

# Client Services Agreement (CSA) for Qstream Platform

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This Client Services Agreement (“Agreement”) is entered into on .....,  
..... (“Effective Date”) by and between Validity Group Pty Ltd, an Australian company,  
with its principal place of business at Level 27, 101 Collins Street, Melbourne VIC 3000  
(“VALIDITY”), an official reseller of Qstream Software, and .....  
.....with its principal place of business at .....  
..... (“CLIENT”).  
This Agreement governs the purchase and use of the Client Services.

VALIDITY or its Affiliates may provide CLIENT or its Affiliates with certain Client Services as described in the Order Form pursuant to this Agreement. Each Order Form constitutes a separate agreement between the parties executing such Order Form and each such Order Form shall be subject to all the terms and conditions of this Agreement.

By execution of an Order Form that references this Agreement, or by the execution of this Agreement, CLIENT agrees to the terms and conditions of this Agreement and those in the applicable Order Form. The effective date will be set forth in the opening paragraph of this Agreement, or to the extent CLIENT executes an Order Form in place of the execution of this Agreement, the effective date of this Agreement shall be the date of latest signature on the Order Form.

This agreement is separate to the Qstream Master Services Agreement (MSA), which governs the terms of supply of Qstream software licenses. VALIDITY shall make the purchased Software Licenses available to CLIENT pursuant to that Agreement and the relevant Order Form(s).

## 1. DEFINITIONS

“**Affiliate**” means any entity which 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.

“**Course**” means a series of questions comprised of Data for inclusion in Qstream’s Services or to any other domain name or website specified by Qstream.

“**Data**” means all electronic data or information provided by CLIENT, including without limitation Courses, for inclusion in the Services, but does not include data that results from CLIENT’s use or Users’ use of the Services such as progress and tracking data.

“**Order Form**” means the ordering documents, including without limitation any applicable Statement of Work for the Services hereunder, that are entered into between CLIENT and VALIDITY from time to time.

“**Purchased Services**” means Services and Client Services that CLIENT or its Affiliates purchase under a Purchase Order Form.



**“Client Services”** means any combination of Annual Support, Professional Services, Authoring and Consulting.

**“Annual Support”** means CLIENT’s Qstream site creation, Kick Off and Launch Support, plus providing full understanding of Qstream Best Practices, Provision of Help Desk and Access to Qstream Knowledge Base.

**“Professional Services”** means Project Management & Planning plus Strategic Project Planning plus Management of Outsourced Site, User & Content Administration.

**“Authoring”** means the construct of effective quality questions and content based upon CLIENT’s training materials and written by our trained and certified personnel, designed and constructed specifically for use within Qstream and effectiveness on a mobile device.

**“Consulting”** means support by VALIDITY personnel. These consulting services are further explained later in this document and are designed to support CLIENT’s personnel in the execution of their duties in regard to the Qstream solutions, the interpretation of data gathered, and to assist in the transfer of that data into usable information by the CLIENT organisation.

**“Admin Group”** means a designated individual who serves as the primary interface to the VALIDITY Qstream Client Services Consultant. A group can support a single country or business unit, or multiple countries and business units.

**“Users”** means individuals for whom subscriptions to a Qstream Software Licence have been authorised and purchased by CLIENT pursuant to the Qstream MSA (referenced above), and who have been supplied user identifications and passwords by CLIENT (or by VALIDITY at CLIENT’s request). Users may include but are not limited to CLIENT employees, consultants, contractors and agents; or third parties with which CLIENT transacts business.

## 2. PURCHASE OF CLIENT SERVICES

CLIENT is provided access to all Client Services under this Agreement. VALIDITY provides full support to CLIENT Users, Companies and Affiliates who wish to access support services for the execution and delivery of the Qstream solution. These services are designed to deliver a fully outsourced solution for CLIENT, thereby ensuring that it is provided with fully qualified services for the delivery and use of Qstream. These Services are outlined below.

**2.1.1. Annual Support.** VALIDITY will provide for each Admin Group: the establishment of a unique site, the creation of a reporting structure to generate reports specific to the business units structure and reporting requirements, together with support and assistance for the Qstream Kick Off and Launch, plus providing management with a full understanding of Qstream Best Practices, and the Provision and Access to Help Desk support.

**2.1.2. Premier Outsourced Services.** The provision to each Admin Group of VALIDITY’s Premier Outsourced Services ensures that CLIENT accesses a full range of comprehensive services and offerings, designed specifically for CLIENT and delivering a fully outsourced solution.



- 1) **Qstream Program Support.** Your dedicated Customer Success Consultant provides ongoing help with strategic planning and program management, and monitors the overall success of your deployment. Your dedicated Project Management Consultant will ensure the success of every Qstream, assisting with project planning, management, and best practices.
- 2) **Strategic Program Consulting.** The service includes quarterly strategic planning meetings to understand your business goals and change initiatives. We collaborate on a customer success plan with a 12-month Qstream calendar designed to help you achieve your business goals. We also provide quarterly executive review meetings to discuss insights and outcomes, and to ensure that your deployment is providing the maximum value.
- 3) **Project Management and Planning.** This service begins with a project kickoff meeting and continues with planning meetings, recommendations on settings and communications, and post-Qstream reviews. Your dedicated Project Management Consultant also provides ongoing guidance and support for your Qstream Program Manager.
- 4) **Content Review and Administration.** Quality content is essential. We review your content and provide a feedback report with specific recommendations for your consideration. We also manage your content, including building and testing your Qstreams.
- 5) **Site and User Administration.** Our experienced Qstream Administrators handle all the admin tasks for your Qstream platform. This includes site setup and branding, user administration and updates, and management hierarchy planning and management. We also monitor and co-moderate your Qstreams to maximise their success.
- 6) **End-User Support.** We provide email-based support for your Qstream participants and managers. We respond quickly to questions so that your users stay engaged and satisfied with their Qstream experience.
- 7) **Training and Mentoring.** We provide ongoing opportunities for training and mentoring. Our structured training programs cover site administration, building Qstreams, reporting, and Qstream best practices.

**2.1.3. Authoring Services.** The construct of the questions used in any Qstream project is of paramount importance in ensuring that outcomes and objectives are achieved. VALIDITY provides CLIENT with a fully outsourced authoring service to each Admin Group. CLIENT's entire organisation can engage with our Certified Qstream Team on full authoring services.

Based upon the CLIENT's training and learning materials, our Authoring team will use those CLIENT materials in the construct of questions and answers required for use, both within the confines of Qstream as well as in the best use of Mobile Learning, combining Big Data, Gamification and Neuroscience.

Qstream is currently available in 18 languages and as this list expands, so automatically will the CLIENT's access to those languages. Translations when required are a separate cost and will be quoted upon request and invoiced separately.



### 3. CONSULTING

3.1. Where required, CLIENT may access VALIDITY to provide Consulting services in any of the following areas:

- Develop CLIENT specific solutions and application.
- Support the use and internalisation of the Qstream solution and the use and interpretation of reports.
- Develop CLIENT leadership and management skills and processes to accurately interpret Qstream reports and data.

3.2. Each Consulting engagement may be scoped to the specific need and requirements of the Users at the time.

### 4. RESPONSIBILITIES

**4.1. VALIDITY Responsibilities.** VALIDITY shall: (i) provide CLIENT with the highest standard of Client Services to which they are entitled; (ii) use commercially reasonable efforts to make the Client Services available and (iii) provide the Client Services in accordance with applicable laws and government regulations.

**4.2. CLIENT Responsibilities.** CLIENT shall (i) be responsible for ensuring that all CLIENT Users are aware of this Agreement and its application and that all purchases of Client Services will be made via VALIDITY and this Agreement.

### 5. FEES AND PAYMENT FOR PURCHASED CLIENT SERVICES

**5.1. Invoicing and Payment.** Upon receipt of a fully executed Order Form, VALIDITY will invoice CLIENT for all fees on the Order Form. All fees are due and payable net thirty (30) days from date of invoice unless otherwise stated in an Order Form. CLIENT is responsible for providing a valid Purchase Order or alternative document reasonably acceptable to VALIDITY, which contains accurate billing and contact information.

**5.2. Overdue Charges.** If any charges are not received from CLIENT by the due date, then at VALIDITY's discretion, (a) such charges may accrue late interest 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, and/or (b) VALIDITY may condition future Order Forms on payment terms shorter than those specified in Section 6.3 (Invoicing and Payment).

**5.3. Suspension of Purchased Client Services.** If any amount owing by CLIENT under this or any other agreement for VALIDITY Client Services is thirty (30) or more days overdue, VALIDITY may, without limiting its other rights and remedies, accelerate CLIENT's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend VALIDITY's Client Services(s) to CLIENT until such amounts are paid in full.

**5.4. Payment Disputes.** VALIDITY shall not exercise its rights under Section 5.2 (Overdue Charges) or 5.3 (Suspension of Purchased Service(s)) if the applicable charges are under reasonable and good-faith dispute and CLIENT is cooperating diligently to resolve the dispute.



**5.5. Taxes.** Unless otherwise stated, VALIDITY fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to GST, sales, or use taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). CLIENT is responsible for paying all Taxes associated with CLIENT purchases hereunder or otherwise arising out of this Agreement.

## **6. PROPRIETARY RIGHTS**

**6.1. Reservation of Rights.** VALIDITY reserves all rights, title and interest in and to the Client Services, including all Intellectual Property Rights, and nothing contained herein shall be construed so as to transfer any such rights to CLIENT. Further, CLIENT shall not divulge or disclose or permit any of its employees or agents to divulge or disclose any Intellectual Property Rights in the Client Services except as expressly permitted in this Agreement.

**6.2. Ownership of Data.** As between VALIDITY and CLIENT, CLIENT owns all rights, title and interest in and to all of CLIENT's Data.

## **7. DEFERRAL OF CLIENT SERVICES**

If the CLIENT requests the Client Services to be deferred to a date less than one month after the commencement date as originally agreed, and such a request is made less than thirty (30) days before such commencement date, CLIENT shall thereupon be liable to pay the full fees applicable. In addition, VALIDITY reserves the right to charge CLIENT in respect of any additional costs incurred (including labour, material costs and cancellation fees) incurred in connection with the deferral and presentation of the Client Services at a later date.

## **8. CANCELLATION**

**8.1.** Cancellation of Client Services cannot be accepted within fifteen (15) business days leading up to the commencement date for the Client Services set out in the Order Form. If CLIENT cancels the Client Services during that 15-day period, then the full fee for each stage shall be payable (even if the original agreement was made within that period).

**8.2.** VALIDITY will accept a cancellation made in writing and received more than fifteen (15) business days prior to the commencement date of the Client Services, but upon such a cancellation CLIENT will pay, in lieu of the full price, a cancellation charge to VALIDITY (together with any taxes applicable) as outlined below:

<b>No. of Days Prior to Engagement</b>	<b>Cancellation Charge</b>
16 – 20 Business Days	40% of Total Investment
21 – 30 Business Days	25% of Total Investment

## **9. TRAVEL AND INCIDENTAL EXPENSES**

**9.1.** Where travel is required, it will be done at the CLIENT's cost and agreed in advance in writing. If agreed and required, it will be billed at cost plus 5% for administration overheads. Travel will be in line with VALIDITY's normal airline carrier of choice and at the standard of travel normal for a senior executive within the company.



9.2. Accommodation for VALIDITY personnel whilst traveling will be at a minimum of 5-Star standard. Suitable meal allowances and ground transfers will be invoiced to the CLIENT separately, with receipts.

## 10. FORCE MAJEURE

10.1. If VALIDITY or any of its employees is directly or indirectly delayed or prevented from fulfilling their obligations under this Agreement by reason of Act of God, pandemic, war, riot, civil commotion, strike, trade dispute, fire, breakdown, interruption of or delay in transport, government action, regulation or request or by any other cause whatsoever (whether of any like nature to those specified above or not) outside their control, VALIDITY shall be under no liability to CLIENT and shall be entitled at its own option (to be notified in writing to the CLIENT) to cancel this contract without liability on VALIDITY's part and shall not be liable in any way for loss or damage arising directly or indirectly through, or in consequence of any such event.

10.2. If CLIENT is directly or indirectly delayed or prevented from fulfilling their obligations under this Agreement by reason of Act of God, pandemic, war, riot, civil commotion, strike, trade dispute, fire, breakdown, interruption of or delay in transport, government action, regulation or request or by any other cause whatsoever (whether of any like nature to those specified above or not) outside their control, the CLIENT shall be under no liability to VALIDITY and shall be entitled at its own option (to be notified in writing to VALIDITY) to cancel this contract without liability on its part and shall not be liable in any way for loss or damage arising directly or indirectly through, or in consequence of any such event.

## 11. CONFIDENTIALITY

11.1. A Non-Disclosure Agreement should be in effect between CLIENT and VALIDITY.

11.2. **Definition of Confidential Information.** As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. CLIENT Confidential Information shall include CLIENT Data; Our Confidential Information shall include the Client Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than CLIENT Data) shall 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.

11.3. **Protection of Confidential Information.** Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the



Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

**11.4. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such 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 will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## 12. WARRANTIES AND DISCLAIMERS

**12.1. VALIDITY Warranties.** VALIDITY warrants that the Client Services shall be fulfilled in accordance with the Order Form. For any breach of such warranty, CLIENT's sole and exclusive remedy shall be as provided in Section 15.2 (Termination for Cause) and Section 15.3 (Payment upon Termination) below.

**12.2. Mutual Warranties.** Each party represents and warrants that it has the legal power to enter into this Agreement.

**12.3. Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

## 13. MUTUAL INDEMNIFICATION

**13.1. Indemnification by VALIDITY.** VALIDITY shall defend CLIENT against any claim, demand, suit, or proceeding made or brought against CLIENT by a third party alleging that the use of the Client Services used in accordance with this Agreement infringes or misappropriates the intellectual property rights of a third party or violates applicable law (a "Claim"), and shall indemnify CLIENT from and against such Claim and will pay all costs and damages including reasonable lawyer's fees attributed to such Claim and finally awarded against CLIENT, provided that CLIENT (a) promptly gives VALIDITY written notice of the Claim; (b) gives VALIDITY sole control of the defence and settlement of the Claim (provided that VALIDITY may not settle any Claim unless the settlement unconditionally releases CLIENT of all liability); and (c) provide to VALIDITY all reasonable assistance, at VALIDITY's expense. If VALIDITY receives information about an infringement or misappropriation claim related to the Client Services, VALIDITY may at its sole discretion and election at no cost to CLIENT either: (i) modify the CLIENT Service so that it no longer infringes or misappropriates, without breaching the warranties under Section 12.1, (ii) obtain a license for CLIENT's continued use of that CLIENT Service in accordance with this Agreement, or (iii) terminate CLIENT's access to that CLIENT Service upon thirty (30) days' written notice and refund CLIENT any prepaid fees covering the remainder of the term of the terminated CLIENT Service. The above defence and





indemnification obligations do not apply to the extent a Claim arises from CLIENT's breach of this Agreement or the unauthorised modification of the Client Services.

**13.2. Indemnification by CLIENT.** CLIENT shall defend VALIDITY against any claim, demand, suit or proceeding made or brought against VALIDITY by a third party alleging that CLIENT's Data, or CLIENT's use of the Client Services in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify VALIDITY from and against such Claim and will pay all costs and damages including reasonable lawyer's fees attributed to such Claim and finally awarded against VALIDITY, provided that VALIDITY (a) promptly gives CLIENT written notice of the claim; (b) gives CLIENT sole control of the defence and settlement of the claim (provided that CLIENT may not settle any claim unless the settlement unconditionally releases VALIDITY of all liability); and (c) provides to CLIENT all reasonable assistance at CLIENT's expense.

**13.3. Exclusive Remedy.** This Section 13 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this Section.

#### **14. LIMITATION OF LIABILITY**

**14.1. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL VALIDITY'S MAXIMUM CUMULATIVE LIABILITY REGARDLESS OF THE FORMS OF ACTION WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE LESSER OF (i) TOTAL AMOUNT PAID BY CLIENT UNDER THE APPLICABLE ORDER FORM FOR THE SERVICES IN QUESTION FOR THE MOST RECENT TWELVE (12) MONTHS PRIOR TO THE TIME SUCH LIABILITY AROSE OR (ii) \$10,000. THE FOREGOING SHALL NOT LIMIT CLIENT'S PAYMENT OBLIGATIONS UNDER SECTION 5 (FEES AND PAYMENT FOR PURCHASED CLIENT SERVICES), NOR THE INDEMNITY IN CLAUSE 13.1 OR ANY CLAIM ARISING OUT OF FRAUD, WILFUL MISCONDUCT OR BREACH OF PRIVACY LAWS OR CONFIDENTIALITY OBLIGATIONS. NO ACTION, REGARDLESS OF FORM, ARISING FROM OR PERTAINING TO THE CLIENT SERVICES, OR ANY CLAIM FOR BREACH OR NEGLIGENCE IN CONNECTION WITH THE SERVICES, MAY BE BROUGHT BY CLIENT MORE THAN TWELVE (12) MONTHS AFTER SUCH ACTION HAS ACCRUED.

**14.2. Exclusion of Consequential and Related Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) REGARDLESS OF THE THEORY OF LIABILITY, WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

#### **15. TERM AND TERMINATION**

**15.1. Term of Agreement.** This Agreement commences on the date CLIENT accepts it and continues, subject to termination for cause below, until all Client Services granted in accordance with this Agreement have expired or been terminated.





**15.2. Termination for Cause.** Either party may terminate this Agreement for cause: (i) upon thirty (30) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if 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.

**15.3. Payment upon Termination.** Upon any termination for cause by VALIDITY, CLIENT shall pay any unpaid fees covering the remainder of the term of all Order Forms. In no event shall any termination relieve CLIENT of the obligation to pay any fees payable to VALIDITY for the period prior to the effective date of termination.

**15.4. Return of CLIENT Data.** Upon written request by CLIENT made within thirty (30) days after the effective date of termination of this Agreement, VALIDITY will make the Data available to CLIENT for export or download. After such 30-day period, VALIDITY shall have no obligation to maintain or provide CLIENT with any Data.

**15.5. Surviving Provisions.** Section 5 (Fees and Payment for Purchased Client Services), 6 (Proprietary Rights), 11 (Confidentiality), 12.3 (Disclaimer), 13 (Mutual Indemnification), 15 (Limitation of Liability), 15.3 (Payment upon Termination), 15.4 (Return of CLIENT Data), 16 (Governing Law and Jurisdiction; Notice) and 17 (General Provisions) shall survive any termination or expiration of this Agreement.

## 16. GOVERNING LAW AND JURISDICTION; NOTICE

**16.1. Governing Law and Jurisdiction.** This Agreement will be governed by the laws of the State of Victoria, Australia without regard to its principles of conflicts of law which might require the application of the laws of any other jurisdiction. Jurisdiction and venue of any actions or proceedings to construe, interpret, enforce or to recover a remedy for the breach of this Agreement shall be in the State and Federal Courts located in Melbourne, Victoria, Australia.

**16.2. Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) the fifth business day after mailing, or (ii) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Notices to CLIENT shall be addressed to the address set forth in the opening paragraph of this Agreement, and in the case of billing-related notices, to the relevant billing contact designated by CLIENT. Notices to VALIDITY shall be addressed to: VALIDITY Group Pty Ltd, Level 27, 101 Collins Street, Melbourne, Victoria 3000, Australia.

**16.3. Waiver of Jury Trial.** Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

## 17. GENERAL PROVISIONS

**17.1. Anti-Corruption.** CLIENT has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of VALIDITY's employees or agents in connection with this Agreement. CLIENT shall report any violation of the above restriction to VALIDITY.

**17.2. Compliance with Laws.** Each party will comply with all applicable international, national, state/provincial and local laws, regulations, ordinances and codes, and any



applicable anti-bribery laws, economic or trade sanctions, export controls and securities laws, now or hereafter in effect.

**17.3. Publicity.** VALIDITY agrees not to display in its marketing and advertising materials (including without limitation, web sites, product literature, newsletters, and press releases) that CLIENT is a CLIENT of VALIDITY. However, CLIENT agrees to collaborate in a Case Study at the appropriate time.

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

**17.5. No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**17.6. Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**17.7. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**17.8. Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party; provided however, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**17.9. Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties 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 shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in CLIENT's purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.



17.10. **Signatory.** By signing below, CLIENT represents that its signatory has the authority to bind the CLIENT to the terms of this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

**Agreed for and on behalf of:**

**CLIENT**

**Validity Group Pty Ltd**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name:  
(print) \_\_\_\_\_

Name:  
(print) \_\_\_\_\_

Position: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_