

FastReport VCL

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(f) either Party may terminate this Agreement (i) if the other Party declares insolvency or bankruptcy, (ii) if a petition is filed in any court and not dismissed in ninety (90) days to declare the other Party bankrupt or for the other Party's reorganization under bankruptcy, insolvency, reorganization, moratorium, or other laws relating to or affecting the rights of creditors; or (iii) if the other Party consents to the appointment of a trustee in bankruptcy or a receiver or similar entity;

Any termination pursuant to this Section 8.2 shall be without prejudice to any other rights or remedies which one Party may have in respect of any default by the other Party. Any failure by the nonbreaching Party to exercise its rights hereunder to terminate or otherwise to enforce or recover damages for any default, breach or non-observance by the breaching Party of any covenant, condition, obligation or term of this Agreement will not affect or impair the nonbreaching Party's right in respect of any subsequent default, breach or non-observance of the same or a different kind, nor will any delay or omission of the nonbreaching Party to exercise any right arising from any default, breach or non-observance affect or impair the nonbreaching Party's right as to the same or any future default, breach or non-observance provided however, that nothing in this Section 8.2 shall be construed or interpreted as to override any provision in this Agreement limiting the remedies of a nonbreaching Party against a breaching Party.

8.3 Upon Termination. In the event of termination or expiration of this Agreement, Licensee shall:

(a) as soon as practicable but not later than ten (10) business days after the termination destroy, uninstall, delete or return to Fast Reports all of Fast Reports' Confidential Information in Licensee's possession or under its control, including, without limitation, installed on any hard-drive or other fixed, electronic, optical, magnetic or other media and any authorized or unauthorized modifications of the Software, including any copies provided to End Users (except as provided by the Limited License set forth in Section 8.4);

(b) upon request from the other Party, certify and warrant, within thirty (30) calendar days following such termination, that it has complied with the obligations pursuant to Section 8.3(a) hereunder (email suffice); and

(c) be allowed to Operate the then-current version of the Software pursuant to the Limited License set forth in Section 8.4.

8.4 Limited License. Upon the termination of any License Term, Licensee shall be granted a non-exclusive, personal, limited, non-transferable right (without the right to sublicense) to Operate the version of the Software then current on the date of Termination as part of the applicable Solution with no right to further Updates and no right to Support ("**Limited License**"). Fast Reports reserves the right to unilaterally terminate or change the scope of any Limited License at any time for any reason or no reason with no liability of any kind. In the event of termination of the Limited License, the Licensee and any End Users shall immediately stop using the Software, and destroy, uninstall, delete or return to Fast Reports all copies of the Software and any Confidential Information.

8.5 Survival. Notwithstanding any provisions to the contrary herein, the provisions of Sections 2-4 and Sections 8 and 9 shall survive the termination or expiration of the Agreement and such termination or expiration shall not release Licensee of its obligations

regarding the Confidential Information, Licensee's obligations with respect to Intellectual Property Rights or any duties, liabilities or obligations which by the terms hereof or in context are to survive termination.

9. MISCELLANEOUS PROVISIONS

9.1 Indemnity. Licensee shall indemnify, defend and hold harmless Fast Reports and its respective officers, directors, shareholders, employees, agents and representatives against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, attributable to a third party claim arising out of (i) Licensee's or End User's breach or violation of any warranty, covenant or obligation pursuant to this Agreement; (ii) any unauthorized modification of the Software by Licensee or End User; and (iii) any transaction with Licensee's customers, including without limitation the use and distribution of any of Licensee's software application product(s), components or results of Operating of the Software by any third party, permitted customers and/or End Users; Fast Reports: (a) shall notify Licensee promptly in writing of any such action (provided that failure to do so will not relieve the Licensee of its indemnification obligations hereunder unless such delay in notification materially prejudices the Licensee); (b) gives Licensee sole control of the defense and/or settlement of such action, subject to Fast Reports' approval of any such settlement, which approval will not be unreasonably withheld, delayed or conditioned; and (c) gives Licensee all reasonable information and assistance (at Licensee's reasonable expense excluding time spent by Fast Reports' employees or consultants).

9.2 Jurisdiction. Each Party irrevocably submits to the exclusive jurisdiction of the United States District Court for the Eastern District of Virginia or, if such court does not have subject matter jurisdiction, any other state or federal court located in the Commonwealth of Virginia, for the purposes of any proceeding arising out of or relating to this Agreement and performance hereof, and irrevocably agrees to commence and litigate any such proceeding only before such courts. Each Party: (i) hereby waives and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such action brought in one of the above-named courts should be stayed by reason of the pendency of some other proceeding in any other court other than one of the above-named courts, or that this Agreement or the subject matter hereof may not be enforced in or by such court, (ii) agrees not to commence any proceeding arising out of or relating to this Agreement other than before one of the above-named courts, (iii) irrevocably and unconditionally waives any objection to the laying of venue of any proceeding arising out of or relating to this Agreement before such courts, (iv) irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such proceeding brought in any such court should be dismissed on grounds of forum non conveniens or should be transferred or removed to any court other than one of the above-named courts, and (v) irrevocably and unconditionally agrees to be bound by any judgment rendered by any such court. Each Party further agrees that service of any process, summons, notice or document in accordance with Section 6.3 shall be effective service of process, summons, notice or documents for any such proceeding, and waives and agrees not to assert (by way of motion, as a defense, or otherwise) in any such action any claim that service of process made in accordance with Section 9.6 does not constitute good and valid service of

process. Nothing in this Agreement shall in any way be deemed to limit the ability of any Party to serve any such process, summons, notice or document in any other manner permitted by applicable Law. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS, INCLUDING COUNTERCLAIMS, OF ANY PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT OF THIS AGREEMENT

9.3 Specific Performance. If a Party breaches, or threatens to commit a breach of, any of the covenants set forth herein, the other Party will be entitled, in addition to any other rights of such Party may enjoy, to obtain injunctive or other equitable relief by any court of competent jurisdiction to restrain any actual or threatened breach or otherwise to specifically enforce the provisions of this Agreement, it being agreed that such breach or imminent breach may cause irreparable injury to such Party and money damages alone would not be an inadequate remedy and would fail to fully compensate such Party for such Licensee's breach. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Either Party further agrees to waive any requirement for the securing or posting of any bond in connection with the obtaining of any such equitable relief and that this provision is without prejudice to any other rights that the Parties hereto may have for any failure to perform this Agreement.

9.4 Legal Expenses. The substantially prevailing Party in any legal action brought by one Party against the other and arising out of or related to this Agreement shall be entitled, along with any other rights and remedies it may have, to reimbursement for its expenses actually incurred, including court costs and reasonable attorney's fees to the extent awarded by a non-appealable binding order, judgment or other judicial action. Such fees may be set by the court in the trial of such action or may be enforced in a separate action brought for that purpose. Such fees shall be in addition to any other relief that may be awarded.

9.5 Terms of Agreement. Neither Party shall disclose the terms of this Agreement to any third party other than its outside counsel, auditors, and financial and technical advisors, except as required by law or except in connection with a bona fide acquisition, merger, financing or restructuring provided that the recipient is bound by the confidentiality terms not less stringent than the terms hereof.

9.6 Notifications. All claims, instructions, consents, designations, notices, waivers, and other communications in connection with the Agreement ("**Notifications**") will be in writing. Such Notifications will be deemed properly given (a) when received if delivered personally, (b) if delivered by facsimile transmission when the appropriate telecopy confirmation is received; (c) upon the receipt of the electronic transmission by the server of the recipient when transmitted by electronic mail, or (d) within three (3) days after deposit with an internationally recognized express delivery service, in each case when transmitted to a Party at the following address or location:

If to Fast Reports: 66 Canal Center Plaza, Ste 505, Alexandria, VA 22314; **info@fast-report.com**.

Either Party may change the address to which Notifications hereunder are to be delivered by giving the other notice in the manner herein set forth.

9.7 Independent Contractors. The relationship of Fast Reports and Licensee 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 and control the day-to-day activities of the other, (ii) constitute the Parties as partners, joint venturers, franchisor-franchisee, co-owners or otherwise as participants in a joint or common undertaking, or (iii) allow either Party to create or assume any obligation on behalf of the other for any purpose whatsoever. Except for the rights of Licensee set forth in this Agreement, Licensee shall be solely responsible for developing and implementing its business and marketing plans and its operations.

9.8 Severability. If this Agreement or any provision thereof is, or the transactions contemplated hereby are, found by a court of competent jurisdiction to be invalid, void, unenforceable for any reason or inconsistent or contrary to any valid applicable laws or official orders, rules and regulations, in whole or in part, the inconsistent or contrary provision of this Agreement shall be null and void and such laws, orders, rules and regulations shall control and, as so modified, this Agreement shall continue in full force and effect and the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law; provided, however, that nothing herein contained shall be construed as a waiver of any right to question or contest any such law, order, rule or regulation in any forum having jurisdiction.

9.9 Waiver. No provision of the Agreement will be considered waived unless such waiver is in writing and signed by the Party that benefits from the enforcement of such provision. No waiver of any provision in the Agreement, however, will be deemed a waiver of a subsequent breach of such provision or a waiver of a similar provision. In addition, a waiver of any breach or a failure to enforce any term or condition of the Agreement will not in any way affect, limit, or waive a Party's rights under the Agreement at any time to enforce strict compliance thereafter with every term and condition of the Agreement.

9.10 Assignment. This Agreement, including without limitation any Licenses granted hereunder, may not be assigned, in whole or in part, by either Party without the prior written consent of the other Party, provided that Fast Reports shall have the right to assign this Agreement in the event of a merger, acquisition or sale of all or all of Fast Reports' assets. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties hereto and their respective heirs, legal representatives, successors, and assigns.

9.11 Force Majeure. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent the performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions.

9.12 Further Assurances. The Parties will each perform such acts, execute and deliver such documents and instruments, and do such other things as may be reasonably requested to accomplish the transactions contemplated by this Agreement and to carry out the purpose and intent hereof.

9.13 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties and, except as otherwise provided herein, no other Person will have any right, interest, or claim under this Agreement.

9.14 Entire Agreement. This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes all prior or contemporaneous understandings or agreements, whether oral or written.

9.15 Counterparts. The Agreement may be separately executed by the Parties in two (2) or more counterparts and all such counterparts shall be deemed an original, but all of which together shall constitute one and the same instrument and will be binding on the Parties as if they had originally signed one copy of the Agreement.