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- (c) The Company will not be responsible or liable to Licensee, or deemed in default or breach hereunder by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning, or Licensee equipment, loss and destruction of property, or any other circumstances or causes beyond The Company's reasonable control.

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- (a) The Licensee agrees to promptly notify The Company in writing of any action or claim based on the infringement of a patent by the use of the unmodified Software delivered by The Company. The Company agrees that, if notified promptly in writing of any legal action (and/or any demand prior to such action) dealing with the infringement of a patent by the use by the Licensee of the unmodified Software as delivered by The Company, The Company shall defend and pay the resulting costs, damages and interest finally awarded by a court of competent jurisdiction against Licensee as a result of, or for amounts paid by Licensee under a settlement of, a claim against Licensee, on the condition that The Company is given the sole control of the defense and/or all related negotiations with a view to reaching an amicable settlement, and that Licensee cooperates fully to the extent necessary, and executes all documents necessary for the defense of such claim, provided further that any settlement unconditionally releases Licensee of all liability. This §10.a shall survive the termination of this Agreement. The Company shall have no liability to Licensee under this Section: (i) if any infringement is based upon Licensee's use of the Software in combination with any software not furnished by The Company, (ii) if the Software is used in a manner for which it is not designed or permitted, (iii) if Licensee fails to timely implement any Update or modification, or replacement of any Software made available to Licensee by The Company; or (iv) if the infringement is based upon modifications of the Software by party other than The Company.
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- (a) The term of the Agreement begins at the Agreement acceptance date and is for an indeterminate period of time. Either Party may terminate this Agreement in the event of a material breach by the other Party by providing notice to the other Party, unless the other Party cures the breach within thirty (30) days from date of the notice of the breach.
- (b) In the event of a termination of the Agreement, the Licensee shall cease all use of the Software and certify to The Company in writing within eight (8) days from the date of termination, that all use of the Software has been ceased, all copies of the Software have been destroyed, and that no copy of the Software has been retained.

## 15. Legal Government of the Agreement

- (a) This Agreement shall be governed by the laws of France. In the case of any claim, litigation or other dispute regarding the interpretation or the execution of the Agreement, including termination, the Parties agree to attempt to come to an amicable

arrangement through a conciliation process. They shall have remedy, in the case where it is necessary, to the arbitration of a mutually acceptable expert appraiser. However, if the disagreement persists, the Parties consent to the jurisdiction of the Tribunal de Commerce de Toulouse, France. This jurisdiction will apply equally to any injunction or incident request or where there is plurality of Requesters or Defenders.

- (b) This Agreement contains the complete agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, whether oral or written. All questions concerning this Agreement shall be directed to The Company at <http://support.intuiface.com/discussions>.

#### **16. Validity of the Agreement**

- (a) The invalidity or inefficacy of whatever clause of the Agreement shall not affect the validity or efficacy of the other terms of the Agreement.
- (b) In the case where a clause of the Agreement might be declared null and void in part or in whole by any court whatsoever, the parties agree to come together to substitute a valid clause to the same effect and it shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- (c) The omission or the waiving by one or the other of the parties of the execution of a particular clause or of the exercising of any right whatsoever stemming from this Agreement shall not constitute a precedent, novodamus or a renunciation relative to the future execution of any clause or the future exercise of any right accorded under the Agreement, or the non-respect of its clauses.
- (d) The terms of the Agreement may not be altered except by annexes duly signed by the two parties.
- (e) Any and all notices shall be in writing (including fax or email) and shall be given to the party by delivery via a third party overnight express mail service, fax or email. Notice shall be deemed effective immediately upon personal delivery or delivery by recognized commercial overnight courier, or upon confirmation of successful transmission, in the case of a fax or e-mail transmission.
- (f) This Agreement, together with all schedules, and exhibits attached hereto, constitutes the sole and entire agreement between Licensee and The Company with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

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