically or physically.

20.2 Precedence. To the extent that the Special Conditions are inconsistent with this Agreement, the Special Conditions will prevail. If this Agreement is inconsistent with any other document or agreement between the parties, this document prevails to the extent of the inconsistency.

20.3 Disclaimer. Each party acknowledges that it has not relied on any representation, warranty or statement made by any other party, other than as set out in this Agreement.

20.4 Relationship. The relationship of the parties to this Agreement does not form a joint venture or partnership.

20.5 Waiver. No clause of this Agreement will be deemed waived and no breach excused unless such waiver or consent is provided in writing.

20.6 Further Assurances. Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transaction facilitated by it.

20.7 Liability for Expenses. Each party must pay its own expenses incurred in negotiating or executing, this Agreement.

20.8 Third Parties. To the fullest extent permitted under applicable law, any person who is not a party to this Agreement has no rights under this Agreement nor has any benefit conferred upon them by virtue of this Agreement, including to enforce any terms of this agreement

20.9 Counterparts. This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

20.10 Time. Time is of the essence in this Agreement.

20.11 Severability. Any clause of this Agreement, which is invalid or unenforceable is ineffective to the extent of the invalidity or unenforceability without affecting the remaining

clauses of this Agreement.

20.12 Interpretation. Headings are only for convenience and do not affect interpretation. The following rules apply in this Agreement unless the context requires otherwise:

(a) The singular includes the plural and the opposite also applies.

(b) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.

(c) A reference to a clause refers to clauses in this Agreement.

(d) A reference to legislation is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it.

(e) Mentioning anything after includes, including, or similar expressions, does not limit anything else that might be included.

(f) A reference to a party to this Agreement or another agreement or document includes that party's successors and permitted substitutes and assigns (and, where applicable, the party's legal personal representatives).

(g) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.

(h) A reference to information is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.

21.13 Definitions. The following definitions apply in this document:

(a) "Agreement" means this Agreement and any Special Conditions.

(b) "Business Day" means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in San Francisco, California.

(c) "Content" means content, data and other information that is accessed or used via the Software.

(d) "Fees" means the fees and charges for use of the Software as specified by the GSA

Schedule Pricelist.

(e) "Hyperglance Order Form" means the online or offline order form executed by Customer for the Software.

(f) "Intellectual Property" means all rights, title and interest (present and future) in and to patents, copyrights, trademarks (and all goodwill associated therewith), trade names, trade secrets, moral rights, computer software, databases, confidential information, designs, domain names, formulas, inventions, knowhow, and other intellectual property and any application or registration of the foregoing and the benefit of any renewal or extension thereof.

(g) "Special Conditions" means any agreement or other terms and conditions agreed between Customer and Hyperglance in writing (including in the Hyperglance Order Form).

END