

## MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement") with an effective date of February 14, 2013 (the "Effective Date"), entered into between Excella Consulting, Inc., a Virginia corporation, with notice address of 2300 Wilson Boulevard, Suite 630, Arlington, VA 22201 ("Excella"), Burning Glass International Inc. d/b/a Burning Glass Technologies, a Delaware corporation, with a notice address of One Faneuil Hall Market, Fourth Floor, Boston, MA 02109 ("Burning Glass"), together with its affiliates, permitted successors and assigns, and the partner identified below (together with any permitted affiliates and any permitted successors and assigns, "Partner"), governs the licensing of certain Burning Glass services to Partner.

<b><u>Contracting Entity Name:</u></b> General Services Agency	<b><u>Notice Address:</u></b> 2200 CRYSTAL DR
<b><u>Contact Name:</u></b> Theresa T Williams	<b><u>Town / City</u></b> ARLINGTON
<b><u>Contact Title:</u></b> Contracting Officer	<b><u>State:</u></b> VA
<b><u>Type of Business:</u></b> Federal Supply Schedule	<b><u>Post code:</u></b> 22202-3713
<b><u>Phone:</u></b> +(877) 446-4870	<b><u>Country:</u></b> USA
<b><u>Type of Legal Entity:</u></b> Federal Agency	<b><u>Fax:</u></b> n/a
<b><u>Email:</u></b> it.center@gsa.gov	<b><u>Country of Incorporation:</u></b> n/a
<b><u>Accounts Payable Contact Name:</u></b> n/a	<b><u>Accounts Payable Email:</u></b> n/a
<b><u>Accounts Payable Phone:</u></b> n/a	<b><u>Accounts Payable Mailing Address:</u></b> n/a

The following terms and conditions (the "Terms") shall apply to the licensing and usage of the Services provided under this Agreement and are expressly acknowledged and agreed to by Partner and Burning Glass.

1. **Services.** Burning Glass will provide Partner with certain services (hereinafter "the Service" or "the Services") as described in the various schedules to this Agreement. Unless Partner obtains Burning Glass's written permission, Partner will not utilize the Services or any content or functionality delivered along with or as part of the Services to create any competing product or service to those of Burning Glass.

2. **License; Prohibited Actions.** Subject to the terms and conditions of this Agreement, Burning Glass grants to Partner, during the Term of this Agreement (as hereinafter defined), a non-exclusive, non-transferable, personal license for the right to use and access the Services within Partner's agreed scope of use. Any rights not expressly granted in this Agreement with regard to the Services, the resulting data returned, and the associated software and other content and materials (together, such software, content and materials are hereinafter referred to collectively as the "Related Materials") are reserved to Burning Glass as applicable. Partner agrees that it shall not and that it shall prohibit and restrict its users and/or clients from: (i) de-compiling or reverse engineering the Services or any of the Related Materials; (ii) selling, re-licensing,

distributing or commercially exploiting the Services, or any of the Related Materials, except as included within broader product offerings including significant additional functionality and content other than that of the Services or of the Related Materials; (iii) except as expressly permitted by this Agreement, making the Services, or any of the Related Materials available through any means or media without the prior written approval of Burning Glass; (iv) except as expressly permitted by this Agreement, copying, modifying, publishing, transmitting, participating in the license or relicense, transfer or sale of, reproduce, create derivative works from, distribute, perform, display, or in any way exploit the Services, or any of the Related Materials; in whole or in part, without the prior written consent of Burning Glass; (v) making use of the Services, whether in part or in whole, for any other use or in any other product suite or context than for enhancement agreed scope of use; (vi) providing use to or transfer the Services to parent companies, subsidiaries, affiliates, or other companies with common ownership (hereinafter "Partner Affiliates") except as expressly provided for in any schedules hereto, and (vii) engaging in any activity that interferes with or disrupts the Services (or the servers and networks which are connected to the Services). Partner and its users further agree to abide by any Terms of Use presented to users upon accessing the Services. Partner acknowledges and agrees that Burning Glass (or Burning Glass's licensors) own all legal right, title and interest in and to the Services, including any intellectual property rights which subsist in the Services



and the Content of the Services (whether those rights happen to be registered or not, and wherever in the world those rights may exist);

**3. Delivery of the Services and of Any Agreed Development Work.** When the functionality as set forth herein is first made available by Burning Glass to Partner, Partner acknowledges and agrees that Burning Glass has demonstrated the functionality of and completed integration and delivery of the Service and any agreed development work as agreed to by the parties ("Date of Delivery").

**4. Fees.** Fees payable by Partner to Excella are set forth in each of the Schedules of this Agreement and will be payable in accordance with FAR 52.212-4(g) and (i). Partner agrees to pay those fees specified in the attached schedules for the right to use the Services specified in such schedules at all times throughout the period during which such schedules remain in effect. Any fees paid to Excella by Partner prior to termination will be non-refundable. Any modifications to the Services that are requested by Partner may be accompanied by additional fees as determined by Excella and as approved in writing by Partner prior to the initiation of such modification. If Excella initiates a modification without a request by Partner, there will be no additional costs or fees for such modification prior to the Expiration Date (as hereinafter defined). Partner shall, in addition to the other amounts payable under this Agreement, pay all sales, use, value added or other taxes, federal, state or otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement. Excella shall state separately on its invoices taxes excluded from the contract price, and Partner agrees either to pay the amount of the taxes (based on the current value of the equipment) to the contractor or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3. Partner's obligations for license fees shall be without regard to receipt of payment by Partner from Partner's clients, licensees, users, etc.

**5. Term and Termination.** This Agreement shall be effective from the Effective Date through the date the last schedule hereto terminates, unless otherwise terminated as provided herein. In the event of termination of this Agreement by any party, (A) all unpaid fees due or owing by any party on or prior to the date of termination, or owed through the end of the term of the Agreement in the case of breach by Partner, will be immediately due and payable in full and (B) the rights and duties of the parties under Sections 2, 4, and 6 through 18 of these Terms shall survive such termination and remain in full force and effect. Unless otherwise noted in such schedule, each schedule hereto shall remain in effect for a period of twelve months from its ratification between the parties.

**6. Confidential Information.** During the Term of this Agreement and thereafter, each party will use and reproduce the other party's Confidential Information (as defined below) only for purposes set forth in this Agreement and only to the extent necessary for such purpose and will restrict disclosure of the other party's Confidential Information to its employees, consultants or independent contractors with a need to know and will not disclose the other party's Confidential Information to any third party without the prior written approval of the other party. Notwithstanding the foregoing, it will not be a breach of this Agreement for either party to disclose Confidential Information of the other party if required to do so under law or in a judicial or other governmental investigation or proceeding, provided the other party has been given prior notice and the disclosing party has sought all available safeguards against widespread dissemination prior to such disclosure. As used in this Agreement, the term "Confidential Information" refers to: (i) the terms and conditions of this Agreement; (ii) each party's trade secrets, business plans, strategies, methods and/or practices; and (iii) any other information relating to either party or its business that is not generally known to the public, including but not limited to information about either party's personnel, products, customers,

marketing strategies, pricing, services or future business plans. Notwithstanding the foregoing, the term "Confidential Information" specifically excludes: (A) information that is now in the public domain or subsequently enters the public domain by publication or otherwise through no action or fault of the other party; (B) information that is known to either party without restriction, prior to receipt from the other party under this Agreement, from its own independent sources as evidenced by such party's written records, and which was not acquired, directly or indirectly, from the other party; (C) information that either party receives from any third party reasonably known by such receiving party to have a legal right to transmit such information, and not under any obligation to keep such information confidential; and (D) information independently developed by either party's employees or agents provided that either party can show that those same employees or agents had no access to the Confidential Information received hereunder.

**7. Content.** Partner understands that, in delivering the Services and in rendering the Content thereof, Burning Glass leverages a range of analytical, probabilistic, and interpretive techniques. Partner understands that such techniques represent methods for addressing fundamental uncertainty and that these methods may or may not prove effective or accurate and Partner acknowledges that any data, statements, assertions, predictions, matches, recommendations, referrals, or representations directly or indirectly made by the Services or the Content thereof are inherently uncertain and subject to error. Burning Glass and Excella make no warranty as to the accuracy or completeness of the Services or the Content thereof, including, but not limited to, any reports, graphs, tables, charts, data, job listings, job matches, referrals, or recommendations. Partner specifically agrees that it and its clients and/or users must apply a due level of care and judgment in assessing the validity of the Services or any Content thereof and that it understands that it is solely responsible for any decision to accept any data, reports, graphs, tables, charts, job listings, job matches, referrals, recommendations, or other Content of the Services and Partner explicitly releases Burning Glass and Excella from any liability for any loss or damage that Partner or its clients may suffer in consequence. Partner acknowledges that the Services and the Content thereof may be incomplete, contain omissions, or may contain inconsistencies or inaccuracies and Partner explicitly releases Burning Glass and Excella from any liability for any loss or damage that Partner may suffer in consequence. Partner further understands and agrees that: (i) content provided by Burning Glass (including, without limitation, any data, reports, graphs, tables, charts, job listings, matches, referrals, or recommendations) is obtained or generated by Burning Glass from or based on a number of databases and sources; (ii) throughout the Term of this Agreement, content may be obtained by Burning Glass from additional databases and content sources; and (iii) throughout the Term of this Agreement, a particular database or content source may become unavailable or cost prohibitive to Burning Glass with respect to continued searching by Burning Glass, as determined by Burning Glass in its sole discretion. As a result, Burning Glass and Excella make no representation or guarantee that content from any particular database or content source shall be available throughout the Term of this Agreement. Partner further acknowledges that real-time data is dynamic and unstructured in nature and presents unique challenges for coding and analysis. Notwithstanding that Burning Glass will undertake reasonable efforts to remove duplicate job listings from the database as well as to provide accurate coding, the Parties acknowledge the intrinsic difficulty of this undertaking and therefore the possibility that duplicate listings and/or mis-coded data may be included in the Services.

**9. Disclaimers.** EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THIS AGREEMENT, BURNING GLASS AND EXCELLA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE SERVICES, THE SEARCH RESULTS, THE CONTENT, THE RELATED MATERIALS, OR ANY OTHER



MATTER, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, ACCURACY / FREEDOM FROM ERROR, NON-INFRINGEMENT OR OTHERWISE. Partner understands that the Services may include hyperlinks to other web sites or content or resources. Burning Glass may have no control over any web sites or resources which are provided by companies or persons other than Burning Glass. Partner acknowledges and agrees that Burning Glass and Excella are not responsible whatsoever for any harm suffered by Partner or its customers or end users on or in any way due to any third party websites or resources, even where they are accessed from or referred or linked to such sites by the Services. Partner acknowledges and agrees that Burning Glass and Excella are not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources. Partner acknowledges and agrees that Burning Glass and Excella are not liable for any loss or damage which may be incurred as a result of the availability of those external sites or resources, or as a result of any reliance placed by Partner on the completeness, accuracy or existence of any advertising, products or other materials on, or available from, such web sites or resources.

**9. Indemnification.** Subject to Section 11 of these Terms, Burning Glass shall indemnify the Government and its officer, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided Burning Glass is reasonably notified of such claim and proceedings.

**10. Limitation of Liability.** UNDER NO CIRCUMSTANCES SHALL BURNING GLASS OR EXCELLA BE LIABLE TO PARTNER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, (EVEN IF BURNING GLASS OR EXCELLA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM ANY PROVISION OF THIS AGREEMENT OR OF THE SERVICES CONNECTED THEREWITH (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS, LOST BUSINESS OR LOSSES ATTRIBUTABLE TO SUSPENSION OR INTERRUPTION OF THE SERVICES. IN NO EVENT SHALL BURNING GLASS OR EXCELLA BE LIABLE FOR DAMAGES IN EXCESS OF THE AMOUNT RECEIVED BY EXCELLA UNDER THIS AGREEMENT. FURTHER, PARTNER EXPRESSLY UNDERSTANDS AND AGREES THAT BURNING GLASS AND EXCELLA, THEIR SUBSIDIARIES AND AFFILIATES, AND THEIR LICENSORS SHALL NOT BE LIABLE TO PARTNER FOR ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY PARTNER, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF: (I) ANY RELIANCE PLACED BY PARTNER ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF THE SERVICES, THE CONTENT THEREOF, ANY DATA, CHARTS, REPORTS, TABLES, JOB LISTINGS, SEARCH OR MATCH RESULTS, RECOMMENDATIONS, REFERRALS, GUIDANCE, OR ADVICE GENERATED OR DELIVERED THROUGH THE SERVICES, OR OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN PARTNER AND ANY ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE SERVICES; (II) ANY CHANGES WHICH BURNING GLASS MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES); or (III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES. THESE LIMITATIONS ON BURNING GLASS AND EXCELLA'S LIABILITY

TO PARTNER SHALL APPLY WHETHER OR NOT BURNING GLASS OR EXCELLA HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

**11. Notices.** All notices, statements, and reports required or permitted by this Agreement shall be in writing and deemed to have been effectively given and received: (i) three (3) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid, with return receipt requested; (ii) when transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine and a copy of such facsimile is promptly sent by another means specified in this Section; or (iii) when delivered if delivered personally or sent by express courier service. Notices shall be addressed as set forth on page one of this Agreement to the attention of the other party's Contract Administrator. Either party may change its address for the purpose of this Section by notice given pursuant to this Section.

**12. Independent Contractor.** The parties are and shall remain independent contractors with respect to all matters pursuant to the Agreement.

**13. No Assignment.** Neither party to this Agreement may sell, transfer, assign, or subcontract any right, license or obligation set forth herein, without the other party's express prior written consent; provided however that Burning Glass may assign and delegate its rights and obligations to a transferee of all or substantially all of its assets, stock or equity.

**14. Amendments in Writing.** No amendment, modification, or waiver of any provision of this Agreement shall be effective unless it is set forth in a writing that refers to this Agreement and is executed by an authorized representative of each party hereto. No failure or delay by any party in exercising any right, power, or remedy will operate as a waiver of any such right, power, or remedy.

**15. Third Party Rights.** This Agreement is not intended and shall not be construed to create any rights for any third party, including Partner Affiliates and Client Affiliates.

**16. Force Majeure.** Neither party shall be liable or deemed to be in default of its obligations hereunder for any delay or failure in performance under this Agreement or other interruption of service resulting, directly or indirectly, from acts of God, civil or military authority, acts of war, terrorist acts, accidents, natural disasters or catastrophes, power outages, strikes, or other work stoppages or any other causes beyond the reasonable control of the party affected thereby. However, each party shall use its best good faith efforts to perform such obligations to the extent of its ability to do so in the event of any such occurrence or circumstances.

**17. Publicity.** Notwithstanding that disclosure of the terms of this Agreement is prohibited under the terms of confidentiality included herein, Partner may disclose the existence of this Agreement, the Services referenced herein, and any Party's name.

**18. Governing Law.** This Agreement and performance hereunder shall be governed by the Federal laws of the United States of America.

**19. Entire Agreement; Severability.** This Agreement, including these Terms and all Schedules attached hereto, contains a full and complete expression of the rights and obligations of the parties hereto with respect to the subject matter hereof, namely the licensing of the software. This Agreement supersedes any and all other previous agreements, written or oral, made by the parties concerning the subject matter hereof. If any provision of this Agreement is finally held by a court or arbitration panel of competent

jurisdiction to be unlawful, the remaining provisions of this Agreement shall remain in full force and effect to the extent that the parties' intent can be lawfully enforced.

**20. Counterparts.** The parties may execute this Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. This Agreement may be executed by facsimile or scanned image (e.g. PDF). Said facsimile or scanned image shall be deemed an original and fully enforceable and admissible in any legal

proceeding. Delivery of an executed counterpart signature page by facsimile or scanned image is as effective as executing and delivering this Agreement in the presence of the other parties to this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other party(ies). In proving this Agreement, a party must produce or account only for the executed counterpart of the party to be charged.

**AGREEMENT ACCEPTED BY EXCELLA:**

SIGNATURE

NAME

DATE

TITLE

**AGREEMENT ACCEPTED BY BURNING GLASS:**

SIGNATURE

NAME

DATE

TITLE

**AGREEMENT ACCEPTED BY PARTNER:**

SIGNATURE

NAME

DATE

TITLE

**SCHEDULE A**



### **SCHEDULE B – Service Availability and Support**

(a) The Services shall be available at all times, except as follows: Burning Glass shall have the right to disable the Services for up to two (2) hours per day between the hours of midnight and 6 AM Eastern Time in addition, Burning Glass shall have the right to disable the Services for up to an additional eight (8) hours per month for maintenance, upgrades, and other administrative functions etc., provided that notice of such planned downtime shall be provided to Partner at least 48 hours in advance and that such planned downtime shall only occur between the hours of midnight and 6 AM Eastern Time.

(b) Burning Glass shall provide telephone- and email-based advisory and support services no less than during the following hours (9 a.m. through 5 p.m. Eastern Time) Monday through Friday except during official local holidays of Burning Glass, as observed, which shall typically be: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Eve.

(c) Burning Glass has a comprehensive set of support procedures designed to resolve the majority of known Partner support situations. Each procedure has associated activities and response requirements designed to resolve those situations in a timely manner. At times, a question or issue may exceed the time frames set forth in the standard support procedures, and is therefore a candidate for an Escalated Support Process. The Escalation Process is the application of increased expertise and/or resources to assure a timely resolution to a Partner issue.

(d) Calls handled by our Help Desk are assigned priority levels upon receipt, defining the time frame in which the call requires resolution. Escalation occurs when the current process flow does not meet Partner's expectation or requirement in one or more of the following areas.

- Partner is experiencing a problem that cannot be resolved in the designated time frame.
- Either Partner or a Burning Glass employee determines that additional resources or expertise are required to restore the product operation to normal.

(e) The table below outlines problem severity descriptions.

<b>Severity</b>	<b>Description</b>
Critical	All or most of the Service functionality is lost. The Service is not operational.
High	Much of the Service operation is lost but some functions are active.
Medium	Some Service functionality is lost.
Low	No Service function is lost.

(f) The table below outlines Burning Glass's problem escalation process.

<b>Severity</b>	<b>Description</b>
Critical	Response from Help Desk representative within 15 minutes. Implementation Consultant notified if service is not restored within 15 minutes. Problem escalated to Programming if service is not restored within two (2) hours. Implementation Manager notification within two (2) hours. Senior VP notified within four (4) hours.

High	Response from help desk representative within 30 minutes. Implementation Consultant notified if service is not restored within 30 minutes. Implementation Manager notification within eight (8) hours. Senior VP notified next business day.
Medium	Response within two (2) hours. Implementation Consultant notified same business day. Programming notified same business day. Implementation Manager notified within three (3) business days if solution or acceptable workaround has not been found.
Low	Response from Help Desk representative within one (1) business day. Implementation Manager notified after five (5) business days.

(g) When our Help Desk is informed of a problem, the following actions are taken:

Action	Description
Call Logging	The Partner contact is logged in the Burning Glass Call Log database and Burning Glass's knowledge database is searched for similar problem reports, thus enabling fast responses to known problems or frequently asked questions.
Problem Reproduction	The Burning Glass Client Support Department will reproduce the problem if possible.
Defect Logging	When the problem has been duplicated by our Client Support Department, it will be logged as a defect in our defect database.
Defect Investigation	The Burning Glass product development team will investigate the cause of the problem.
Workaround	When, in the course of the investigation, alternative ways are found to obtain the design goal while avoiding the interruptive symptoms of the defect; these workarounds may be communicated as a solution to the problem.