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2. Price and Payment

(a) Licensee shall pay Validity the license fees set forth in the order for the Software for the term of this Agreement. Such fees shall increase by 3% upon renewal for each subsequent year of the term of this Agreement. If the Agreement is for monthly block pricing and is not a full or co-termed annual agreement, fees will be based on current retail pricing at the time of the agreement.

(b) The Software fees for each year of the term of this Agreement shall be paid by Licensee, as applicable, in advance for each such year or on the first day of each month for the previous month. All amounts not paid when required shall bear interest at the rate of 12% per annum or the lower of the maximum amount allowed by applicable law until paid in full.

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(d) Licensee will be required to set up an account with Validity prior to using the Software. Validity may require credit card payments, unless Validity requires pre-payment by Licensee or agrees, in its sole discretion and in writing, to accept payment via check. If Licensee has provided a credit card as its payment method, Licensee hereby authorizes Validity to charge at the time payment is due for all amounts due. If Licensee does not pay Validity when due or if Licensee's credit card is declined at any time, or in the event that Licensee's check does not allow Validity to receive payment, Validity has the option to suspend the provision of the Software immediately until such amounts are paid.

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(b) The indemnification obligations of Validity in this Section 5 set forth the sole and exclusive remedy of Licensee, and the sole and exclusive liability of Validity, with respect to any Claim.

6. Limitation of Liability

(a) In no event whatsoever will either party be liable for punitive, exemplary or similar damages; damages for loss of profits or revenue, failure to realize expected savings, loss of use or lack of availability of computer resources or any stored data; or indirect, consequential or special damages of any kind.

(b) The maximum total liability of Validity, for any claim whatsoever, under any circumstances, regardless of the cause of action and including, without limitation, claims for breach of contract, tort, negligence or otherwise, and Licensee's sole remedy therefor, shall be strictly limited to an amount not to exceed the amount of fees paid by Licensee to Validity hereunder during the one (1) year period immediately preceding the date of such claim.

(c) No action arising out of or relating to this Agreement, or Validity's obligations hereunder, regardless of form, may be brought by Licensee more than twelve (12) months after the facts giving rise to the cause of action are known to Licensee.

7. Term and Termination

(a) The term of this Agreement shall commence on the start of the service period set forth in the order and shall thereafter continue for the initial term specified in the order. This Agreement shall thereafter renew for a series of successive one-year terms, provided that either party shall have the right to terminate this Agreement as of any such renewal date by providing at least 60 days prior written notice of termination. If the Agreement is for monthly block pricing and is not a full or co-termed annual agreement, the Agreement will remain in force for the service term defined in the order and will require a new agreement for any additional blocks.

(b) Without limiting any other rights or remedies available to Validity, either party has the right to terminate this Agreement immediately and without notice to Licensee, if:

(i) Licensee is in breach or default of any of its obligations under this Agreement, other than with regard to payment, and such breach or default continues unrectified for 10 days following the provision of written notice of such breach or default to Licensee;

(ii) Licensee voluntarily enters into proceedings in bankruptcy or insolvency, makes an assignment for the benefit of its creditors, is adjudged to be bankrupt or insolvent, a petition is filed against Licensee under a bankruptcy law, corporate reorganization law, or any other law for the relief of debtors or similar law and such petition is not discharged with sixty (60) days after its filing, or a receiver, trustee or similar person is appointed with respect to Licensee's assets;

(iii) Licensee ceases to carry on its business; or

(iv) Validity has not received any payment when due either under this Agreement or otherwise.

(c) Upon termination of this Agreement for any reason whatsoever, any license that Licensee has to use any Software will terminate immediately and Licensee shall, at Validity's option, destroy or return all Software and Documentation.

8. Governing Law and General Provisions

(a) This Agreement will be governed by the laws of the Commonwealth of Massachusetts, excluding the application of its conflict of law rules. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

(b) If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms.

(c) Licensee shall not ship, transfer or export the Software into any country or use it in any manner prohibited by the United States Export Administration Act or any other applicable export control law, restriction or regulation.

(d) If Licensee is the U.S. Government or an agency thereof, Licensee (i) with respect to civilian agencies, will grant protection for the Software as "commercial computer software" and related documentation in accordance with the terms of 48 C.F.R. 12.212 of the Federal Acquisition Regulations; and (b) for use by or on behalf of the Department of Defense, will grant protection for any Software as "commercial computer software" and related documentation in accordance with the terms of 48 C.F.R. 227.7202-1 of the DoD FAR Supplement.

(e) Validity shall be authorized to identify Licensee as a customer of Validity software and services in public relations and marketing materials.

(f) This Agreement may not be assigned by Licensee without the prior written consent of Validity, and any such purported assignment shall be null and void. This Agreement shall be binding upon and inure to the benefit of the successors and assignees of Validity.

(g) The termination of this Agreement will not affect the survival and enforceability of any provisions of this Agreement which are expressly or impliedly intended to remain in force after such termination or expiration, including, without limitation, Sections 1(b), 1(c), 1(e), 2, 3, 6, 7(c) and 8 shall survive any termination of this Agreement.

(h) Validity will have no obligation to perform its obligations hereunder to the extent and for the period that Validity is prevented from doing so by reason of force majeure or any cause beyond its reasonable control.

(i) All notices, requests, demands and other communications required or permitted under this Agreement shall be deemed to have been delivered to a party at the address indicated below (i) when actually received in the case of hand delivery as evidenced by a signed receipt; (ii) the business day after being given to a reputable overnight courier service, with a reliable system for tracking delivery, for delivery the following day; (iii) when sent by confirmed facsimile with a copy sent by United States mail within two (2) business days of the transmission; or (iv) upon receipt, when mailed by United States mail, registered or certified mail, return receipt requested, postage prepaid. A party may from time to time change its address, facsimile number or designee for notification purposes by giving the other party prior written notice of the new address, facsimile number or designee and the date upon which such change will become effective.

(j) This Agreement sets forth the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements. There are not and shall not be any oral statements, representations, warranties, undertakings or agreements between the parties. Validity may elect to change or supplement the terms of this Agreement from time to time at its sole discretion. Validity will exercise commercially reasonable business efforts to provide notice to Licensee of any material changes to this Agreement. Within thirty (30) business days of posting changes to this Agreement, they will be binding on Licensee. If Licensee does not agree with the changes, Licensee should discontinue using the Software. If Licensee continues using the Software after such thirty (30) business day period, Licensee will be deemed to have accepted the changes to the terms of this Agreement.

9. Service Level Offering and Uptime Percentage

(a) This Section 9 only applies to Validity's BriteVerify products (the "Products"). Validity will use commercially reasonable efforts to make all Products

available with a Monthly Uptime Percentage (defined below) of at least 99.5% during any monthly billing cycle (the “Service Commitment”). In the event that Products do not meet the Service Commitment, Licensee will be eligible to receive a Service Credit as described below.

(b) The following definitions are applicable:

(i) “Error Rate” means (i) the total number of internal server errors returned by the Products as error status “InternalError” or “ServiceUnavailable” divided by (ii) the total number of requests during that five minute period. Validity will calculate the Error Rate for each Product account as a percentage for each five minute period in the monthly billing cycle. The calculation of the number of internal server errors will not include errors that arise directly or indirectly as a result of any of the Product SLA Exclusions (as defined below).

(ii) “Monthly Uptime Percentage” is calculated by subtracting from 100% the average of the Error Rates from each five minute period in the monthly billing cycle.

(iii) A “Service Credit” is a dollar credit, calculated as set forth below, that Validity may credit back to an eligible account.

(c) Service Credits are calculated as a percentage of the total charges paid by Licensee for Products for the billing cycle in which the error occurred. If the Monthly Uptime Percentage is (i) equal to or greater than 99% but less than 99.5%, there will be a 10% Service Credit for fees paid in the affected month; and (ii) less than 99%, there will be a 25% Service Credit for fees paid in the affected month. Validity will apply any Service Credits against future payments otherwise due from Licensee, provided that Validity may issue the Service Credit to the credit card that Licensee used to pay for the billing cycle in which the error occurred. Service Credits shall not entitle Licensee to any refund or other payment from Validity. A Service Credit will be applicable and issued only if the credit amount for the applicable monthly billing cycle is greater than One Dollar (US\$1.00). Service Credits may not be transferred or applied to any other account. Licensee’s sole and exclusive remedy for any unavailability or non-performance of the Products or other failure by Validity to provide Products is the receipt of a Service Credit (if eligible) in accordance with the terms of this Section 9 or termination of Licensee’s use of Products.

(d) To receive a Service Credit, Licensee must submit a request by sending an e-mail message to accounting@validity.com. To be eligible, the credit request must include Licensee’s account username in the subject of the e-mail message, the dates and times of each incident of non-zero Error Rates that Licensee claims to have experienced, and Licensee’s server request logs that document the errors and corroborate the claimed outage. This request must be received by Validity within ten (10) business days after the end of the calendar month in which the errors occurred. If the Monthly Uptime Percentage applicable to the month of such request is confirmed by Validity and is less than 99.5%, then Validity will issue the Service Credit

to Licensee (i) with the next block in the event of a block purchase, or (ii) on the term renewal in all other cases.

(e) The Service Commitment does not apply to any unavailability, suspension or termination of Products, or any other Product performance issues which result from (i) a suspension caused by factors outside Validity's reasonable control, including any force majeure event or Internet access or related problems beyond the demarcation point of Products; (ii) any actions or inactions of Licensee or any third party; (iii) Licensee's equipment, software or other technology or third party equipment, software or other technology (other than third party equipment within Validity's direct control); or (iv) Validity's suspension and termination of Licensee's right to use Products.