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8. Term and Termination

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8.1 This Agreement commences on the Effective Date and will remain in force until it is terminated. Termination of this Agreement shall occur if any of the following events (“Termination Events”) occur, provided that no such termination will entitle Licensee to a refund of any portion of any monies which have been paid to Licensor:

a) Licensee is in breach of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after Licensor gives Licensee written notice of such breach; or b) Licensee terminates its business activities or becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or c) unless otherwise terminated, automatically upon expiration of two (2) years after the Effective Date.

8.2 Termination will become effective immediately or on the date set forth in the written notice of termination. Termination of this Agreement will not affect the provisions regarding Licensee’s or Licensor’s treatment of provisions relating to the payment of amounts due, provisions limiting or disclaiming Licensor’s liability, or provisions regarding applicable law, which provisions will survive termination of this Agreement.

8.3 Within fourteen (14) days after the date of termination or discontinuance of this Agreement for any reason whatsoever, Licensee shall destroy all copies of Software.

9. Non-Assignment/Binding Agreement

Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Licensee, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidate, without the prior written consent of Licensor, at Licensor’s sole discretion.

10. Notices

Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by registered mail return receipt requested, (c) sent by overnight air courier, or (d) by facsimile, in each case forwarded to the appropriate address set forth herein. Either party may change its address for notice by written notice to the other party. Notices will be considered to have been given at the time of actual delivery in person, three (3) business days after posting or one (1) day after (i) delivery to an overnight air courier services or (ii) the moment of transmission by facsimile.

11. Miscellaneous

11.1 *Force Majeure.* Licensor will not incur any liability to Licensee on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquakes, fire and explosions, but the inability to meet financial obligations is expressly excluded.

11.2 *Waiver.* Any waiver of the provisions of this Agreement or of a party’s rights or remedies under this Agreement must be in writing to be effective. Failure, neglect or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed or be deemed to be a waiver of such party’s rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party’s right to make subsequent action.

11.3 *Severability.* If any term, condition, or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

11.4 *Entire Agreement.* This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter.

11.5 *Counterparts.* This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement.

11.6 *Applicable Law.* This Agreement will be interpreted and construed in accordance with the laws of the State of New York and the United States of America, without regard to conflict of law principles. Any claims made by the parties shall be filed in the state or federal courts located in the County of New York, in the City of New York, the venue which the parties hereby agree is convenient and to which each party submits to personal jurisdiction.

