

## SOFTWARE LICENSE AGREEMENT

This Software License Agreement (“Agreement”) contains the terms and conditions between you and/or the eligible Ordering Activity under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document (“Customer” or “Ordering Activity”) and the GSA Multiple Award Schedule Contractor acting on behalf of Breach Intelligence, Inc. d/b/a/ Polarity (“Polarity”) regarding the use of Polarity’s Software (as defined in Section 1.5 below).

**EVALUATION LICENSE.** If Customer is licensing the Software (as defined below) for evaluation purposes (an “Evaluation License”), Customer’s use of the Software is only permitted in a non-production environment and for thirty (30) days or any other period limited by the license file that enables Customer to activate and use the Software (the “Evaluation Period”). **DURING THE EVALUATION PERIOD, THE SOFTWARE IS PROVIDED TO YOU “AS IS” WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. POLARITY BEARS NO LIABILITY FOR ANY DAMAGES RESULTING FROM USE (OR ATTEMPTED USE) OF THE SOFTWARE DURING THE EVALUATION PERIOD.**

### 1. DEFINITIONS

1.1 “Confidential Information” means the business, technical and financial information belonging to Polarity and its licensors, including without limitation, all Software, source code, inventions, algorithms, know-how and ideas, that is designated in writing as confidential, or that is disclosed in a manner that a reasonable person would understand the confidentiality of the information disclosed. Confidential Information does not include information that (i) is previously rightfully known to Customer without restriction on disclosure, (ii) is or becomes known to the general public, through no act or omission on the part of Customer, (iii) is disclosed to Customer by a third party without breach of any separate nondisclosure obligation, or (iv) is independently developed by Customer.

1.2 “Documentation” means any administration guides, installation and user guides, and release notes that are normally provided by Polarity to end users of the Software.

1.3 “Intellectual Property Rights” means patents, design patents, copyrights, trademarks, Confidential Information, know-how, trade secrets, moral rights, and any other intellectual property rights recognized in any country or jurisdiction in the world.

1.4 “Software” means the Polarity products, components and modules in object code format, as further described in a Quote.

### 2. LICENSE GRANTS AND RESTRICTIONS

2.1 License. There are no implied licenses under this Agreement and Polarity and its licensors reserve all rights, title and interest in and to the Software not expressly granted to Customer under this Agreement. All Software licensed pursuant to this Agreement is unpublished copyrighted material, constitutes trade secrets and proprietary data of Polarity and is Confidential Information of Polarity. Subject to Customer’s compliance with the terms and conditions of this Agreement, Polarity grants to Customer a worldwide, non-exclusive, non-sublicensable, non-transferable license as set forth herein.

#### 2.2 License to Use Software.

2.2.1 Customer may use the Software only (i) in accordance with the Documentation, (ii) for Customer’s internal business purposes and (iii) for the Term. Customer has no right to receive, use or examine any source code or design documentation relating to the Software. This Agreement is a license, not a sale of the Software and does not give Customer any rights not expressly granted herein. Title and any related rights in the content accessed through use of the Software is the property of the applicable content owner and is protected by applicable law. The licenses granted pursuant to this Agreement give Customer no rights to such content.

2.3 Restrictions. Customer will not and will not allow a third party to: (i) decompile, reverse engineer, disassemble or otherwise attempt to derive, analyze or use any source code or underlying ideas or algorithms related to the Software by any means whatsoever (except to the extent that such restrictions are prohibited by applicable statutory law); (ii) remove or alter any product identification, copyright or other notices; (iii) use or allow the use of the Software by or for the benefit of third parties, including without limitation by renting, leasing, lending, timesharing, or using for service bureau purposes; (iv) except as specified in the Documentation provided by Polarity, incorporate into or with other software any part of the Software; (v) reproduce the Software; (vi) sell, distribute, translate or market the Software; (vii) create derivative works based on the Software, or (viii) use the Software outside of any use restrictions set forth in the Quote. Customer agrees to ensure that there is no breach, compromise or violation, by Customer employees, consultants, or independent contractors, of such obligations and Polarity’s rights and title to the Software. Customer shall be responsible for any breach, compromise or violation of this Agreement by any employees, consultants or independent contractors of Customer.

2.4 Installation/Deinstallation. If needed, Customer agrees to permit access by Polarity to Customer’s computer server for the purpose of installing and, after termination, removing the Software. Prior to installation and removal of the Software, Customer shall be solely responsible for backing-up all data on the applicable computer server.

### 3. LIMITED WARRANTY & DISCLAIMER

3.1 Limited Warranty. Polarity warrants to Customer that: (i) the Software will materially perform in accordance with the applicable Documentation for sixty (60) days after initial delivery to Customer; and (ii) the Software as delivered by Polarity does not contain any Trojan horses, worms, or undocumented disabling devices.

3.2 Exclusions. Polarity’s warranties in this Section 3 shall not extend to problems that result from: (i) Customer’s failure to implement all updates issued by Polarity during the warranty period; (ii) any alterations or additions to the Software not performed by or at the direction of Polarity; (iii) failures in operation of the Software that are not reproducible by Polarity; (iv) Software operated in violation of

this Agreement or not in accordance with Documentation therefor; or (v) failures which are caused by Customer's software or other software, hardware or products not licensed or provided hereunder.

3.3 Remedies. For any Software not in conformance with this Section 3, Polarity will, at its discretion and cost, either repair or replace the Software. This is Customer's exclusive remedy, and Polarity's sole liability arising in connection with the limited warranties herein.

3.4 Disclaimer. EXCEPT AS OTHERWISE STATED HEREIN, NEITHER POLARITY NOR ITS SUPPLIERS MAKE ANY OTHER WARRANTIES, AND HEREBY DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, REGARDING THE USE AND RESULTS OF THE TECHNOLOGY, OR THAT USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE.

#### **4. OWNERSHIP**

4.1 Polarity Ownership of Software. Polarity and its licensors retain all rights, title, and interest, and all Intellectual Property Rights, in the Software and Documentation, including any modifications, enhancements, maintenance releases, error corrections, patches, releases, workarounds, updates and upgrades thereto.

4.2 Third Party Software. Customer's license to third party software that is installed on, embedded within or used in connection with its Software (operating systems and the Ordering Activity acknowledges that there are separate software license agreements from third parties, and such licenses shall be sent with the software. Nothing herein shall bind the Ordering Activity to any Third Software Party terms unless the terms are provided for review and agreed to in writing by all parties. In connection with the Software, Polarity may use, or provide Customer access to, software, source code or other technology ("In-Licensed Materials") licensed to Polarity from, and owned by, third parties ("Third Party Licensors"), as identified in the documentation delivered to Customer. Some third party technology, as may be necessary or appropriate for use with some programs provided by Third Party Licensors, is licensed to Customer solely for use with the Software under the terms of this Agreement. Customer agrees that the Third Party Licensors and suppliers are intended third party beneficiaries to this Agreement.

#### **5. PAYMENT**

Customer will pay to the GSA Multiple Award Schedule contractor on behalf of Polarity the fees for use of the Software specified in the Quote. Polarity shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.

#### **6. TERM AND TERMINATION**

6.1 License Term. Except for use during an Evaluation Period, the term of the licenses granted hereunder will be for the term set forth in the Quote (the "Term").

6.2 Termination. Customer may terminate this Agreement and the licenses granted herein at any time by destroying or removing from all computer systems all copies of the Software. This Agreement and the licenses granted herein will immediately and automatically terminate (i) if the maximum usage limitations as set forth in the applicable Quote are exceeded; (ii) if Customer breaches any provision of this Agreement; (iii) if Customer becomes insolvent or seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement or comparable proceeding; or (iv) as otherwise set forth in this Agreement.

6.3 Effects of Termination. Upon termination of this Agreement, all licensed rights granted in this Agreement will immediately cease, and Customer will promptly discontinue all use of the Software and Documentation and return to Polarity or destroy all copies of the Software, Documentation and any other Polarity Confidential Information on tangible media in Customer's possession or control and certify in writing to Polarity that it has fully complied with these requirements.

6.4 Survival. The following provisions will survive any expiration or termination of this Agreement: 3.4 (Disclaimer), 4 (Ownership), 6.3 (Effects of Termination), 6.4 (Survival), 6 (Limitations of Liability), 7 (Indemnification), 9 (Confidentiality) and 10 (General).

6.5 Recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

#### **7. LIMITATIONS OF LIABILITY**

NOTWITHSTANDING ANYTHING TO THE CONTRARY, POLARITY AND ITS SUPPLIERS WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT, UNDER ANY CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY AMOUNTS IN EXCESS, IN THE AGGREGATE, OF THE AMOUNTS RECEIVED BY POLARITY IN RESPECT OF THE SOFTWARE; (II) ANY INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, RELIANCE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS; (III) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES; (IV) LOSS, INACCURACY, OR CORRUPTION OF DATA OR INTERRUPTION OF USE; OR (V) ANY MATTER BEYOND ITS REASONABLE CONTROL. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

## **8. INDEMNIFICATION**

8.1 Indemnity. Polarity will have the right to intervene to defend, indemnify and hold Customer harmless against any third party claims, liabilities or expenses incurred (including reasonable attorneys' fees), as well as amounts finally awarded in a settlement or by a court arising from any claim or allegation by a third party that the Software infringes or misappropriates a valid United States patent, copyright or trade secret right of a third party; *provided* that Customer gives Polarity: (i) prompt written notice of any such claim or allegation; (ii) control of the defense and settlement thereof; and (iii) reasonable assistance in such defense or settlement. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516. If any Software becomes or, in Polarity's opinion, is likely to become the subject of an injunction, Polarity may, at its option, (a) procure for Customer the right to continue using such Software, (b) replace or modify such Software so that it becomes non-infringing without substantially compromising its functionality, or, if (a) and (b) are not reasonably available to Polarity, then (c) terminate Customer's license to the allegedly infringing Software. The foregoing states the entire liability of Polarity with respect to infringement of patents, copyrights, trade secrets or other intellectual property rights.

8.2 Exclusions. The foregoing obligations shall not apply to: (i) Software modified by any party other than Polarity, if the alleged infringement relates to such modification, (ii) Software combined or bundled with any non-Polarity products, processes or materials where the alleged infringement relates to such combination, (iii) the use of a version of the Software other than the version that was current at the time of such use, as long as Polarity shall have provided Customer with such non-infringing version, (iv) Software created to the specifications of Customer, or (v) infringement or misappropriation of any proprietary right in which Customer has an interest.

## **9. CONFIDENTIALITY**

Except as expressly and unambiguously allowed herein, Customer will hold in confidence and not use or disclose any Confidential Information and shall similarly bind its employees, consultants, independent contractors and clients in writing. Upon the expiration or termination of this Agreement, all of the Confidential Information (including any copies) will be returned to Polarity, and Customer will make no further use of such materials. If required by law, Customer may disclose Confidential Information of Polarity, but will give adequate prior notice of such disclosure to Polarity to permit Polarity to intervene and to request protective orders or other confidential treatment thereof. Polarity recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

## **10. EXPORT**

The Software and related technical data may be subject to U.S. export control laws, including without limitation the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Customer shall comply with all such regulations and agrees to obtain all necessary licenses to export, re-export, or import the Software and related technical data.

## **11. GENERAL**

11.1 No Agency. Polarity and Customer each acknowledge and agree that the relationship established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to: (i) give either party the power to direct or control the day-to-day activities of the other; (ii) deem the parties to be acting as partners, joint venturers, co-owners or otherwise as participants in a joint undertaking; or (iii) permit either party or any of either party's officers, directors, employees, agents or representatives to create or assume any obligation on behalf of or for the account of the other party for any purpose whatsoever.

11.2 Compliance with Laws. Each party agrees to comply with all applicable laws, regulations, and ordinances relating to their performance hereunder. Without limiting the foregoing, Customer warrants and covenants that it will comply with all then current laws and regulations of the United States and other jurisdictions relating or applicable to Customer's use of the Software including, without limitation, those concerning Intellectual Property Rights, invasion of privacy, defamation, and the import and export of software.

11.3 Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).

11.4 Notices. Any notice required or permitted hereunder shall be in writing in English and shall be delivered as follows (with notice deemed given as indicated): (i) by personal delivery when delivered personally; (ii) by established overnight courier upon written verification of receipt; (iii) by facsimile transmission when receipt is confirmed orally; (iv) by certified or registered mail, return receipt requested, upon verification of receipt; or (v) via email with verified receipt. Either party may change its contact person for notices and/or address for notice by means of notice to the other party given in accordance with this section. Notices shall be sent to such addresses as either party may from time to time designate to the other in writing.

11.5 Confirmations. Upon request by Polarity, Customer agrees to reasonably cooperate with Polarity's auditors to confirm Customer's compliance with the terms and conditions of this Agreement.

11.6 Marketing; Publicity. Customer agrees to allow Polarity to state that the Customer is a customer on its website and marketing materials to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71. Polarity may issue press releases, white papers and case studies in text and video that references the Customer and its license of the Software, subject to the Customer's prior review and written approval.

11.7 Governing Law; Venue and Jurisdiction. This Agreement shall be interpreted according to the Federal laws of the United States. The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

11.8 Reserved.

11.9 Entire Agreement and Waiver. This Agreement, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), shall constitute the entire agreement and contains all terms and conditions between Polarity and Customer with respect to the

subject matter hereof and all prior agreements, representations, and statement with respect to such subject matter are superseded hereby. In the event of a conflict between this Agreement and a Negotiated Purchase Order, the Purchase Order shall control. This Agreement may be changed only by written agreement signed by authorized representatives of both Polarity and Customer. No failure of either party to exercise or enforce any of its rights under this Agreement shall act as a waiver of subsequent breaches; and the waiver of any breach shall not act as a waiver of subsequent breaches.

11.11 11.10 No Other Terms. No text or information set forth on any preprinted form or document (other than a Quote) shall add to or vary the terms and conditions of this Agreement. Severability. In the event any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable, that provision will be enforced to the maximum extent permissible under applicable law, and the other provisions of this Agreement will remain in full force and effect. The parties further agree that in the event such provision is an essential part of this Agreement, they will begin negotiations for a suitable replacement provision.

11.12 Assignment. Customer may not, without the prior written consent of Polarity, assign this Agreement, in whole or in part, either voluntarily or by operation of law, and any attempt to do so shall be a material default of this Agreement and shall be void. The Anti-Assignment Act, 41 USC 6305, prohibits the assignment of Government contracts without the Government's prior approval. Procedures for securing such approval are set forth in FAR 42.1204. This Agreement shall be binding upon and shall inure to the benefit of the respective parties hereto, their respective successors and permitted assigns.

11.13 United States Government Users. If a user or Customer of the Software is an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software, or any related documentation of any kind, including technical data or manuals, is restricted in accordance with Federal Acquisition Regulation 12.212 . The Software is commercial computer software and the related documentation is commercial computer software documentation. The use of the Software and related documentation is further restricted in accordance with the terms of this Agreement, and any modification hereto.

11.14 Maintenance and Support Services - Supplier shall provide Non-Evaluation License Customer with support in accordance with **Exhibit A** of this Agreement.

## EXHIBIT A

### MAINTENANCE AND SUPPORT SERVICES

#### TERMS AND CONDITIONS

**1. Definitions.**

- a. **"Error"** means any reproducible failure of the Software to perform any material function set forth in the accompanying documentation.
- b. **"New Release"** means a new release of the Software issued by Polarity, provided for the purpose of materially enhancing the functionality or performance of the Software. New Release shall be identified by the numeral to the left of the first decimal point (e.g. a change from version 1.1 to 2.0).
- c. **"Maintenance Release"** means a bug fix or minor enhancement to the Software, which is identified by the numeral to the right of the first decimal point in the Software (e.g., a change from version 1.1 to 1.2).
- d. **"Maintenance and Support Services"** means that (a) Polarity shall provide Customer with all Maintenance Releases released during the term for which subscription fees have been paid; (b) Polarity shall answer questions from Customer regarding the operation of the Software via telephone and e mail, according to the escalation procedures set forth below; and (c) Polarity shall use commercially reasonable efforts to correct any Errors in the Software reported by Customer and confirmed by Polarity in accordance with the priority level assigned to the Error by Polarity, as described in the escalation procedures set forth below.

**2. Customer Obligations.**

- a. Customer shall furnish descriptions, diagnostic information, and machine readable examples of Errors in the form requested by Polarity technical support personnel. Customer shall also assist Polarity's efforts to duplicate any Errors or problems reported by Customer.
- b. Polarity reserves the right to limit the number of individuals who are authorized to make requests for Maintenance and Support Services, and requests Customer to designate two (2) initial primary contacts. Such technical support contacts must be knowledgeable in the use of the Software and the Customer's operating environment. Customer agrees to notify Polarity of any changes in primary support contacts within a reasonable time period.

**3. Help Desk; Escalation Procedures.**

- a. Polarity shall provide the following support: answering of telephone calls placed to the toll-free customer support telephone number **(844) 312.7001 x2** and e-mail support at **support@polarity.io**. Polarity shall use commercially reasonable efforts to provide such support from 9 a.m. to 5 p.m. in the United States Eastern Time Zone, Monday through Friday excluding U.S. holidays. Errors may be reported any time.
- b. Polarity shall respond to Errors in accordance with the priority level indicated in the chart below, which priority level shall be determined by Polarity.

Priority	Definition	Target Response	Actions
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for Initial Requests*			
Priority 1	Error that renders the Software inoperative or causes the Software to fail catastrophically	Within 4 business hours	Polarity shall promptly initiate the following procedures upon confirmation of the Error by Polarity: (1) assign a senior technical support manager to correct the Error; (2) notify senior Polarity management that a Priority 1 defect has been reported and that steps are being taken to correct the defect; (3) provide Customer with periodic reports on the status of the resolution; (4) commence work to provide Customer with a workaround or fix.
Priority 2	Error that materially restricts Customer's use of the Software	Within 1 business day	Polarity shall (1) assign technical support to correct the Error; (2) provide Customer with periodic reports on the status of the resolution; and (3) commence work to provide Customer with a workaround or fix.
Priority 3	Error that causes only a minor impact on Customer's use of the Software and/or a defect for which a workaround is available.	Within 2 business days	Polarity shall (1) assign technical support to correct the Error; (2) provide Customer with periodic reports on the status of the resolution; and (3) commence work to provide Customer with a workaround or fix.
Priority 4	A cosmetic or documentation Error that does not impact use of the Software	Within 2 business days	Polarity shall (1) assign technical support to correct the Error; (2) provide Customer with periodic reports on the status of the resolution; and (3) commence work to provide Customer with a workaround or fix.

- \* Target response time for support requests by e-mail or other on-line facility is within one (1) business day.
- c. The response times set forth in the chart above are target response times only. Polarity's sole obligation is to use commercially reasonable efforts to respond to Errors within such time frames, not to have resolved them.

**4. Exclusions and Limitations.** Polarity shall have no obligation to support:

- a. Altered, damaged or modified Software;
- b. Software that is not the current release or the most recent previous release;
- c. Errors or other software problems caused by Customer's negligence, changes made by any party other than Polarity, hardware malfunction, and/or other causes beyond the reasonable control of Polarity;
- d. Software installed in an operating or hardware environment not supported by Polarity.

**Maintenance Releases.** Polarity's obligations to provide Maintenance Releases shall only require Polarity to supply such releases as soon as reasonably possible after such releases become generally available. This Maintenance and Support Services Exhibit shall not be construed to obligate Polarity to provide Maintenance Releases to Customer on any specific timetable.