

These Avalara End User Terms (these “**Terms**”), together with any applicable Order Document(s) and applicable Service-Specific Supplemental Terms (collectively, the “**Agreement**”), constitute a binding agreement between Avalara (as defined in Section 1), and Customer (each, a “**Party**”) under which Avalara provides Customer access to Avalara’s Services pursuant to a distribution arrangement between Avalara and Oracle (as defined below). Customer accepts and agrees to be bound by the Agreement by executing an Order Document or by using Avalara’s Services.

1. **Definitions.** Unless otherwise defined in the Agreement, capitalized terms have the following meaning:
 - a. “**Affiliate**” means an entity that controls, is controlled by, or is under common control with a Party. For this definition, “control” means direct or indirect ownership of more than 50% of the voting interests of the subject entity.
 - b. “**Applicable Laws**” means all applicable local, state, provincial, federal, and international laws and regulations.
 - c. “**Avalara**” means Avalara, Inc., a Washington corporation with offices located at 512 South Mangum Street, Suite 100, Durham, NC 27701, except as otherwise indicated here with respect to Avalara services provided by Avalara’s Affiliates.
 - d. “**Authorized User**” means any Representative or other person or entity acting on Customer’s behalf who is authorized by Customer to use the Services and who has been supplied with access to the Services either by Customer or by Avalara at Customer’s written request.
 - e. “**Avalara Technology**” means the technology and Intellectual Property used in providing the products and services offered by Avalara, including computer software programs, websites, networks, and equipment. Avalara Technology does not include Third-Party Applications.
 - f. “**Content**” means any information provided by Avalara through its services, including, for example, tax forms, laws, explanations, answers, matrices, rates, rules, fees, ontologies, taxonomies, decision trees, history and changes, AvaTax codes, tax code mappings, data schemas, reports, taxing jurisdiction boundary information, information about exemption certificates, information about applicable regulations, responses to questions posed through the “Ask an Expert” feature, and anything provided through a custom library and/or through a customized research engagement.
 - g. “**Customer**” means the legal entity that executes an Order Document or uses the Services.
 - h. “**Customer Data**” means any information, including Personal Information, uploaded, provided, or made accessible to Avalara’s production or sandbox systems by Customer or Authorized Users (or by Avalara on behalf of Customer) to use the Services.
 - i. “**Documentation**” means Avalara’s user guides, training manuals, instructions, usage

information, and other similar documentation, as updated or revised by Avalara from time to time, that Avalara provides to Customer (i) within the Service or (ii) at <https://knowledge.avalara.com> (or a successor site that Avalara may designate from time to time).

- j. “**Expenses**” means any reasonable, preapproved expenses described in an Order Document or otherwise as being reimbursable to Avalara by Customer, that Avalara actually incurs while providing Customer the Services. Avalara’s reimbursable Expenses include (as applicable) postage fees, wire transfer fees, and other out-of-pocket administrative costs.
- k. “**Intellectual Property**” means all trade secrets, Inventions, patents and patent applications, trademarks and service marks (whether registered or unregistered and including any goodwill acquired in such marks), trade names, trade dress, copyrights, moral rights, rights in Inventions, and all other intellectual property and proprietary rights (whether registered or unregistered, any application for the foregoing, and all rights to enforce the foregoing), and all other equivalent rights that may exist anywhere in the world.
- l. “**Invention**” means any work of authorship, invention, know-how, device, design, algorithm, method, process, improvement, concept, idea, expression, or discovery, whether or not copyrightable or patentable and whether or not reduced to practice.
- m. “**Oracle**” means Oracle America Inc. and its subsidiaries.
- n. “**Order Document**” means a Sales Order or other document used to purchase Services.
- o. “**Personal Information**” means any information that relates to an identified or identifiable natural person or that reasonably could be used to identify that person, or other data or information defined as personal information under Applicable Laws.
- p. “**Professional Services**” means services supplemental to the Services, including professional consulting services, to be performed for Customer by Avalara’s employees or contractors, as specified in the applicable Order Document. Performance of Professional Services is governed by the Avalara Professional Services Terms and Conditions located at avalara.com/ps-terms.
- q. “**Representative**” means a director, officer, employee, consultant, advisor, representative, or agent of the subject party.
- r. “**Sales Order**” means Oracle’s sales order form that describes the Services, and support plans ordered by Customer and the fees, certain Expenses, and other specified terms.
- s. “**Service(s)**” means the Avalara service offering(s) specified in the applicable Order Document.
- t. “**Service-Specific Supplemental Terms**” means additional supplemental terms that apply to certain Services, currently located here.
- u. “**Term**” has the meaning provided in Section 6 (*Term and Termination*) of these Terms.

- v. “**Third-Party Applications**” means computer software programs, services and/or other technology that are provided or made available to Customer by third parties.
- w. “**VAT**” means value-added and indirect tax.

2. The Services.

- a. **Use of the Services.** Avalara delivers “software as a service” and other services on a subscription basis. Avalara grants Customer a nonexclusive, nontransferable, worldwide right to access and use the Service(s) during the Term, solely for Customer’s internal business operations. Avalara reserves all other rights. Customer shall not use any services that are not set forth in an Order Document signed by Customer and accepted by Avalara, except as otherwise provided in the Agreement. If Customer has a sandbox Account, Customer shall use it solely for testing non-production data and for internal business purposes only.
- b. **Customer’s Account.** Avalara shall enable an account for Customer to access the Service(s) (“**Account**”). Customer shall designate a specific person or persons authorized by Customer to manage and support the Account, including the creation of usernames and passwords for Authorized Users. Customer is solely responsible for maintaining the status of its Authorized Users. Customer and its Authorized Users shall maintain the confidentiality of all usernames, passwords, access, and Account information under their control. Except to the extent caused by Avalara’s breach of the Agreement, including its obligations under Section 8 (*Confidential Information*), Avalara is not responsible for unauthorized access to the Account. Customer shall contact Avalara promptly if (i) Customer reasonably believes that the Account has been compromised, including any loss, theft, or unauthorized access, use, or disclosure of Account information or (ii) Customer becomes aware of any other breach of security in relation to Customer’s Account information or the Services that may have occurred or is reasonably likely to occur.
- c. **Avalara’s Responsibilities.** Avalara shall: (i) provide status updates at status.avalara.com or an equivalent replacement site; (ii) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (1) planned downtime (scheduled with at least 7 days’ notice and at a time intended to minimize impact to Avalara customers) and (2) any unavailability caused by circumstances beyond Avalara’s reasonable control, including internet service provider failures or delays or denial of service attacks against which Avalara maintains commercially reasonable prevention controls; (iii) provide its standard support for the Services to Customer at no additional charge, or upgraded support if purchased separately; and (iv) conduct its business in compliance with Applicable Laws.

- d. **Customer's Responsibilities.** Customer (i) shall ensure the accuracy and completeness of Customer's initial and ongoing configuration and setup of the Services; (ii) shall ensure that the Services are compatible with Customer's business and systems requirements; (iii) shall ensure the accuracy, quality, legality, completeness, and integrity of the Customer Data provided by Customer and the means by which Customer acquired it; (iv) shall ensure the information Customer provides in connection with the Services, such as billing information and purchase orders, is current, accurate, and complete; and (v) is responsible for the provision, maintenance, and use of Customer's hardware, network, internet connectivity, and software. Customer shall comply with the Acceptable Use Policy available at <https://www.avalara.com/legal/acceptable-use>, with all Documentation, and with all Applicable Laws. Customer shall ensure that the Authorized Users and Representatives of Customer (and, if Customer enables its Affiliates to use the Services, its Affiliates, their Authorized Users, and their Representatives) comply with all of Customer's obligations under the Agreement, and Customer shall be responsible for their acts and omissions relating to the Agreement as though they were those of Customer.
- e. **Customer Affiliates.** Customer may by instruction to Avalara, enable its Affiliates to use the Services. When an Affiliate of Customer uses the Services, all references to "Customer" in the Agreement relating to access or use of, or restrictions or limitations on access or use of, the Services refer to the Affiliate. In granting access to Customer's Affiliates to the Services, Customer agrees on behalf of such Affiliate to these Terms and warrants that it has the authority to bind such Affiliate. Customer shall be jointly and severally liable for the acts and omissions of its Affiliates as if they were the acts and omissions of Customer.
- f. **Avalara Affiliates.** Avalara may perform the Services itself or through any of its Affiliates. When an Affiliate of Avalara provides the Services, all applicable references to "Avalara" in the Agreement relating to provision of the Services refer to such Affiliate. Avalara is responsible for its Affiliates' compliance with the terms of the Agreement, and Avalara shall be responsible for their acts and omissions relating to the Agreement as though they were those of Avalara. Customer and its Affiliates shall bring any claims it or they may have solely against Avalara and not against any Avalara Affiliate providing or invoicing for the Service.
- g. **Subcontractors.** Avalara may use subcontractors to facilitate its obligations under the Agreement, and Avalara shall be responsible for the acts and omissions of such subcontractors relating to the Agreement as though they were those of Avalara.
- h. **Restrictions.** Customer shall use the Services only as set forth in the Agreement and the Documentation, and not for the benefit of any third party. Customer shall not (i)

reverse assemble, reverse engineer, decompile, or attempt to derive source code from Avalara's services, Content, or Avalara Technology; (ii) reproduce, modify, create, or prepare derivative works of Avalara's services, Content, Avalara Technology, or Documentation; (iii) distribute or display Avalara's services, Content, Avalara Technology, or Documentation other than to Authorized Users; (iv) share, sell, rent, lease, or otherwise distribute access to Avalara's services (except with respect to Customer's Affiliates as expressly provided in Section 2(e)) or use Avalara's services to operate any timesharing, service bureau, or similar business; (v) alter, destroy, or otherwise remove any proprietary notices within Content, Avalara Technology, or Documentation; or (vi) disclose the results of any benchmark tests to any third parties without Avalara's prior written consent.

- i. **Unsupported APIs and Third-Party Application Integrations.** Avalara may, in accordance with Section 9(b)(i)(2) (*Avalara's Warranties*) of these Terms, cease supporting older APIs and functionality with respect to specific Third-Party Applications at the date specified in the Documentation. Disclosure in the Documentation shall constitute notice. In such case, the following shall not apply to Customer's continued use of such API or functionality beyond such date: (i) the support obligations contained in Section 2(c)(iii) (*Avalara's Responsibilities*), (ii) the warranty obligations contained in Section 9(b)(i) (*Avalara's Warranties*), and (iii) any support or warranty obligations or any timeliness or accuracy guarantees set forth in any applicable Service-Specific Supplemental Terms.

3. **Proprietary Rights.**

- a. **Avalara's Intellectual Property.** Avalara and Avalara's licensors retain and own all right, title, and interest in Avalara's services, Content, Avalara Technology, the Documentation, Avalara's Confidential Information, and all enhancements or improvements to, or derivative works of, the foregoing, including any Intellectual Property rights therein. Nothing in the Agreement transfers or conveys to Customer any ownership interest in Avalara's Intellectual Property.
- b. **Suggestions.** If Customer provides Avalara with any suggested improvements to the Services, that suggestion is provided "as-is," and Customer grants Avalara a nonexclusive, perpetual, irrevocable, fully paid-up, royalty-free, worldwide license to, with rights to transfer, sublicense, sell, use, reproduce, display, and make derivative works of, such suggested improvements.
- c. **Customer's Intellectual Property.** Customer retains all ownership rights in Customer Data and Customer's Confidential Information, including any Intellectual Property rights therein. Nothing in the Agreement transfers or conveys to Avalara any ownership interest in or to the Customer Data or Customer's Confidential Information, provided that Avalara

has the right to create Aggregate Data (as defined in Section 4(b) (*Aggregate Data*)) and owns all right, title, and interest in Aggregate Data both during and after the term of the Agreement. Customer shall ensure that it has all necessary rights and permissions required by Applicable Laws to use and permit the use of Customer Data in accordance with the Agreement.

4. **Privacy and Security.**

- a. **Use of Customer Data.** Avalara may retain, use, and disclose (including to Oracle) Customer Data solely (i) to provide the Services; (ii) to provide customer support; and (iii) to comply with Applicable Laws. Customer Data and Customer's Confidential Information do not include Personal Information relating to an employee or other authorized Representative of Customer that is collected or received by Avalara in connection with the procurement or use of, or payment for, the Services (*for example, the names and email addresses of Customer's account representatives and accounting personnel*). Avalara's use of Personal Information of such an employee or other Representative is governed by the Avalara Privacy Policy available at <https://www.avalara.com/privacy-policy>, which describes how to manage individual communication preferences. Each Party shall be responsible for informing its own Representatives of the processing of their Personal Information as provided in the Agreement.
- b. **Aggregate Data.** Avalara may create, generate, and use Aggregate Data for any lawful purpose. "**Aggregate Data**" means de-identified and anonymized sets of data derived from the data of multiple Avalara customers (including Customer Data) for the purpose of expressing that information in summary form (*for example, price index numbers are aggregated, in contrast to the price of a single commodity*). Aggregate Data does not include any Personal Information relating to Customer, Authorized Users, Customer's clients or customers, or other information that could reasonably identify a natural person or Customer. Avalara will not re-identify and de-anonymize any Aggregate Data.
- c. **Protection of Customer Data, Personal Information, and Confidential Information.** Each Party is responsible for complying with Applicable Laws, including applicable data protection legal requirements, for the purposes of the Agreement. Avalara shall implement and maintain commercially reasonable technical, administrative, and physical safeguards and security methods designed to prevent any unauthorized release, access, destruction, modification, or disclosure of Customer Data, Confidential Information, or Personal Information. Avalara may occasionally update, upgrade, change, or add safeguards and security methods as warranted in Avalara's sole discretion, and Avalara will provide notice if Customer needs to take action to facilitate continued interaction with the Services. Avalara shall implement processes and maintain procedures designed to comply with Applicable Laws and shall facilitate Customer's compliance with its

obligations for data security and response to individual data subject requests with respect to Personal Information in Avalara's possession or control, to the extent that Customer is required to comply with any existing or newly enacted Applicable Laws regarding privacy including, for example, the General Data Protection Regulation (GDPR) or the California Privacy Rights Act (CPRA); and any amendments and successors to the foregoing. The Agreement and the Documentation are Customer's instructions for processing Customer Data, and Avalara shall not process Customer Data for any other purpose. Avalara shall use commercially reasonable measures to ensure that any Avalara subcontractors implement and comply with reasonable security measures in handling any Customer Data, Personal Information, or Customer's Confidential Information.

- d. **Data Processing Agreement.** The Parties agree to comply with the Avalara Services Data Processing Agreement, which is incorporated by this reference and is located at <https://www.avalara.com/GDPR-DPA> (the "**DPA**").
- e. **Notices.** Avalara shall notify Customer without undue delay in accordance with Applicable Laws of unauthorized access, use, or disclosure of any Customer Data or Customer's Confidential Information under Avalara's control. Avalara shall provide Customer with information regarding such incident as required by Applicable Laws or as reasonably requested by Customer to enable Customer to comply with its obligations under Applicable Laws. Avalara shall use commercially reasonable efforts to: (i) identify the cause of the incident and (ii) remediate the cause of the incident within Avalara's systems, to the extent such remediation is within Avalara's reasonable control.

5. **Service Suspension and Disputes.**

- a. **Generally.** Avalara may suspend Customer's access to the services in the following circumstances: (i) a material risk caused by Customer, its Affiliates, or its or their Authorized Users or Representatives to the security or performance of the Services, the network, Customer, or any other Avalara customer or business partner; (ii) use of the Services in violation of the Agreement; or (iii) Avalara has been directed by Oracle to suspend Customer's access to Avalara Service

6. **Term and Termination.**

- a. **Agreement Term.** The term of the Agreement (the "**Term**") begins when the Customer first purchases Services from Oracle and ends on the termination or expiry of such Services.
- b. **Termination for Breach or Cause.** Avalara may terminate the Agreement or any affected Service by notice to Customer (i) if Customer materially breaches its obligations under the Agreement and, if the breach is capable of cure, fails to cure the breach within 30 days of the date of written notice of breach; (ii) upon Customer ceasing to operate in

the ordinary course, making an assignment for benefit of creditors, or becoming the subject of any bankruptcy, liquidation, dissolution, or similar proceeding that is not resolved within 60 days of filing; or (iii) if the contractual relationship between Avalara and Oracle is terminated. Material breach by Customer includes the following by way of example and not limitation: (1) Customer is unable to resolve any material issue leading to suspension of Customer's Services as a result of the acts or omissions of Customer, its Affiliates, or its or their Authorized Users or Representatives within 30 days following notice of suspension; (2) Customer's use of the Services in violation of Applicable Laws; (3) adverse Customer due diligence.

- c. **General Effects of Termination.** Upon any termination of the Agreement: (i) all of Customer's rights under the Agreement immediately terminate (with the exception of those surviving termination, as described below); and (iii) Avalara shall destroy or overwrite Customer Data and Customer's Confidential Information as provided in Section 6(e) (*Deletion of Data*). All provisions that by their nature should survive termination of this Agreement will do so (including, by way of example and not limitation, payment obligations, indemnification and defense obligations, and duties of confidentiality).
- d. **Return of Customer Data.** Upon receipt of a request to return Customer Data at any time up to 60 days after termination of the Agreement or the applicable Service, Avalara shall either (i) provide Customer with limited access to the Service, at no additional cost and subject to the obligations and restrictions of these Terms, solely for the purpose of retrieving Customer Data; or (ii) provide an export file of Customer Data stored on Avalara's systems in a commonly used format reasonably determined by Avalara and subject to Avalara's standard fees for such export. Avalara may, but has no obligation to, maintain or return Customer Data more than 60 days after termination of the Agreement.
- e. **Deletion of Data.**
 - i. **At Customer's Request.** Upon Customer's request at any time during the Subscription Term for a Service or up to 60 days after termination of the Subscription Term, Avalara shall promptly destroy or overwrite Customer Data for such Service or Customer's Confidential Information, other than Customer Data or Customer Confidential Information or Personal Information contained in automatic computer backups or historical archives or that must be retained to fulfill obligations under the Agreement for regulatory, legal, or audit purposes, or for compliance with Avalara's data retention policies. If Customer requests Avalara permanently destroy or overwrite Customer Data, Customer releases Avalara from any claims or liability relating to that Customer Data, including, without limitation, any accuracy guarantee, warranty, or indemnification.

- ii. **Upon Termination.** If Customer does not request deletion of its Customer Data or Customer's Confidential Information, Avalara will destroy or overwrite such data and information in accordance with Avalara's document retention policies and standard backup and archival procedures, after the data or information is no longer reasonably necessary to fulfill obligations under the Agreement or for regulatory, legal, or audit compliance.

7. Fees and Taxes.

- a. **Fees.** As consideration for Avalara making the Services available to Customer, Customer shall pay Oracle all fees specified in each Order Document and applicable Expenses.

8. Confidential Information.

- a. **Confidential Information.** "**Confidential Information**" means information designated by a Party or a Party's Affiliate as confidential, or given the circumstances, would reasonably be understood by the Recipient to be confidential, and that is disclosed by a Party, its Affiliates, or their respective Representatives (the "**Discloser**") to the other Party, its Affiliates, or their respective Representatives (the "**Recipient**"), regardless of the form of disclosure. Confidential Information includes, with respect to Avalara and its Affiliates, the Avalara Technology and non-public Documentation, and with respect to Customer and its Affiliates, all Customer Data, and with respect to both the Discloser and Recipient, the non-public terms of the Agreement and all non-public information relating to business plans, customers and customer lists, data, designs (whether actual, contemplated, experimental, or planned), financial information, forecasts, Inventions, know-how, methods, market analysis, pricing, products (whether actual, contemplated, experimental, or planned), prerelease offerings, research and development, security policies and processes, source and object code, and strategies of the Discloser.
- b. **Exclusions.** Confidential Information does not include information that the Recipient can establish: (i) (except with respect to Personal Information) is or becomes generally known to the public without the Recipient's breach of any obligation owed to the Discloser; (ii) has been rightfully received by the Recipient from a third party without confidentiality restrictions; (iii) is known to the Recipient without any restriction as to use or disclosure prior to first receipt by the Recipient from the Discloser; or (iv) has been independently developed by the Recipient without use of or reference to the Discloser's Confidential Information.
- c. **Disclosures Required by Law.** If any Applicable Laws or judicial or administrative order requires the Recipient to disclose any of the Discloser's Confidential Information, the Recipient shall (if legally permitted) promptly notify the Discloser in writing prior to making any such disclosure, in order to facilitate the Discloser's efforts to protect its Confidential

Information. Following such notification, the Recipient shall cooperate with the Discloser, at the Discloser's reasonable expense, in seeking and obtaining protection for the Discloser's Confidential Information. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Discloser, the Recipient is legally compelled to disclose Confidential Information by any tribunal, regulatory authority, agency, or similar entity, the Recipient may disclose only that portion of the Confidential Information that is legally required to be disclosed, and the Recipient shall exercise its best efforts to preserve the confidentiality of the remaining Confidential Information.

- d. **Restrictions on Use and Disclosure.** The Recipient shall use Confidential Information of the Discloser solely to fulfill its obligations under the Agreement, to comply with Applicable Laws, to discuss potential business opportunities between the Parties, or as otherwise permitted under the Agreement. Subject to the permitted disclosures set forth in Section 8(c) (*Disclosures Required by Law*), the Recipient shall hold Confidential Information in strict confidence and shall not disclose or authorize the disclosure of Confidential Information to third parties except as otherwise permitted by the Agreement. The Recipient may disclose Confidential Information to a Representative or service provider on the condition that the Recipient: (i) ensures that such Representative or service provider is bound by a written agreement or other legally binding obligation of confidentiality and restricted use at least as protective as these Terms and (ii) is fully responsible for such Representative's or service provider's use and disclosure of the Confidential Information and its compliance with the obligations of the Recipient under this Section 8(d) (*Restrictions on Use and Disclosure*). The Recipient shall protect Confidential Information of the Discloser from unauthorized access and disclosure using the same degree of care, but in no event less than a reasonable standard of care, that it uses to protect its own Confidential Information of a similar nature and shall not reverse engineer, decompile, or disassemble any such Confidential Information. All rights and obligations regarding Confidential Information (including Customer Data) will survive and remain subject to the confidentiality provisions of this Agreement for as long as the Confidential Information is retained or until it no longer meets the definition of Confidential Information.
- e. **Return of Confidential Information.** Avalara shall destroy, overwrite, or return Customer's Confidential Information as provided in Section 6(d) (Return of Customer Data) or Section 6(e) (Deletion of Data), as applicable.

9. **Warranties.**

- a. **Mutual Warranties.** Each Party represents and warrants to the other Party that (i) it has the authority to enter into and perform its obligations under the Agreement; (ii) the Agreement does not conflict with any other agreement entered into by it; (iii) it does not

conduct business for any unlawful purpose; and (iv) it and its Representatives are not on and have not been on the United States Department of Treasury, Office of Foreign Asset Control's list of Specially Designated National and Blocked Persons; Her Majesty's Treasury, Asset Freezing Unit's Consolidated List of Financial Sanctions Targets; the European Union's consolidated list of persons, groups, and entities subject to EU financial sanctions; or any similar list of embargoed or blocked persons applicable to persons or entities in the jurisdiction of such Party's domicile or use of the Services.

- b. **Disclaimer of Implied Warranties.** Except as expressly provided in the Agreement, the Services are provided on an "as-is" and "as available" basis, and neither Party makes any warranties of any kind, whether express, implied, statutory, or otherwise, and each Party specifically disclaims all implied warranties, including the implied warranties of non-infringement, merchantability and fitness for a particular purpose, to the maximum extent permitted by Applicable Laws.

10. **Indemnification.**

- a. **Indemnification by Avalara.** Avalara shall indemnify and defend Customer and Customer's directors, officers, employees, and Affiliates against any Losses incurred as a result of a third-party demand, claim, or action that (1) the use of the Service in accordance with the Agreement infringes a copyright, registered trademark, issued patent, or other Intellectual Property right of such third party (an "**Infringement**"); "Loss" means any liability, loss, settlement payment (including any settlement the Indemnitee agrees to pay, as long as it is in a written settlement approved by the Indemnitor in writing), interest, award, judgment, damages (including punitive damages), fines, fees, penalties, filing fees and court costs, witness fees, reasonable attorneys' and other professionals' fees, other reasonable investigation and defense costs, and any other fees, costs, expenses and charges. i. If the Service is subject to a claim of Infringement and as a result, Customer's use of the Service is enjoined, then Avalara shall, at no cost to Customer, procure for Customer the right to continue using the Service or replace it with non-infringing or modified Services of materially equivalent functionality. ii. If none of the above options are available on terms that are commercially reasonable for Avalara, then Avalara may terminate Customer's right to access and use the Services that require the infringing Service. iii. Avalara has no obligation with respect to any actual or alleged Infringement to the extent that the Infringement is caused or alleged to be caused by (1) Customer Data; (2) use or modification of the Services other than by Avalara or other than as specified in the Documentation or the Agreement; or (3) combination of the Service with any products, software, services, data, or other materials not provided by Avalara or approved by Avalara in writing, if the Infringement would not have occurred but for such combination.

- b. **Indemnification by Customer.** Customer shall indemnify and defend Avalara and its Affiliates and their respective directors, officers, and employees against Losses incurred as a result of a third-party demand, claim, or action that (1) Customer's use of the Service in breach of the Agreement infringes the Intellectual Property rights of a third party; (2) results from Customer's breach of its obligations under the Agreement; or (3) results from Customer's violation of Applicable Laws.
 - c. **Process.** The obligations of a Party ("**Indemnitor**") to defend or indemnify the other ("**Indemnitee**") under this Section 10 (*Indemnification*) are subject to the following: (i) the Indemnitee must promptly inform the Indemnitor in writing of any claim or action within the scope of the Indemnitor's defense or indemnity obligations set forth in the Agreement, provided that Indemnitor shall not be excused from its indemnity obligations for failure to provide prompt notice except to the extent that the Indemnitor is prejudiced by any such failure to provide prompt notice; (ii) the Indemnitor must be given exclusive control of the defense of such claim and all negotiations relating to its settlement, except that the Indemnitor may not, without Indemnitee's approval, (A) make any admissions on the Indemnitee's behalf or (B) settle any such claim unless the settlement unconditionally releases the Indemnitee of all liability; and (iii) the Indemnitee must reasonably assist the Indemnitor in all necessary respects in connection with the defense of the claim, at the Indemnitor's expense. The Indemnitee may participate in the defense of the claim at its sole cost and expense.
 - d. **Exclusive Remedy.** This Section 10 (*Indemnification*) states the Indemnitor's sole liability and the Indemnitee's exclusive remedy with respect to Infringement and any other type of third-party claim or action described in this Section. This Section does not apply to any direct claims between the Parties.
- 11. **Modifications.** Avalara may modify these Terms, the Acceptable Use Policy, or any Service-specific supplemental terms. Any modification will take effect upon the date of the modification, and Customer may avoid the applicability of the modification only by ceasing its use of a Service.
- 12. **Exclusion of Certain Claims; Limitation of Liability.**
 - a. **Exclusion of Certain Claims.** In no event shall either Party be liable to the other Party or any other party for cost of cover or any consequential, indirect, special, punitive, incidental, exemplary, or lost profits damages of any kind, whether foreseeable or unforeseeable, including damages for loss of data, goodwill or investments, use of money or facilities, interruption in use or availability of data, stoppage of other work, or impairment of other assets, even if advised of the possibility of such damages and even if such damages are reasonably foreseeable. The previous sentence will not apply to instances of gross negligence

or willful misconduct, to a Party's breach of its privacy, security, and confidentiality obligations set forth in Section 4 (*Privacy and Security*) and Section 8 (*Confidential Information*), to a Party's indemnification obligations, or to any infringement or misappropriation by a Party of any Intellectual Property rights of the other Party.

- b. **Limitation of Liability.** To the fullest extent permitted by law, In in no event shall Avalara's aggregate liability to Customer exceed \$500. The previous sentence does not apply to instances of gross negligence or willful misconduct, to a Party's indemnification obligations, or to any infringement or misappropriation by a Party of any Intellectual Property rights of the other Party.
- c. **Limitation of Claims.** Except with respect to claims of infringement or misappropriation of Intellectual Property of the other Party, a Party's breach of its confidentiality obligations set forth in Section 8 (*Confidential Information*), or Customer's failure to pay amounts due under the Agreement, neither Party may bring any claim relating to the Agreement more than two years after the events giving rise to the claim occurred.
- d. **General.** These exclusions and limitations apply even if the remedies are insufficient to cover all of the losses or damages of such Party, its Affiliates or, in the case of Customer, Authorized Users. Without these limitations, the fees for the Service(s) would be significantly higher. Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some or all of the above exclusions or limitations may not apply, and the Parties may have additional rights.

13. **Miscellaneous.**

- a. **Anti-Corruption Laws.** Each Party shall at all times comply with all applicable anticorruption laws, including, to the extent applicable, (1) the U.S. Foreign Corrupt Practices Act of 1977, as amended, and (2) the UK Bribery Act 2010.
- b. **Relationship of the Parties; No Professional Tax Opinions or Legal Advice.** The Agreement does not create a partnership, joint venture, agency, or fiduciary relationship between the Parties. Distributors (as defined in Section 14 (*Purchase Through Distributors*) below) and Avalara's other business partners are independent of Avalara and are not Avalara's agents. Customer acknowledges and agrees that Avalara does not provide legal advice, including legal or professional tax opinions or management advice. Customer is responsible for its own tax policies and tax reporting positions taken. Customer is responsible for conducting its own due diligence and seeking the assistance of a qualified legal, tax, or accounting professional.
- c. **Third-Party Applications.** Avalara is not responsible for and does not in any way

endorse any Third-Party Applications or websites linked to by Avalara's website or the Services.

- d. **Publicity.** Neither Party shall issue any public statement regarding the Agreement without the other Party's prior written consent. Unless a Party has specifically notified the other Party to the contrary in writing, either Party may use the name or logo of the other Party or its Affiliates to identify such other party as a customer or vendor (as the case may be) in accordance with that Party's provided marketing guidelines.
- e. **Other Technology or Services; No Audit Support.** Customer acknowledges and agrees that Customer has not relied on any future availability of any service offerings, technology, or additional, enhanced or updated features or functionality, and that the Services do not include any audit support (unless otherwise specified in an Order Document).
- f. **Governing Law; Jurisdiction and Venue.** The Agreement and all matters in connection with the Agreement will be governed by laws of the state of New York, without regard to any laws, treaties, or 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.
- g. **Equitable Relief.** Each Party acknowledges that damages may be an inadequate remedy if it or its Affiliates or its or their Representatives (or, in the case of Customer, Authorized Users) violates the obligations under the Agreement, and each Party shall have the right, in addition to any other rights it may have, to seek injunctive relief without any obligation to post any bond or similar security.
- h. **Force Majeure.** Neither Party shall be responsible for failure or delay of performance caused by circumstances beyond its reasonable control, including earthquake, storm, or other act of God; labor disputes; electrical, telecommunications, or other utility failures; embargoes; riots; acts of government; or acts of terrorism or war. A Party seeking relief from performance under this Section 13(h) (*Force Majeure*) must (i) provide notice of such circumstances to the other Party as soon as practicable, (ii) use commercially reasonable efforts to avoid or mitigate such circumstances, and (iii) resume performance as soon as practicable upon the cessation of the circumstances. If the failure or delay continues for more than 30 days, either Party may, in its discretion, terminate the affected Service. Such termination will not result in any liability by either Party, except that, if Customer terminates the affected Service for Avalara's failure, Avalara shall refund Customer the pro rata amount of any prepaid Service subscription fees applicable to the

unused portion of the Subscription Term of the terminated Service (*excluding any activation or other one-time fees*). If Customer was unable to use the Service as a result of the force majeure event, the unused portion of the Subscription Term will be measured from the last date on which Customer was able to use the Service.

- i. **Notices.** Avalara shall communicate announcements of general interest by email or by posting on its website or on Customer's console. Avalara shall provide Customer with legal notices in writing by email, mail, or courier to the address provided by Customer. Customer shall immediately notify Avalara if Customer's address for notice changes. Except as otherwise specified in the Agreement, all notices to Avalara must be in writing and sent as follows:
 - i. **Account notices (for example, name or address changes):** Send to Customer Account Manager
 - ii. **Notices of non-renewal:** As set out in the Sales Order
 - iii. **Legal notices:** Send to legal@avalara.com
- j. **Successors and Assigns.** Either Party may assign the Agreement without the other Party's consent to an entity that acquires all or substantially all of the assets of or that is an Affiliate of the assigning Party, provided that (i) the assigning Party must provide notice to the other Party of the assignment, (ii) the assignee must agree in writing to be bound by the Agreement, and (iii) the non-assigning Party may prohibit assignment to a competitor of the non-assigning Party or to an entity operating a business in violation of Applicable Laws. Except as provided above, neither Party may assign its rights or obligations under the Agreement without the other Party's prior written consent, such consent not to be unreasonably withheld or delayed, and any attempt to so assign the Agreement will be null and void. The Agreement will bind and inure to the benefit of each Party's permitted successors and assigns.
- k. **Severability.** If any provision of the Agreement is determined to be invalid or unenforceable by any court, then to the fullest extent permitted by law, that provision will be deemed modified to the extent necessary to make it enforceable and consistent with the original intent of the Parties and all other provisions of the Agreement will remain in full force and effect.
- l. **Waiver.** No waiver of any provision of the Agreement, nor any consent by a Party to the breach of or departure from any provision of the Agreement, will in any event be binding on or effective against such Party unless it is in writing and signed by such Party, and then the waiver or consent will be effective only in the specific instance and for the purpose for which given.
- m. **No Third-Party Beneficiaries.** This Agreement does not and is not intended to confer any rights or remedies to any third party, including clients of Customer.

- n. **AvaTax.** When Customer accesses AvaTax tax calculation services, Section 2 of the AvaTax Service-Specific Supplemental Terms located at <https://legal.avalara.com/product-terms.html#avatax> is incorporated by reference.
- o. **Returns.** When Customer accesses Avalara's tax return preparing and filing services, Sections, 1, 2, 3, 4, 6, 8(a), 11 of the Returns Service-Specific Supplemental Terms located at <https://legal.avalara.com/product-terms.html#returns> are incorporated by reference.
- p. **Entire Agreement.** The Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous written, electronic, or oral communications, representations, agreements, or understandings between the Parties with respect thereto. Except as specified in Section 11 (*Modifications*), the Agreement may not be modified or amended except by a written instrument executed by both Parties. Customer's standard terms of purchase or vendor management terms (including purchase order terms or click-through terms), if any, are inapplicable. Except to the extent expressly specified otherwise, if there is any conflict between these Terms and any of the other Agreement documents, then the following order of precedence applies: (i) any addendum between the Parties, (ii) the Order Document, and (iii) these Terms.