HYPERFISH SOFTWARE-AS-A-SERVICE SUBSCRIPTION AGREEMENT

This Hyperfish inc. ("Hyperfish") Software-as-a-Service Subscription Agreement ("Agreement") for a subscription to the Hyperfish Software-as-a-Service (the "Hyperfish Service") is between Hyperfish and the customer (individual or entity) that has purchased a subscription to the Hyperfish Service ("Customer"). If you are an individual using the Hyperfish Service on behalf of a corporation, partnership, or other entity, then that entity will be the Customer, and you represent and warrant that you are authorized to enter into this Agreement. Each of Hyperfish and Customer is a "Party" and together they are the "Parties."

This Agreement applies only to the Hyperfish Service and does not grant Customer rights to any other Hyperfish software or services, which may be made available under separate agreements.

From time to time, Hyperfish may modify this Agreement. Unless otherwise specified by Hyperfish, changes become effective for existing subscription Customers upon renewal of then-current Subscription Term. Hyperfish will use reasonable efforts to notify Customer of the changes through communications through Hyperfish Online, email, or other means. Customer may be required to click to accept the modified Agreement before using the Hyperfish Subscription in a renewal Subscription Term, and in any event continued use of the Hyperfish Subscription during the renewal Subscription Term will constitute Customer's acceptance of the version of the Agreement in effect at the time the renewal Subscription Term begins.

IMPORTANT: IF CUSTOMER DOES NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, CUSTOMER SHALL NOT, INSTALL ACCESS OR USE THE HYPERFISH SERVICE. BY CHECKING THE ACCEPTANCE BOX OR INSTALLING OR USING ANY PORTION OF THE HYPERFISH SERVICE, CUSTOMER IS ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

1. Hyperfish Service Subscription

1.1 Provision of the Hyperfish Service. The Hyperfish Service is provided by Hyperfish on a subscription basis for a set term designated herein or in the applicable Order Form (each, a "Subscription Term"). The Hyperfish Service may be delivered to Customer as software to be installed on Customer's designated on-premises server or other device and/or as an online service, as designated in the applicable Order Form.

1.2 Trial Access. If Hyperfish has made available to Customer free, trial, or evaluation access to the Hyperfish Service ("**Trial Access**"), such access is limited to evaluating the Hyperfish Service to determine whether to purchase a subscription from Hyperfish. Customer may not use Trial Access for any other purposes, including without limitation for any competitive analysis, commercial, professional, or for-profit purposes. Hyperfish has the right to terminate Trial Access at any time. Unless Customer purchases a subscription for the Hyperfish Service, upon any such termination or expiration Customer's Trial Access will cease. If Customer purchases a subscription to the Hyperfish Service, all of the terms and conditions in this Agreement will apply to such purchase and the use of the Hyperfish Service. **NOTWITHSTANDING ANYTHING IN THIS**

AGREMEENT TO THE CONTRARY, HYPERFISH SHALL HAVE NO LIABILITY, WARRANTY, INDEMNITY, SUPPORT, OR OTHER OBLIGATION WITH RESPECT TO TRIAL ACCESS.

1.3   License to Use the Hyperfish Service. Hyperfish owns all rights, title and interest in and to the Hyperfish Service. Subject to the terms of this Agreement (including without limitation any restrictions and limitations designated in the applicable Order Form), Hyperfish hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-assignable right to access and use the Hyperfish Service solely for its own internal business purposes during the Subscription Term. Subject to the limited rights expressly granted hereunder, Hyperfish reserves all rights, title and interest in and to the Hyperfish Service, including without limitation all related Intellectual Property Rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

1.4   Restrictions. Customer must not, directly or indirectly:

(a) modify, copy or create any derivative works based on the Hyperfish Service;

(b) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer the Hyperfish Service in any form of service bureau or otherwise make the Hyperfish Service available to any third party;

(c) frame or mirror any content forming part of the Hyperfish Service, other than on Customer's own intranet for Customer's internal business purposes as permitted under this Agreement;

(d) use the Hyperfish Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or store or transmit material in violation of any third-party privacy right;

(e) use the Hyperfish Service to store or transmit Harmful Code;

(f) interfere with or disrupt the integrity or performance of the Hyperfish Service;

(g) attempt to gain unauthorized access to the Hyperfish Service or its related systems or networks;

(h) permit direct or indirect access to or use of the Hyperfish Service in a way that circumvents a contractual usage limit under this Agreement;

(i) reverse engineer or decompile any portion of the Hyperfish Service, including without limitation any software utilized by Hyperfish in the provision of the Hyperfish Service;

(j) access the Hyperfish Service in order to build any commercially available product or the Hyperfish Service or otherwise commercially exploit the Hyperfish Service; or

(k) copy any features, functions, integrations, interfaces, or graphics of the Hyperfish Service and/or any related software.

2.   USE OF HYPERFISH SERVICE

2.1   Purchased Volumes. The Hyperfish Service is provided to Customer according to the Purchased Volumes and any other limitations set forth in the Order Form. Customer shall limit use of and access to the Hyperfish Service to the Purchased Volumes in the Order Form or any amendment thereto as provided for in Section 9.2 herein. Customer may increase the Purchased Volumes at any time during the term of the Agreement. If Customer is unable to comply with the applicable Purchased Volumes, Customer will execute an Order Form for additional quantities promptly upon Hyperfish's request.

2.2   Customer Responsibilities and Customer Content. Customer will use the Service solely for its internal business purposes and not for the benefit of any third party. Customer shall:

(a) be responsible for Users' compliance with this Agreement;

(b) be responsible for the accuracy, quality, appropriateness, and legality of any Customer data or other business information ("Customer Content") used in the Hyperfish Service;

(c) use commercially reasonable efforts to prevent unauthorized access to or use of the Hyperfish Service, and notify Hyperfish promptly of any such unauthorized access or use; and

(d) use the Hyperfish Service only in accordance with the terms of this Agreement and applicable laws and government regulations. Customer grants Hyperfish a worldwide, perpetual, non-exclusive, royalty-free right and license to host, store, transfer, display, perform, reproduce, modify, and distribute Customer Content, in whole or in part, in any media formats and through any media channels (now known or hereafter developed) for the sole purpose of providing the Hyperfish Service to Customer and addressing any service or technical problems.

2.3   Hyperfish Responsibilities. Hyperfish shall implement commercially reasonable technical and organizational measures to secure availability, confidentiality and integrity with respect to the Hyperfish Service and other Customer Content and information. However, unless explicitly otherwise agreed in writing between Parties, the Hyperfish Service is provided on an "as is" and "as available" basis. The Hyperfish Service may be subject to limitations, delays, and other problems inherent in the use of the cloud computing, Internet and electronic communications. Hyperfish shall not be responsible for any delays, delivery failures, or other damage resulting from such problems. Hyperfish shall retain the right to collect usage and other statistics from the Hyperfish Service to be used to monitor compliance with applicable usage limits and for diagnostic, operational, performance and product improvement purposes.

3.   FEES AND PAYMENT

3.1   Fees. Customer must pay all fees specified in all Order Forms. Except as otherwise stated in an Order Form, all fees are quoted and payable in U.S. dollars and are based on the Hyperfish Service rights acquired and not actual usage. Except as otherwise stated in an Order Form or as provided herein, payments must be made on an annual basis in advance.

3.2   Non-cancelable and non-refundable. All payment obligations under any and all Order Forms are non-cancelable and all payments made are non-refundable. The license rights for the usage quantities set forth on any respective Order Form cannot be decreased during the Initial Term.

3.3   Invoicing and Payment. Fees for the Hyperfish Service will be invoiced in accordance with the relevant Order Form. The first year's Subscription Fees, as specified in each Order Form, are due and payable upon Customer's execution of such Order Form. All other fees due hereunder will be due and payable within thirty (30) days of invoice date. Customer will provide Hyperfish with complete and accurate billing and contact information.

3.4   Overdue Payments. Any payment not received from Customer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Hyperfish's discretion, late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

3.5   Non-Payment and Suspension of Service. If Customer's account is more than thirty (30) days past due (except with respect to charges subject to a reasonable and good faith dispute), in addition to any other rights or remedies it may have under this Agreement or by law, Hyperfish reserves the right to suspend the Service upon thirty (30) days written notice, without liability to Customer, until such amounts are paid in full.

3.6   Taxes. Except as otherwise stated in an Order Form, Hyperfish's fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties, or similar governmental assessments of any nature, including without limitation value-added, excise, use, or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder, this Agreement, and the Hyperfish Service. If Hyperfish has a legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount will be invoiced to and paid by Customer, unless Customer provides Hyperfish with a valid tax exemption certificate authorized by the appropriate taxing authority.

4.   CONFIDENTIALITY

4.1   Definition of Confidential Information. "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, in connection with this Service, that is designated as confidential or that reasonably should be understood by the Receiving Party to be confidential given the nature of the information and the circumstances of disclosure. Hyperfish Confidential Information includes the Hyperfish Service and Documentation. Confidential Information of each party includes software, code, business and marketing plans, financial information, technology and technical information, inventions, know-how, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach

of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

4.2   Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less protective than those herein.

4.3   Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior written notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party shall reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

4.4   No Intellectual Property Rights. THE RECEIVING PARTY ACQUIRES NO INTELLECTUAL PROPERTY RIGHTS FROM THE DISCLOSING PARTY UNDER THIS AGREEMENT, except for the restricted right to use disclosing Party's Confidential Information for the express, limited purposes described above.

5.   LIMITATION OF LIABILITY

5.1   HYPERFISH PROVIDES THE HYPERFISH SERVICE "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE". TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, HYPERFISH MAKE NO (AND SPECIFICALLY DISCLAIMS ALL) REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY THAT THE HYPERFISH SERVICE WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF HARMFUL COMPONENTS, THAT THE CUSTOMER CONTENT AND/OR ANY OTHER DATA WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED, OR ANY WARRANTY (WHETHER EXPRESS, IMPLED OR STATUTORY) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON- INFRINGEMENT, AND ANY WARRANTY ARISING OUT OF ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. IN THE EVENT THAT A JURISDICTION DOES NOT ALLOW THE FOREGOING EXCLUSIONS, SUCH EXCLUSIONS WILL NOT APPLY SOLELY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE PROVISION OF THE HYPERFISH SERVICE.

5.2   IN NO EVENT SHALL HYPERFISH'S LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATING TO THE HYPERFISH SERVICE, ANY RELATED SOFTWARE AND/OR THIS AGREEMENT (INCLUDING WITHOUT LIMITATION ANY ORDER FORM) EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO HYPERFISH TO USE THE HYPERFISH SERVICE DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE CLAIM. IN NO EVENT SHALL HYPERFISH BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OR COSTS OF ANY TYPE OR KIND (INCLUDING WITHOUT LIMITATION LOSS OF DATA, REVENUE, PROFITS, GOODWILL, USE OR ANY OTHER ECONOMIC ADVANTAGE OR BENEFIT) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE HYPERFISH SERVICE AND/OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE HYPERFISH SERVICE AND/OR ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION. THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER CLAIM OR BASIS.

6.   MUTUAL INDEMNIFICATION

6.1   **Indemnification by Hyperfish**.   Hyperfish will defend, indemnify and hold Customer harmless against any loss, damage, or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("**Claims**") made or brought against Customer by a third party alleging that the use of the Hyperfish Service as contemplated hereunder infringes a U.S. copyright issued as of the Effective Date; provided, however, that Customer: (a) promptly gives written notice of the Claim to Hyperfish; (b) gives Hyperfish sole control of the defense and settlement of the Claim (provided that Hyperfish may not settle any Claim unless it releases Customer of all liability); and (c) provides to Hyperfish, at Hyperfish's cost, all reasonable assistance. Hyperfish will not be required to indemnify Customer in the event of: (w) modification of the Hyperfish Service by Customer or any violation by Customer or any Users of the obligations under this Agreement; (x) use of the Hyperfish Service in a manner inconsistent with the Documentation; (y) use of the Hyperfish Service in combination with any other product or the Hyperfish Service not provided by Hyperfish; or (z) use of the Hyperfish Service in a manner not otherwise contemplated by this Agreement. If Customer is enjoined from using the Hyperfish Service or Hyperfish reasonably believe it will be enjoined, Hyperfish will have the right, in its sole discretion, to obtain for Customer the right to continue use of the Hyperfish Service or to replace or modify the Hyperfish Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to Hyperfish, then use of the Hyperfish Service may be terminated in Hyperfish's sole discretion and Hyperfish's sole obligation and liability will be to refund any prepaid, but unused, Subscription Fees paid by Customer for the Hyperfish Service.

6.2   **Indemnification by Customer**.   Customer shall defend, indemnify, and hold Hyperfish harmless from any Claims made or brought by a third party: (i) based upon breach of this Agreement by Customer, its employees and Users resulting in the unauthorized disclosure of Confidential Information; (ii) alleging that the Customer data or business information infringes the rights of, or has caused harm to, a third party; or (iii) in connection with a claim arising from use of the Hyperfish Service in breach of this Agreement by Customer or Users; provided, however, that Hyperfish: (a) promptly gives written notice of the Claim to Customer; (b) give Customer sole

control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless it unconditionally releases Hyperfish of all liability); and (c) provides to Customer, at Customer cost, all reasonable assistance.

7.   HYPERFISH AUDIT RIGHTS

Upon written request, Customer shall furnish to Hyperfish a signed certification certifying that Customer and Users are using the Hyperfish Service pursuant to the terms of this Agreement and the applicable Order Form. With reasonable prior notice of at least ten (10) days, Hyperfish may audit Customer's use of the Hyperfish Services. Without due cause shown, all such audits shall be conducted during regular business hours and no more frequently than twice in any 12 month period and in a manner that does not unreasonably interfere with Customer's business operations. Customer shall make available all such books, records, equipment, information and personnel and shall provide all such cooperation and assistance as may reasonably be requested by or on behalf of Hyperfish with respect to such audit. Customer shall be responsible for such audit costs and any additional fees only in the event the audit reveals that Customer's use of the Hyperfish Services exceeded any of Purchased Volumes set forth in the applicable Order Form.

8.   TERM AND TERMINATION

8.1   Term. This Agreement will commence on the Effective Date and continue for a period of twelve (12) months (the "Initial Term"), and will automatically renew at the end of the Initial Term (or any renewal term) for a period of one year (each, a "Renewal Term" and, together with the Initial Term, the "Term") unless either party provides written notice to the other of non-renewal at least ninety (90) days before the end of the Initial Term or any renewal term. Any such renewal will be at the list price for the Hyperfish Service din effect at the time of such renewal.

8.2   Termination. Either party may terminate this Agreement: (i) upon thirty (30) days prior written notice to the other party of a material breach by the other party if such breach remains uncured at the expiration of such notice period; or (ii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors.

8.3   Effect of Termination. Upon any termination of this Agreement, Customer must, as of the date of such termination, immediately cease accessing or otherwise utilizing the Hyperfish Service and Hyperfish Confidential Information. Termination for any reason will not relieve Customer of the obligation to pay any fees accrued or due and payable to Hyperfish prior to the effective date of termination. Upon termination for cause by Hyperfish, all future amounts due under all Order Forms will be accelerated and become due and payable immediately.

9.   GENERAL PROVISIONS

9.1   Export Compliance.   The Hyperfish Services and other technology Hyperfish makes available and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government

denied-party list. Customer shall not permit Users to access or use the Hyperfish Service in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan, or Syria) or in violation of any U.S. export law or regulation.

9.2   **Entire Agreement**. This Agreement and the Order Form(s) constitute the entire agreement between Customer and Hyperfish regarding the Hyperfish Service and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. No provision of any purchase order or other document of Customer, including without limitation any electronic invoicing portals and/or vendor registration processes, will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect notwithstanding any provision to the contrary in any such other document.

9.3   **Assignment**. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets and/or stock. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets and/or stock to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, Hyperfish will refund to Customer any prepaid fees covering the remainder of the term of all subscriptions. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

9.4   **Relationship of the Parties**. The parties are independent contractors. This Agreement does not create any partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

9.5   **Waiver**. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

9.6   **Severability**. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

9.7   **Force Majeure**. Neither party will be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) for causes beyond that party's reasonable control and occurring without that party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems, computer attacks or Harmful acts, such as threats and/or attacks on or through the Internet, any Internet provider, telecommunications or hosting

facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

9.8 **Choice of Law and Jurisdiction**. Excluding conflict of laws rules, this Agreement shall be governed by and construed under the laws of the State of Washington. All disputes arising out of or in relation to this Agreement shall be submitted to the exclusive jurisdiction of the state and federal courts located in Seattle, Washington where the laws of Washington shall apply. Nothing in this section shall restrict Hyperfish's right to bring an action (including without limitation a motion for injunctive relief) against Customer in the jurisdiction where Customer's place of business is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act shall not apply to this Agreement.

10.   DEFINITIONS

"**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**Customer Content**" means the information and/or other data used by Customer in connection with the Hyperfish Service.

"**Documentation**" means Hyperfish's online user guides, documentation, and help and training materials, as updated from time to time, accessible via http://www.hyperfish.com or login to the applicable the Hyperfish Service.

"**Harmful Code**" means software, code, files, scripts, agents or programs intended to do harm, including without limitation viruses, worms, time bombs and Trojan horses.

"**Intellectual Property Rights**" means any and all common law, statutory and other industrial property rights and intellectual property rights, including without limitation copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

"**Order Form**" means the Hyperfish Order Form for the Hyperfish Service executed by Customer.

"**Purchased Volumes**" means the Subscription Limit set forth in the Order Form.

"**Subscription Term**" means the set term designated herein or in the applicable Order Form.

"**Hyperfish Service**" means the Hyperfish Service, support and related products ordered by Customer pursuant to the Order Form(s) and made available by Hyperfish subject to this Agreement.

"**Users**" means the individuals who are authorized by Customer to have access to the Hyperfish Service.