

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Release (“Agreement”) is entered into by and between DATUM, INC. (“DATUM”), on the one hand, and GLASSEY-MCNEIL TECHNOLOGIES (“GMT”), TODD GLASSEY (“GLASSEY”), and MICHAEL MCNEIL (“MCNEIL”), (sometimes collectively referred to as “GMT/GLASSEY/MCNEIL”), on the other hand.

### SECTION ONE

#### BACKGROUND

1.1 This Agreement is a mutual and complete compromise between the parties and is intended as a complete and final resolution and settlement of the respective differences, positions and claims of DATUM and GMT/GLASSEY/MCNEIL, as described below.

1.2 All parties hereto desire to avoid the risks and expenses attendant upon further litigation and to reach a mutual, full and final compromise and settlement of the parties’ disputes, claims, causes of action and the like.

1.3 In or about February 1998 the parties began collaborating on the development of certain technologies related to electronic commerce and time verification, which included the development of certain intellectual property, technologies, trade secrets and confidential and proprietary information. The parties also collaborated on the development of marketing efforts related to electronic commerce and time verification. The parties’ collaborative efforts continued through the end of 1998/early 1999.

1.4 From the parties’ business relationship a dispute arose between DATUM and GMT/GLASSEY/MCNEIL. Among other things, the parties dispute ownership in and other rights to certain of the intellectual property, technologies, trade secrets and confidential and proprietary information developed or contributed during the parties relationship, including the Protected Technology, defined below. When the parties were unable to resolve the dispute informally, on or around August 20, 1999, DATUM filed a complaint (the “COMPLAINT”) stating claims for, among other things, Breach of Contract, Breach of the Covenant of Good Faith and Fair Dealing, Misappropriation of Trade Secrets and Proprietary Business Information, Trade Libel, Slander and Declaratory Relief.

SECTION TWO  
DEFINITIONS

2.1 Protected Technology: Protected Technology includes any information, data, method, product, software, hardware, trade secrets, copyrights, documents, e-mails, technology, ideas, or inventions, disclosed, provided, produced, created in any form by GMT/GLASSEY/MCNEIL to, for, or in conjunction with DATUM between the initiation of the parties' relationship on February 1, 1998 through March 1, 1999, including any derivatives thereof, and any information, data, method, product, software, hardware, trade secrets, copyrights, documents, e-mails, technology, ideas, or inventions, disclosed, provided, produced, created in any form by DATUM to which GMT/GLASSEY/MCNEIL had, or was provided access to, or gained knowledge of or worked on between February 1, 1998 through March 1, 1999, including all derivatives thereof, including the Trusted Time Infrastructure ("TTI"), TTI II, or any further derivative or variation thereof, including but not limited to the Trusted Local Clocks and Trusted Master Clocks defined below.

2.2 Trusted Local Clocks: The Trusted Local Clock ("TLC") is a particular implementation of a trusted clock that is periodically certified to an upper clock, typically a Trusted Master Clock (TMC). The TLC provides time stamp tokens and temporal tokens. The TLC is a PCiv2.1 compliant card and assumed to be operating in an insecure host in an insecure environment. It uses a real time operating system to control the on-card functions.

2.3 Trusted Master Clocks: The Trusted Master Clock ("TMC") is a particular implementation of a trusted clock, synchronized to Coordinated Universal Time and made comparable to the time offered by a National Time Standard such as the National Institute of Science and Technology, which generates trusted time data which is sent to TLCs for time stamping and other certification purposes. The TMC also monitors and calibrates the TLCs.

2.4 Trusted Time Infrastructure: The term Trusted Time Infrastructure ("TTI") describes a particular system and process developed by Datum by which time can be affixed to an e-commerce document or transaction in such a way that it can be free from outside alteration, thus providing a universal, secure and reliable way to ascertain when a transaction occurred or a document was received or sent.

2.5 Net Sales: Net Sales shall mean the amount invoiced for sales of Trusted Local Clocks and Trusted Master Clocks (collectively the “Licensed Products”) by DATUM less the following deductions (to the extent they are not already reflected in the amount billed):

- (i) Discounts, refunds, and wholesaler chargebacks allowed and taken in amounts customary in the trade;
- (ii) Import, export, excise, sales or use taxes, tariffs and duties directly imposed and with reference to particular sales;
- (iii) Outbound transportation prepaid or allowed, including insurance.
- (iv) Amounts allowed or credited on rebates, returns or retroactive price deductions.

Licensed Products shall be considered “sold” when the amount billed out or invoiced to a third party has been received by DATUM. Licensed Products shall not be sold for less than commercially reasonable amounts, provided however, DATUM may provide Licensed Products as samples and promotional items in the normal course of business for no charge or reduced charge. If a Licensed Product is incorporated into another product or is sold in combination with other products or services and not invoiced separately, such Licensed Products shall be included in the Net Sales at the then current list price for such quantities of such Licensed Products with any discount from list price being applied proportionately to the discount from list price of the product into which the Licensed Product was incorporated or the list price of the other product sold, as the case may be. If there is then no current list price for such Licensed Product, the Net Sales will be based on the separate value of such Licensed Product and such other products or services.

SECTION THREE  
TERMS OF SETTLEMENT

3.1 In consideration of the mutual covenants set forth herein, and in full settlement of the claims and causes of action asserted or held by DATUM and/or GMT/GLASSEY/MCNEIL, the parties agree as follows:

3.2 Royalty:

- (a) DATUM agrees to pay to GMT/GLASSEY/MCNEIL a three percent (3%) royalty upon the Net Sales by DATUM of any DATUM Trusted Local Clocks and Trusted

Master Clocks. The royalty shall be calculated based upon final sales as of the end of the calendar year in which a royalty may be calculated. The royalty shall be due within sixty (60) days of the end of each year the royalty is due.

(b) The duration of the royalty shall be three (3) years (years 2000, 2001 and 2002).

(c) The royalty shall be subject to a ceiling of \$150,000 per year. Under no circumstances shall DATUM be obligated to pay more than \$150,000 in royalties in any calendar year irrespective of the amount of its Net Sales in any calendar year. GMT/GLASSEY/MCNEIL has no rights to any payment other than the 3% royalty and subject to the ceiling of \$150,000.

(d) DATUM agrees to advance \$50,000 of its royalty payment at the commencement of each year for which a royalty may be paid. The first advance payment shall be made per the wiring instructions below on January 7, 2000. Thereafter, the advance shall be paid within the first thirty days of each calendar year per the instructions below. Each of the three (3) \$50,000 advances shall be nonrefundable and shall not be subject to whether DATUM generates sufficient sales to generate the royalty payments but shall be creditable against the royalty earned pursuant to this section. All other royalty payments are subject to DATUM achieving sales of the two (2) products subject of the royalty.

(e) Payment shall be by wire transfer to the following account:

Bank routing No.: 121139096

Bank Account No.: 04-50823-8

Bank Account Name: Glassey-McNeil Technologies

Bank Name: Coast Commercial Bank

Bank Address: 203 Mount Harmon Road  
Scotts Valley, CA 95066

(f) Unless notified in a writing signed by GMT, GLASSEY and MCNEIL changing the payees and/or destination of payment, DATUM will follow these instructions for all payments and will not be subject to liability for following such instructions.

3.2.1 Currency of Payments. All payments under this Agreement shall be made U.S. Dollars by wire transfer to such bank account as designated herein. Any payments due hereunder on Net Sales outside of the United States shall be payable in U.S. Dollars at the average of the rate of exchange of the currency of the country in which the Net Sales are made as reported in the New York edition of The Wall Street Journal, for the last three (3) business days of the period for which the royalties are payable.

3.2.2 Tax Withholding. If laws or regulations require the withholding of income taxes owed on account of royalties accruing under this Agreement, such taxes shall be deducted on a country-by-country basis by DATUM from such remittable royalty and will be paid by it to the proper taxing authority. Proof of payment shall be secured and sent to GMT/GLASSEY/MCNEIL as evidence of such payment.

3.2.3 Audit Rights re Royalty Payments: To the extent GMT/GLASSEY/MCNEIL in good faith dispute the amount of royalties to which they are entitled pursuant to this Agreement, GMT/GLASSEY/MCNEIL may request an inspection of DATUM's accounting records reflecting the calculation of Net Sales. Such request may be made once per year while Datum's royalty payment obligations continue under this Agreement. Unless such request is made within thirty (30) days of GMT/GLASSEY/MCNEIL's receipt of a royalty payment from DATUM, the right to audit that payment is waived. The inspection shall be made only by a Certified Public Accountant ("CPA"), subject to DATUM's approval, which will not unreasonably be withheld, and conditioned upon execution of a confidentiality agreement regarding the review of DATUM's records, which shall include, among other things, a provision which prohibits the disclosure by the CPA of any information disclosed, learned or reviewed during the audit to GMT/GLASSEY/MCNEIL except for the final calculation of the amount that the CPA contends DATUM owes under this Agreement. Unless otherwise mutually agreed to in writing, the inspection by the CPA shall take place at the law offices of Stradling, Yocca Carlson & Rauth in Newport Beach, California during normal business hours. No information inspected during the audit may be removed from the premises, other than that which is expressly permitted by this paragraph. For purposes of this audit, the CPA may review only the computer generated accounting records necessary to make a final calculation of royalties owed and shall not be given access to manufacturing documents, inventory records or any underlying invoices and records. GMT/GLASSEY/MCNEIL shall bear all its own costs and expenses incurred to conduct any audits. If the audit determines that an amount is owed by DATUM to GMT/GLASSEY/MCNEIL and that amount is within ten percent (10%) of the original amount paid by DATUM, GMT/GLASSEY/MCNEIL, or if the audit determines that no amount is owed, or if DATUM has overpaid, GMT/GLASSEY/DATUM shall also reimburse DATUM for all of DATUM's cost and expenses in handling any audit. DATUM shall have the right to offset any right to reimbursement under this provision from any future royalty payments.

3.3 Dismissal of Complaint: DATUM agrees to dismiss with prejudice the COMPLAINT within ten (10) days of the full execution of this Agreement.

3.4 Intellectual Property Rights Regarding the Protected Technology: GMT/GLASSEY/MCNEIL disclaim any ownership in, or rights to, the Protected Technology and hereby acknowledge, represent and warrant that such Protected Technology is owned solely and exclusively by DATUM as its intellectual property, trade secrets and proprietary information. GMT/GLASSEY/MCNEIL agrees not to contest DATUM's ownership of any Protected Technology or the labeling of the Protected Technology as intellectual property, trade secrets, and/or proprietary information.

3.5 Other Agreements Superseded and Terminated: GMT/GLASSEY/MCNEIL further agree that, with the exception of this Agreement, which supersedes the terms of any prior agreements of the parties, all terms of all other agreements between the parties including, but not limited to any consulting agreements between the parties, any confidentiality or non-disclosure agreements, any value added reseller agreements and any other express, implied or oral agreements are hereby terminated and hereafter void. The parties mutually agree that as between DATUM and GMT/GLASSEY/MCNEIL no provision of any agreement between the parties, other than this Agreement and the settlement agreement relating to the parties' prior co-inventor agreement, shall be deemed to survive.

3.6 Protection of DATUM's Trade Secrets and Proprietary Information: From the execution date of this Agreement and at all times thereafter, GMT/GLASSEY/MCNEIL shall not, and shall not permit any representatives, agents, assigns or affiliates, to use or disclose to any person or entity any Protected Technology. GMT/GLASSEY/MCNEIL expressly agree, represent and acknowledge that they shall not engage in, or be associated with, any business which uses, in any manner, any Protected Technology.

3.7 Availability of Injunctive Relief: Given the nature of DATUM's business, GMT/GLASSEY/MCNEIL's involvement in DATUM's business and in the formulation and implementation of its business plans and strategies relating to the Protected Technology, and GMT/GLASSEY/MCNEIL's direct involvement with DATUM clients, GMT/GLASSEY/MCNEIL acknowledge and agree that the covenants of GMT/GLASSEY/MCNEIL and the restrictions on GMT/GLASSEY/MCNEIL contained in this Agreement are reasonable and necessary in order to protect the legitimate interests of DATUM, and that any violation thereof by GMT/GLASSEY/MCNEIL or any affiliates would result in irreparable injuries to DATUM, for which damages would not, in and of

themselves be an adequate remedy. Therefore, GMT/GLASSEY/MCNEIL acknowledge and agree that, in the event of a violation or breach by GMT/GLASSEY/MCNEIL or any affiliates of any of the covenants or any of the restrictions contained in this Agreement, DATUM shall be entitled to obtain, from any court of competent jurisdiction, temporary, preliminary and permanent injunctive relief, in addition to any other rights or remedies to which DATUM may be entitled under applicable law or equitable principles, without the necessity on the part of DATUM of having to post a bond or other security and without thereby limiting any other rights and remedies, including the recovery of monetary damages, that DATUM may have hereunder or under applicable law by reason of such violation or breach.

3.8 Representation of Non-disclosure: GMT/GLASSEY/MCNEIL represent and warrant that they have not disclosed any Protected Technology to any party other than Datum, its employees, agents, representatives.

3.9 Communication with Datum: GMT/GLASSEY/MCNEIL agree to refrain from any contact or communication with DATUM or any affiliated entities, including any officers, employees, former employees, agents, or representatives of DATUM or its affiliated entities. All communication on behalf of GMT/GLASSEY/MCNEIL which is directed at DATUM, its employees, agents or representatives must be directed to DATUM's legal counsel: John F. Cannon, Esq., Stradling, Yocca, Carlson & Rauth, 660 Newport Center Drive, Suite 1600, Newport Beach, California, 92660-6441. Further, all such communications must be made by legal counsel for GMT/GLASSEY/MCNEIL who is designated as follows: Jason R. Book, Esq., Bosso, Williams, Sachs, Book, Attack & Gallagher, 133 Mission Street, Suite 280, Santa Cruz, California 95061-1822.

3.10 No Communication Regarding Datum: GMT/GLASSEY/MCNEIL agree that they will not discuss any aspect of DATUM, including but not limited to DATUM's business, officers, employees, former employees, representatives, affiliated entities, transactions, or products with any person or entity, other than as expressly contemplated by this Agreement.

3.11 Release of Claims:

3.11.1 GMT/GLASSEY/MCNEIL's Release of Claims Against DATUM: GMT, GLASSEY and MCNEIL, for themselves and for and on behalf of GMT and any affiliated or related entities, assigns and successors in interest, if any, now or in the future, hereby irrevocably release, forgive and discharge DATUM and all of its current and former officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parent, subsidiaries, and related entities, assigns and successors in

interest, if any, now or in the future (collectively, the “DATUM Parties”), from any and all claims, demands, contracts, causes of action, obligations, debts, liabilities of any kind or nature whatsoever, whether known or unknown, which they now have or may have in the future, against the DATUM Parties. This release expressly includes any claims for which DATUM would bear an obligation of indemnity, pursuant to contract statute or otherwise to the person against whom GMT/GLASSEY/MCNEIL would have a claim. This release may be asserted by any of the Datum Parties and shall be a complete defense to any claim for which Datum would bear an indemnity obligation. Notwithstanding the foregoing, DATUM’s obligations under this Agreement are expressly excepted from the foregoing release.

3.11.2 DATUM’s Release of Claims Against GMT/GLASSEY/MCNEIL: DATUM agrees and acknowledges that DATUM on behalf of itself and any affiliated or related entities, assigns and successors in interest, if any, hereby irrevocably releases, forgives and discharges GMT/GLASSEY/MCNEIL and all of its officers, directors, shareholders, partners, agents, employees, representatives, affiliates, parents, subsidiaries, and related entities, assigns and successors in interest, if any, now or in the future (collectively, the “GMT Parties”), from any and all claims, demands, contracts, causes of action, obligations, debts, liabilities of any kind or nature whatsoever, whether known or unknown, which they now have or may have in the future, including those claims stated in the COMPLAINT, against the GMT Parties. This release expressly includes any claims for which GMT/GLASSEY/MCNEIL would bear an obligation of indemnity because such claim arose during and out of GMT/GLASSEY/MCNEIL’s employment of the person against whom DATUM would have a claim. Notwithstanding the foregoing, GMT/GLASSEY/MCNEIL ’s obligations under this Agreement are expressly excepted from the foregoing release.

3.12 Civil Code Section 1542: With respect to the matters herein stated as the subject of release, the parties hereto do hereby mutually waive and relinquish any and all rights which any of them may have under the provisions of Section 1542 of the Civil Code of the State of California, which Section reads as follows:

**“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”**

3.13 Settlement of Claims Against DATUM: GMT/GLASSEY/MCNEIL agree and acknowledge that, upon performance of this Agreement, DATUM shall have no further obligations under any consulting agreements, non-disclosure agreements, value added reseller agreements or any other agreement with GMT/GLASSEY/MCNEIL and that GMT/GLASSEY/MCNEIL waive any claims or causes of action any of them may have against DATUM arising out of such agreements, including, but not limited to, claims for damages and claims for the return of any intellectual properties allegedly disclosed to DATUM by GMT/GLASSEY/MCNEIL.

3.14 Attorney's Fees: DATUM and GMT/GLASSEY/MCNEIL shall bear their own costs and attorneys' fees in connection with their respective disputes and claims settled herein.

3.15 Termination of Payment Obligation and Survival of Non-Payment Terms: The parties agree and acknowledge that DATUM's royalty payment obligations terminate after the royalty payment derived from the third year of the royalty. Notwithstanding the foregoing, all other terms of this Agreement will remain in full force and effect after termination of DATUM's payment obligations.

#### SECTION FOUR WARRANTIES AND REPRESENTATIONS

4.1 The parties hereto warrant and represent that no promise or inducement has been offered or made for this Agreement except as herein set forth, that this Agreement is executed without reliance on any statements or any representations not contained herein, and that this Agreement reflects the entire settlement among the parties. The attorneys of record warrant and represent that they are satisfied that their respective clients fully understand the effect, significance and consequence of this Agreement. The terms, acknowledgments, warranties and representations made herein shall survive the execution and delivery of this Agreement, and shall be binding upon the respective heirs, representatives, and assigns and successors of each of the parties and their attorneys.

#### SECTION FIVE NO ADMISSION OF LIABILITY

5.1 The parties hereto acknowledge and agree that this Agreement is entered into as a mutual compromise and settlement which is not in any respect or for any purpose to be deemed or construed as an admission or concession of any liability whatsoever on the part of any of the parties hereto.

SECTION SIX  
CONFIDENTIALITY

6.1 The parties agree that this Agreement and its terms are confidential. The parties further agree that the confidentiality of this Agreement and its terms is a material term of this Agreement without which the parties would not have consented to the Agreement. The parties expressly agree that they will not disclose or discuss the terms of this Agreement with any person. GMT/GLASSEY/MCNEIL shall notify DATUM's legal counsel, in writing, of the receipt of any request for the disclosure of any confidential information. GMT/GLASSEY/MCNEIL shall cooperate with the efforts of DATUM to quash such subpoena or other legal process or to obtain a protective order, as DATUM deems appropriate. The parties shall have the right to provide required information concerning this Agreement to investors and potential investors, and to Affiliates in order to enable them to carry out the activities contemplated hereunder and in connection with strategic business needs. Any such disclosure shall be pursuant to a separate agreement of confidentiality between DATUM or GMT/GLASSEY/MCNEIL and any such third parties.

6.2 The parties further agree to maintain the confidentiality of any document or information which has been or is designated as confidential, including Protected Technology.

SECTION SEVEN  
ENFORCEMENT OF AGREEMENT

7.1 If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation arising out of or relating to any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

SECTION EIGHT  
MISCELLANEOUS

8.1 This Agreement is subject to, governed by, and shall be construed in accordance with the laws of the State of California.

8.2 GMT/ GLASSEY/MCNEIL represent and warrant that they are the sole and rightful owners of the claims asserted in the dispute described in this Agreement and that any such claims have not been assigned or transferred to any unnamed party. DATUM represents and warrants that it is the sole and rightful owner of the claims asserted in the COMPLAINT and otherwise herein and that any such claims have not been assigned or transferred to any unnamed party.

8.3 This Agreement is enforceable and binding upon the parties hereto, their successors and assigns, and any agents or others under the control or direction of the parties. Moreover, both parties, as well as the signatories, hereby warrant and covenant that their respective representative signing this Agreement has full authority to bind the parties to the terms of this Agreement.

8.4 The parties may assign all rights and delegate all duties hereunder to an entity acquiring that portion of each parties' business to which this Agreement relates, or to any corporate successor by way of merger or consolidation, provided that the assignee delivers to DATUM or GMT/GLASSEY/MCNEIL, as appropriate, a statement that the assignee assumes the assigning party's obligations hereunder. GMT/GLASSEY/MCNEIL may assign its right to receive the royalty payments provided in paragraph 3.2 to any person or entity provided that DATUM receives notice in writing of such assignment signed by GMT, GLASSEY and MCNEIL.

8.5 This Agreement constitutes and contains the entire understanding and agreement of the parties and cancels and supersedes any and all prior negotiations, correspondence and understandings and agreements, whether verbal or written, between the parties respecting the subject matter hereof. No waiver, modification or amendment of any provision of this Agreement shall be valid or effective unless made in writing and signed by a duly authorized officer of each of the parties.

8.6 The provisions of this Agreement are severable, and if one or more provisions should be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable. The provisions of this Agreement shall be construed as separate provisions covering their subject matter in each of the separate counties and states in the United States in which

DATUM transacts its business; to the extent that any provision shall be judicially unenforceable in any one or more of those counties or states, that provision shall not be affected with respect to each other county or state, each provision with respect to each county and state being construed as severable and independent.

8.7 The parties agree to take any acts, and execute any further documents, that may be reasonably necessary to accomplish and effect the terms of this Agreement.

8.8 This Agreement may be executed in counterparts and by fax, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement has been executed by the undersigned on the dates below indicated.

Dated: November \_\_\_\_, 1999

\_\_\_\_\_  
TODD GLASSEY

Dated: November \_\_\_\_, 1999

\_\_\_\_\_  
MICHAEL MCNEIL

Dated: November \_\_\_\_, 1999

\_\_\_\_\_  
GLASSEY MCNEIL TECHNOLOGIES

Dated: November \_\_\_\_, 1999

\_\_\_\_\_  
DATUM, INC.

**APPROVED AS TO FORM AND CONTENT:**

STRADLING, YOCCA, CARLSON & RAUTH

Dated: November \_\_\_\_, 1999

By: \_\_\_\_\_  
John F. Cannon  
Attorneys for DATUM, Inc.

BOSSO, WILLIAMS SACHS, BOOK, ATACK &  
GALLAGHER

Dated: November \_\_\_\_, 1999

By: \_\_\_\_\_  
Jason R. Book, Esq.

Attorneys for Glassey-McNeil Technologies, Inc.  
Todd Glassey, and Michael McNeil.