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## 2. LICENSE GRANT AND RESTRICTIONS

The Software is protected by copyright, trade secret, and other intellectual property laws and Avalara has and will have exclusive proprietary and other rights in the Software, including without limitation any and all worldwide patent, copyright, trademark, trade secret and other intellectual property rights, however and wherever arising (collectively, the "Proprietary Rights"). You are only granted certain limited rights to install and use the Software, and Avalara reserves all other rights in the Software not granted to you in writing herein. As long as you meet any applicable payment obligations and comply with this Agreement, Avalara grants you a limited, non-exclusive, non-transferable, revocable license to use the Software only for the period of use provided in the ordering and activation terms, as set forth in this Agreement, or in accordance with Avalara's then-current product discontinuation policies, as updated from time to time, and only for the purposes described by Avalara for the Software.

You acknowledge and agree that the Software is licensed, not sold. You agree not to use, nor permit any third party to use, the Software in a manner that violates any applicable law, regulation, or this Agreement. Except as expressly permitted hereunder, the Software shall be used by you only for the processing of your business, which will include servicing and maintaining records, and you shall not permit any third-party to use or access the Software. In addition, you will not and will not permit any of your employees or assigns or any other party to: (i) reverse assemble, reverse engineer, decompile or otherwise attempt to derive source code from the Software or any component thereof, except as specifically permitted by law for interoperability; (ii) modify, translate or prepare derivative works of the Software or any component thereof; (iii) copy or reproduce the Software or any component thereof, other than as expressly provided in this Agreement; (iv) use the Software in any manner that infringes the Proprietary Rights or other rights of Avalara, its affiliates, licensors or another party; (v) distribute, re-distribute, sublicense (other than as expressly allowed in this Agreement), assign, share, sell, rent, lease, or grant a security interest in the Software; (vi) interfere or attempt to interfere in any manner with the functionality or proper working of the Software; (vii) publish the Software or any part of the Software for others to copy; (viii) use the Software for commercial hosting services; (ix) attempt to avoid or circumvent the security measures set up to protect the Software from unauthorized use; (x) make the Software available to anyone other than your permitted users; (xi) use the Software to store or transmit infringing, libelous, or otherwise unlawful or tortuous material or to store or transmit material in violation of third-party privacy rights; (xii) use the Software to store or transmit malicious code; (xiii) interfere with or disrupt the integrity or performance of the Software or third-party data contained therein; (xiv) attempt to gain unauthorized access to the Software or their related systems or networks; and (xv) access the Software to build a competitive product or service or to copy any features, functions or graphics of the Software. Avalara may modify the Software and this Agreement at any time with notice to you via electronic communication.

## 3. PAYMENT

For Software licensed on a payment or subscription basis, the following terms apply, unless Avalara notifies you otherwise in writing, or as otherwise set forth in an addendum to this Agreement, all in accordance with the payment terms provided to you for the Software:

Your bank account will be electronically debited on a monthly basis when you subscribe and provide your

payment information, unless stated otherwise in the program ordering or payment terms on the website for the Software. In addition Avalara may in some circumstances accept payment as follows: (i) a valid credit card acceptable to Avalara; (ii) a valid debit card acceptable to Avalara.

If your payment and registration information is not accurate, current and complete, and you do not notify us promptly when such information changes, we may immediately suspend or terminate your account, terminate your license and refuse any further use of the Software. If you do not notify us of updates to your payment method (e.g., change in banking information or credit card expiration date), to avoid interruption of your service, we may participate in programs supported by your card provider (e.g., updater services, recurring billing programs, etc.) to try to update your payment information, and you authorize us to continue billing your account with the updated information that we obtain. Avalara also reserves the right to manually debit your bank account for unpaid subscription fees, should a change in your payment information result in uncollected sums. Avalara will automatically renew your subscription at the then-current rates, unless the Software is cancelled or terminated under this Agreement. Additional cancellation or renewal terms may be provided to you on the website for the Software.

#### 4. YOUR PRIVACY AND PERSONAL INFORMATION

Please review Avalara's Privacy Policy provided with the Software and on the website for the Software at [www.davosalestax.com/privacy-policy-davo-technologies/](http://www.davosalestax.com/privacy-policy-davo-technologies/). You agree to the applicable Avalara Privacy Policy, and any changes published by Avalara. You agree that Avalara may use and maintain your data according to the Avalara Privacy Policy, as part of the Software.

#### 5. CONTENT

You are responsible for your content. You are responsible for all materials ("Content") uploaded, posted or stored through your use of the Software. You grant Avalara a worldwide, royalty-free, non-exclusive license to host and use any Content provided through your use of the Software to provide the services under, and as contemplated by, this Agreement. Archive your Content frequently. You are responsible for lost or unrecoverable Content. You must provide all required and appropriate warnings, information, and disclosures. Avalara is not responsible for the Content or data you provide through your use of the Software. None of the following is permitted as Content while using the Software; (i) illegal, fraudulent, libelous, defamatory, obscene, pornographic, profane, threatening, abusive, hateful, harassing, offensive, inappropriate or objectionable information or communications of any kind, including without limitation conduct that would encourage or constitute an attack on others, or criminal or civil liability under any local, state, federal or foreign law; (ii) content that would impersonate someone else or falsely represent your identity or qualifications, or that constitutes a breach of any individual's privacy; (iii) advertisements, solicitations, investment opportunities, chain letters, pyramid schemes, other unsolicited commercial communication or engage in spamming or flooding; (iv) virus, trojan horse, worm or other disruptive or harmful software or data; and (v) any information, software or Content which is not legally yours and may be protected by copyright or other proprietary right, or derivative works, without permission from the copyright owner or intellectual property rights owner.

Avalara may freely use feedback you provide. You agree that Avalara may use your feedback, suggestions, or ideas in any way, including in future modifications of the Software, other products or services, advertising or marketing materials. Avalara will not sell, publish or share your feedback in a way that could identify you without your explicit permission.

Avalara may monitor your Content. Avalara may, but has no obligation to, monitor content on the Software. We may disclose any information necessary to satisfy our legal obligations, protect Avalara or its customers, or operate the Software properly. Avalara, in its sole discretion, may refuse to post, remove, or refuse to remove, any content, in whole or in part, alleged to be unacceptable, undesirable, inappropriate, or in violation of this Agreement.

#### 6. ADDITIONAL TERMS

You acknowledge and agree that Avalara does not independently calculate your sales tax liability but will collect, file, and pay your sales tax based upon the information collected from your Point of Sale (POS), accounting software package. You acknowledge that Avalara is not responsible for incorrect programming of tax rates in your POS, or the taxability or non-taxability or tax-exempt status of goods and services sold, and

that any penalties assessed due to the aforementioned errors or omissions on your part will be your responsibility. You acknowledge that it is your responsibility to provide Avalara with access to your E-File account so Avalara can submit returns on your behalf and to inform Avalara as to any change in your State required filing frequency and that any penalties assessed due to incorrect filing frequency will be your responsibility. You further acknowledge Avalara does not provide professional tax opinions or tax management advice specific to the facts and circumstances of your business. You are encouraged to conduct due diligence and seek the assistance of qualified tax counsel or accounting professionals on matters requiring professional advice. Accordingly, you hereby release and hold harmless Avalara and its affiliates, subsidiaries, officers, directors, and employees from any assessments (including, but not limited to, penalties and interest) assessed against you as a result of your failure to provide Avalara with access to your E-File account to submit returns on your behalf or incorrect filing and paying of sales tax due to incorrect sales tax data collected from your POS or accounting software package.

During the term of the Agreement, Avalara shall collect sales and sales tax data from your Point of Sale ("Tax Data"). Avalara shall compile such Tax Data and prepare and file periodic tax returns (as required by the state in which you are filing your returns), on behalf of you. You agree to provide designated bank account information ("Bank Account") and routing number for the purpose of paying outstanding tax obligations. By accepting the terms and conditions of this Agreement, you agree that Avalara may automatically initiate the ACH transfer of the tax amounts due ("Tax Funds") from the Bank Account on a daily basis. If at any time during reconciliation of your Bank Account a balance is found to be owed, you agree to immediately fund the Bank Account such amount owed for withdrawal by us. Avalara may hold the Tax Funds withdrawn from the Bank Account for taxes due in an interest-bearing trust account prior to disbursement to the taxing authority. Any interest earned on such account shall accrue for the benefit and be the sole property of Avalara. Avalara acknowledges and agree that all Tax Funds received from you belong to, and will be held in trust for, the benefit of, the individual taxing authorities to which such Tax Funds are due and that the Tax Funds shall not be commingled with Avalara's general funds but may be deposited with funds also held in trust on behalf of other taxpayer customers of Avalara.

Avalara will not provide funds to pay your taxes due. If for any reason the Tax Funds are not available to Avalara in the Bank Account at the time of withdrawal, Avalara may not have collected enough Tax Funds to fulfill the tax filing and payment obligation for a tax period. In this event or pursuant to Section 7, Avalara may: 1) remit your returns without payment and it will be your responsibility to make payments directly to the taxing authorities. You acknowledge and agree that Avalara will not be responsible for any assessments (including, but not limited to, all penalties and interest) due as a result of remitting returns without payment. Accordingly, you hereby release and holds harmless Avalara and its affiliates, subsidiaries, officers, directors, and employees from any assessments (including, but not limited to, penalties and interest) assessed against you as a result of returns filed without payment because of your funding delays or because the Bank Account did not have sufficient funds to pay tax amounts owed by You. In addition, you waive any claim against Avalara and its affiliates, subsidiaries, officers, directors, and employees related to the foregoing. Notwithstanding any other provision of this Agreement, Avalara reserves the right to immediately terminate this Agreement or take other action to mitigate exposure to loss if tax amounts due are not properly and sufficiently funded by you.

2) return the Tax Funds collected to you and it will be your responsibility to file and pay the taxing authorities directly. You acknowledge and agree that Avalara will not be responsible for any assessments (including, but not limited to, all penalties and interest) due as a result of your failure to file and/or pay your sales tax obligations. Accordingly, you hereby release and holds harmless Avalara and its affiliates, subsidiaries, officers, directors, and employees from any assessments (including, but not limited to, penalties and interest) assessed against you as a result of your not filing or paying your sales tax obligations on time and/or in full as a result of Avalara returning your Tax Funds to you and requiring you to file and pay the taxing authorities yourself. In addition, you waive any claim against Avalara and its affiliates, subsidiaries, officers, directors and employees related to the foregoing. Notwithstanding any other provision of this Agreement, Avalara reserves the right to immediately terminate this Agreement or take other action to mitigate exposure to loss if tax amounts due are not properly and sufficiently funded by you.

Transactions rejected due to insufficient funds will be charged \$3.00 per rejected transaction. This is in addition to any fees or charges initiated by your bank. Avalara will net the charge out of our monthly/quarterly filing reconciliation if possible. Otherwise, Avalara will ACH debit the sum total of the monthly rejected transaction fees from your bank account. Avalara urges you to contact us if you know your account is not going to be funded or if you are changing bank accounts. This will help us mitigate transaction rejection.

You acknowledge that you receive all notices relating to your tax returns directly from taxing authorities. Accordingly, you agree to release, defend, indemnify, and hold harmless Avalara and its affiliates, subsidiaries, officers, directors, and employees from any assessments (including, but not limited to, all penalties and

interest) assessed against you as a result of or based on: (a) your failure to immediately deliver to Avalara any notice from a taxing authority; or (b) your election to manage notices from taxing authorities on its own. In addition, on behalf of you and your successors and assigns, you waive any claim against Avalara and its affiliates, subsidiaries, officers, directors and employees related to the foregoing.

We may tell you about other Avalara services. You may be offered other services, products, or promotions by Avalara ("Avalara Services"). Additional terms and conditions and fees may apply. With some Avalara Services you may upload or enter data such as names, addresses and phone numbers, purchases, etc., to the Internet. You grant Avalara permission to use information about your business and experience to help us to provide the Avalara Services to you and to enhance the Software. You grant Avalara permission to combine your business data, if any, with that of others in a way that does not identify you or any individual personally. You also grant Avalara permission to share or publish summary results relating to research data and to distribute or license such data to third parties. Please see Section 15 for further Terms and Conditions related to Avalara's other Product Offering.

Avalara may be required by law to send you communications about the Software or Third Party Products. You agree that Avalara may send these communications to you via electronic communication or by posting them on our websites.

You will manage your passwords and accept updates. You are responsible for securely managing your password(s) for access to the Software and to contact Avalara if you become aware of any unauthorized access to your account. The Software may periodically be updated with tools, utilities, improvements, third party applications, or general updates to improve the Software. You agree to receive these updates.

You acknowledge that Avalara is dependent on you and third parties to effectively provide the Software and that there are factors outside of Avalara's control that affect the Software, including, but not limited to the following: (a) the risks inherent with the Internet; (b) the proper operation, availability and function of your ISP, network, hardware, software (including, but not limited to, business or accounting software); (c) your accurate completion of set-up forms, your correct configuration of the Software and your performance of all of its obligations under this Agreement; and (d) state and local governmental agencies to timely update and provide tax rate information. You acknowledge that Avalara is not responsible for any damages related to the operation of any third party software or hardware used by you in the Software.

## 7. AVALARA SALES TAX GUARANTEE

Avalara will set aside your sales tax funds daily, then file your return and pay your sales tax obligation on time and in full provided:

Your POS has reported the correct amount of sales tax due to the state.

Avalara has impounded the full amount due to the state for the filing period. In the event that we have been unable to collect the full amount of your sales tax funds from your bank account for any reason or your POS has under-reported the sales tax due to the state, Avalara will perform as described in SECTION 6: ADDITIONAL TERMS 1) and 2).

You have provided Avalara access to your current state E-File account (login credentials, state sales tax identifier and any multi-factor authorization or authentication required besides the login credentials). In the event that you have not done this or Avalara is unsuccessful in accessing your state E-File account for any reason not under Avalara's control, Avalara will perform as described in SECTION 6: ADDITIONAL TERMS 1) and 2). In addition, if **you do not provide Avalara with successful access to any of your current E-File accounts within 6 months following the date you accept this Agreement or first access or use the Software, Avalara reserves the right to terminate the services and license under this Agreement and return to you the Tax Funds it collected.**

## 8. SERVICE SUSPENSION AND SECURITY

Except as otherwise agreed in this Agreement, in addition to Avalara's right to terminate or suspend the rights to the use of the Software under this Agreement, you acknowledge that: (i) your access to, and use of, the Software, may be suspended for the duration of any unanticipated or unscheduled downtime or unavailability of any portion or all of the Software for any reason, including, but not limited to, as a result of power outages, system failures or other interruptions; (ii) Avalara shall also be entitled, without any liability to you, to suspend access to any portion or all of the Software at any time, on a system-wide basis: (A) for scheduled maintenance and updates to permit Avalara to conduct maintenance or make modifications to the Software; (B) in the event of a denial of service attack or other attack on the Software or other event that Avalara

determines, in its sole discretion, may create a risk to the Software, to you or any other customer if the Software were not suspended; or (C) in the event that Avalara determines that the Software is prohibited by law or Avalara otherwise determines that it is necessary or prudent to do so for legal or regulatory reasons (collectively, "Service Suspensions"). Without limitations to the disclaimers in this Agreement, Avalara shall have no liability whatsoever for any damage, liabilities, losses (including, without limitation, any penalties, interest or loss of data or profits) or any other consequence that you may incur as a result of any Service Suspension. To the extent that Avalara is able, it will endeavor to provide you notice of any Service Suspension in accordance with the notice provisions in this Agreement regarding resumption of the Software following any such suspension, but Avalara shall have no liability for the manner in which it may do so or if it fails to do so.

Avalara strives to keep your customer data and Tax Data secure, but cannot guarantee that it will be successful at doing so given the nature of the Internet. Accordingly, you acknowledge that you bear sole responsibility for the adequate security, protection and backup of your customer data and Tax Data. Avalara strongly encourages you, where available and appropriate, to (i) use encryption technology to protect your customer data and Tax Data from unauthorized access, (ii) routinely archive your customer data and Tax Data, and (iii) keep your software that you use to run the Software current with the latest security patches or updates. Avalara shall have no liability to you for any unauthorized access or use, corruption, deletion, destruction or loss of any customer data or Tax Data.

## 9. DISCLAIMER OF WARRANTIES

YOUR USE OF THE SOFTWARE AND CONTENT ACCESSIBLE THROUGH THE SOFTWARE IS ENTIRELY AT YOUR OWN RISK. EXCEPT AS DESCRIBED IN THIS AGREEMENT, THE SOFTWARE IS PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AVALARA, ITS AFFILIATES, AND ITS THIRD PARTY SERVICE OR DATA PROVIDERS, LICENSORS, DISTRIBUTORS OR SUPPLIERS (COLLECTIVELY REFERRED TO AS, "SUPPLIERS") DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT THE SOFTWARE IS FIT FOR A PARTICULAR PURPOSE, TITLE, MERCHANTABILITY, DATA LOSS, NON-INTERFERENCE WITH OR NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, OR THE ACCURACY, RELIABILITY, QUALITY OR CONTENT IN OR LINKED TO THE SOFTWARE. AVALARA AND ITS AFFILIATES AND SUPPLIERS DO NOT WARRANT THAT THE SOFTWARE IS SECURE, FREE FROM BUGS, VIRUSES, INTERRUPTION, ERRORS, THEFT OR DESTRUCTION. FURTHER, AVALARA DOES NOT WARRANT ACCESS TO THE INTERNET OR TO ANY OTHER SERVICE, CONTENT OR DATA TRANSMITTED THROUGH THE SOFTWARE. AVALARA, ITS AFFILIATES AND SUPPLIERS DISCLAIM ANY REPRESENTATIONS OR WARRANTIES THAT YOUR USE OF THE SOFTWARE WILL SATISFY OR ENSURE COMPLIANCE WITH ANY LEGAL OBLIGATIONS OR LAWS OR REGULATIONS.

## 10. LIMITATION OF LIABILITY AND INDEMNITY

AVALARA WARRANTS THAT WE WILL PAY ALL PENALTIES AND INTEREST ACTUALLY IMPOSED ON LICENSEE BY A TAXING AUTHORITY PROVIDED ALL OF THE FOLLOWING CONDITIONS ARE SATISFIED: (i) THE PENALTY AND INTEREST IMPOSED AROSE SOLELY FROM AVALARA'S ERROR OR NEGLIGENCE IN TIMELY PERFORMING THE AVALARA SERVICES; (ii) LICENSEE HAS FULFILLED ALL OF ITS OBLIGATIONS UNDER THIS AGREEMENT; (iii) LICENSEE HAS PROMPTLY FORWARDED ANY NOTICES AND RELEVANT INFORMATION FROM TAXING AUTHORITIES TO US; AND (iv) LICENSEE HAS FULLY COOPERATED WITH AVALARA'S EFFORTS TO ABATE AND/OR REDUCE THE AMOUNT OF PENALTY AND INTEREST IMPOSED AGAINST LICENSEE. PENALTIES AND INTEREST DUE BY AVALARA UNDER AVALARA'S WARRANTY PROVIDED HEREIN MAY BE REDUCED IF LICENSEE OTHERWISE BENEFITED AS A RESULT OF ANY UNDERPAYMENT TO A TAXING AUTHORITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE ENTIRE LIABILITY OF AVALARA, AND ITS AFFILIATES AND SUPPLIERS FOR ALL MATTERS OR CLAIMS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT YOU PAID FOR THE SOFTWARE DURING THE TWELVE (12) MONTHS PRIOR TO SUCH CLAIM. SUBJECT TO APPLICABLE LAW, AVALARA AND ITS AFFILIATES AND SUPPLIERS ARE NOT LIABLE FOR ANY OF THE FOLLOWING: (A) INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES; (B) DAMAGES RELATING TO FAILURES OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, CORRUPTION, SECURITY, LOSS OR THEFT OF DATA, VIRUSES, SPYWARE, LOSS OF BUSINESS, REVENUE, PROFITS

OR INVESTMENT, OR USE OF SOFTWARE OR HARDWARE THAT DOES NOT MEET AVALARA SYSTEM REQUIREMENTS. THE ABOVE LIMITATIONS APPLY EVEN IF AVALARA AND ITS AFFILIATES AND SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS AGREEMENT SETS FORTH THE ENTIRE LIABILITY OF AVALARA, ITS AFFILIATES AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE SOFTWARE AND ITS USE.

You agree to indemnify and hold Avalara and its Affiliates and Suppliers harmless from any and all claims, liability and expenses, including reasonable attorneys' fees and costs, arising out of your use of the Software or breach of this Agreement (collectively referred to as "Claims"). Avalara reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any Claims. You agree to reasonably cooperate as requested by Avalara in the defense of any Claims.

## 11. CHANGES

We reserve the right to change this Agreement at any time, and the changes will be effective when posted on our website for the Software or when we notify you by other means. We may also change or discontinue the Software, in whole or in part. Your continued use of the Software indicates your agreement to the changes.

## 12. TERMINATION

Avalara in its sole discretion and without notice, may terminate the Software if you fail to comply with this Agreement or if you no longer agree to receive electronic communications. Upon termination you must immediately stop using and delete or destroy all copies of the Software or any outstanding payments will become due. Any termination of this Agreement shall not affect Avalara's rights to any payments due to it.

## 13. EXPORT RESTRICTIONS

You acknowledge that the Software, and the underlying software may include U.S. technical data subject to restrictions under export control laws and regulations administered by the United States government. You agree that you will comply with these laws and regulations, and will not export or re-export the Software, or any part of the Software, in violation of these laws and regulations, directly or indirectly.

## 14. COMPLIANCE WITH NACHA OPERATING RULES

The funding process described in Section 6 of this Agreement may be subject to the Operating Rules of NACHA, the organization that regulates the ACH network in the United States.

(a) To the extent that your funding is governed by the NACHA Operating Rules, you specifically agree to the following NACHA requirements:

(i) you will comply with all applicable requirements under the then-current version of the NACHA Operating Rules;

(ii) you authorize Avalara to originate the funding requests described in Section 6; and

(iii) you will comply with the laws of the United States in providing such funding.

(b) In addition to any other applicable termination rights, Avalara may terminate the Agreement for your non-compliance with the NACHA Operating Rules if such breach or non-compliance is not cured within 10 days of Avalara first notifying you of your non-compliance.

(c) Avalara has the right to audit your funding process, at a time and location mutually agreeable to both you and Avalara, to ensure compliance with the NACHA Operating Rules and the Agreement.

## 15. GOVERNING LAW AND VENUE

New York state law governs this Agreement without regard to any laws, treaties, conflicts of laws principles that would apply the law of any other jurisdiction and without regard to the United Nations Convention on the International Sale of Goods. For any claims or causes of action arising out of the Agreement, the Parties agree to the exclusive jurisdiction of, and venue in, the state and federal courts located in New York County, New York.

## 16. OTHER PRODUCTS

Avalara may offer other payments products which you may subscribe to. You are under no obligation to subscribe to any Avalara products.