

The CCH Small Firm Services Scan&Fill License Agreement (this “Agreement”) is made by and between Universal Tax Systems, Inc. d/b/a CCH Small Firm Services, its successors, and assigns (“CCH SFS”) and “Customer” (as defined below), and governs Customer’s use of the CCH SFS Scan&Fill software. This Agreement can be viewed at CCH SFS’ web sites, at the time of installation of the Software and in the “About” section under the Software program’s ‘Help’ menu. By installing and/or using the Software or by otherwise indicating acceptance (electronically or otherwise) of this Agreement, Customer acknowledges its agreement to the terms set forth below.

1. DEFINITIONS. In addition to the terms defined elsewhere in this Agreement, the following are defined terms in this Agreement:

- 1.1. “**Customer**” means the person or entity that is the registered end user of the Software, as specified on the Order Confirmation.
- 1.2. “**Deliverables**” means all services and materials, and the related benefits, available from time-to-time from, and as determined in the discretion of, CCH SFS or its authorized affiliates for use in connection with the Software (including, but not limited to: product support and Updates).
- 1.3. “**Fees**” means the fees payable by Customer to CCH SFS under the Order Confirmation and this Agreement for use of the Software.
- 1.4. “**License**” means the license granted to Customer to use the Software as granted by the Order Confirmation and subsection 2.1 of this Agreement.
- 1.5. “**Order Confirmation**” means a purchase order written and approved by CCH SFS, or its authorized affiliates, for Customer’s acquisition of a License to the Software. The Order Confirmation may contain additional terms that govern Customer’s relationship with CCH SFS and Customer’s use of the Software.
- 1.6. “**Software**” means the Scan&Fill (version 9.x) software program (including all accompanying code, files, databases, documentation, materials, modifications, revisions, optional features, enhancements, and Updates, if any) as identified in the Order Confirmation written and approved by CCH SFS for Customer.
- 1.7. “**Updates**” mean all minor revisions, patches, fixes, and other improvements (version upgrades excluded) provided by CCH SFS, in its sole discretion, for a particular version of the Software.
- 1.8. “**User License**” means the right granted by CCH SFS to a particular workstation or individual to use the Software, pursuant to the terms of this Agreement.

2. LICENSE, RESTRICTIONS & OWNERSHIP

2.1. License.

2.1.1. **Grant of License.** Subject to the terms and conditions of this Agreement, CCH SFS grants to Customer a limited, nontransferable, nonexclusive right and license to use, and to permit its employees to use, the Software solely for the purpose of performing services for itself or its customers without any further right to use, sublicense, distribute, transfer or transmit the Software. Different editions of the Software contain different restrictions on how the Software can be installed and/or accessed as set forth below.

2.1.1.1. **Standard License Version.** The standard, single-user edition of the Software limits installation of the Software to one (1) computer workstation for use by one (1) user at any given time.

2.1.1.2. **Multi-user License Version.** The multi-user edition of the Software limits use and installation of the software to either i) five (5) computer workstations for use by one (1) user per workstation at any given time, or ii) to (1) local area network (LAN) server for use by five (5) concurrent users at any given time. Use by additional users will require the purchase of additional User Licenses.

2.1.2. **Condition of License.** The License granted to Customer under this Agreement is conditioned upon Customer’s compliance with the terms of this Agreement and the Order Confirmation, including, but not limited to, the timely payment of all applicable Fees.

2.2. **Back-up Copies.** Customer may make a reasonable number of copies of the Software solely for back-up purposes. All copies of the Software, including (without limitation) translations, compilations and partial copies are governed by this Agreement.

2.3. **Restrictions.** Without a separate written agreement with CCH SFS to the contrary, Customer must not do, or permit others to do, any of the following: (a) copy or modify the Software in any way, except as permitted in subsection 2.2; (b) remove or modify CCH SFS’ copyright notices, trademark, logo, legend or other notice of ownership from any originals or copies of the Software; (c) attempt to view, read, modify, reverse compile, reverse assemble, disassemble or print the Software’s source code or object code or other runtime objects or files distributed with the Software; (d) otherwise reverse engineer, modify or copy the look and

feel, functionality or user interface of any portion of the Software; (e) rent, lease, distribute (or redistribute), provide or otherwise make available the Software, in any form, to any third party (including in any service bureau or similar environment); (f) share the use or the access of the Software with other practitioners (including outsourcers performing work for Customer) who are not in Customer's practice, even if Customer shares office space or equipment; (g) use the Software to process the data of clients of a third party (whether on an outsourcing, service bureau, or other basis); (h) employ remote programs, remote desktops, Virtual Private Networks (VPN), Virtual Network Computing (VNC) or any other remote means to access the Software, except for local area network (LAN) use as permitted in connection with the multi-user edition of the Software; or (i) use, install, or make available the Software, in whole or in part, through a wide area network including but not limited to World Wide Web sites, intranets, or Application Service Providers (ASP).

- 2.4. **Unauthorized Acquisition.** This Agreement expressly prohibits Customer from using the Software or Deliverables or any other software from CCH SFS that has been improperly obtained and/or accessed. For purposes of illustration, but not limitation, examples include Software, Deliverables or other CCH SFS software that: (a) is acquired from an unauthorized reseller or distributor; (b) is pirated, cracked or hacked; (c) has been acquired with the intent or for the purpose to use in a manner that is illegal, fraudulent, in violation of this Agreement or otherwise outside the normal, stated and/or reasonably understood purpose of the Software; or (d) is acquired with the use of false or inaccurate statements and/or information (e.g., false name, contact information, EFIN, or payment information; false declaration of the total number of end users; or false claim of ownership of multiple business locations with the intention of obtaining a multi-office discount).
- 2.5. **Reservation of Rights & Ownership of Developed Materials.** CCH SFS, and its applicable suppliers, retain all proprietary rights in the Software. CCH SFS, and its applicable suppliers, reserve all patent, copyright, trade secret, trade name, trademark, and other proprietary rights related to the Software and Deliverables, which are protected under United States intellectual property laws and International Treaty Provisions. Unauthorized use of any of the Software will result in cancellation of this Agreement as well as possible civil damages and criminal penalties. Customer is not permitted to use the trade or service marks of CCH SFS or any of its affiliates in Customer's announcements, advertising or other materials unless expressly agreed to in writing by an authorized representative of CCH SFS. Customer acknowledges and agrees that CCH SFS' and its applicable suppliers' retention of contractual and intellectual property rights is an essential part of this Agreement. CCH SFS and its suppliers (as applicable) will own all rights in (i) any copy, translation, modification, adaptation or derivation of the Software, including any improvement or development thereof, whether or not developed by or for the Customer, and (ii) any suggestions, ideas, enhancement requests, feedback, or recommendations provided by Customer.
- 2.6. **U.S. GOVERNMENT RESTRICTED RIGHTS.** The Software is provided with RESTRICTED RIGHTS. Use, duplication or disclosure of the Software by the United States Government is subject to restrictions as set forth in FAR 12.212 or DFARS 227.7202-1(a), 227.7202-3(a) and 227.7202-4 (1995) and, to the extent required under U.S. federal law, the minimum restricted rights as set out in FAR 52.227-19 (DEC 2007) or FAR 52.227-14 (DEC 2007). To the extent any Technical Data is provided pursuant to the Agreement, such data is protected per FAR 12.211 and DFARS 227.7102-2 and to the extent explicitly required by the U.S. Government, is subject to limited rights as set out in DFARS 252.227.7015 (NOV 1995) and DFARS 252.227-7037 (SEPT 1999). In the event that any of the above referenced agency regulations are modified or superseded, the subsequent equivalent regulation will apply. The name of the manufacturer is Universal Tax Systems, Inc. d/b/a CCH Small Firm Services, 6 Mathis Drive, NW, Rome, Georgia 30165. If Customer is an agency, department, or other entity of any State government, the United States Government or any other public entity or funded in whole or in part by the United States Government, then Customer hereby agrees to protect the Software from public disclosure and to consider the Software exempt from any statute, law, regulation, or code, including any Sunshine Act, Public Records Act, Freedom of Information Act, or equivalent, which permits public access and/or reproduction or use of the Software.

3. FEES AND PAYMENT

- 3.1. **Fees.** Customer will owe the Fees set forth on the Order Confirmation to CCH SFS upon acceptance of such Order Confirmation. All Fees are due and payable upon receipt of the invoice by the Customer. CCH SFS may assess a late payment Fee equal to the lesser of one and one-half percent (1½%) of the unpaid amount or the highest interest rate allowed by applicable law for each succeeding thirty (30) day period or portion thereof in which Fees are not paid in full.
- 3.2. **Taxes.** All Fees are exclusive of any taxes, assessments or duties that may be assessed upon the Software, License or Deliverables granted under this Agreement, including, without limitation, sales, use, excise, value added, personal property, electronic/Internet commerce, export, import, withholding taxes, and third-party fees as disclosed in the Order Confirmation. Customer will directly pay any such taxes assessed against it, and Customer will promptly reimburse CCH SFS for any such taxes payable or collectable by CCH SFS. Such taxes do not include taxes based upon CCH SFS' income. Taxes are calculated on product plus additional charges, where applicable. Taxes include state and local sales or use taxes and are based upon the Customer's deliver-to address. Tax exemption certificates, if any, must be submitted at the time of order.

4. TERM & TERMINATION

- 4.1. **Term.** Subject to the terms of subsection 4.2 and 4.3, the License granted under this Agreement to use the Software is perpetual. Access to the Deliverables, and thus the full benefit of this Agreement, will expire one (1) year from the date of the initial shipment of the Software. This Agreement will automatically expire and terminate with the expiration of the Deliverables. The following sections will survive the expiration of this Agreement under this subsection 4.1: subsections 5.3, 7.3, 7.4 and 7.5, and Sections 1, 2, 4, 6, 8, and 9.

4.2. **Termination of Agreement for Cause.**

- 4.2.1. This Agreement, including both the License and Deliverables provided hereunder, may be terminated by CCH SFS for cause, in its sole discretion, immediately upon notice to Customer if Customer breaches any terms or conditions of this Agreement, or if any Fees remain unpaid for a period of thirty (30) days after invoicing or otherwise due.
- 4.2.2. Upon termination under this subsection 4.2, Customer will cease all further use of the Software and Deliverables and at CCH SFS' direction, either return to CCH SFS, or confirm to CCH SFS as destroyed, all copies of the Software. Upon request of CCH SFS, Customer will certify in writing to CCH SFS that it has destroyed or returned all copies of the Software and that Customer is no longer using any applicable Software previously licensed hereunder.
- 4.2.3. Termination of this Agreement pursuant to this subsection 4.2 will not require payment of a refund to Customer and will not affect: (a) Customer's obligation to pay any fees due, or (b) any remedies available to CCH SFS by law or equity.
- 4.2.4. The following sections will survive termination of this Agreement under this subsection 4.2: subsections 2.3, 2.5, 2.6, 4.2, 7.3, 7.4 and 7.5, and Sections 1, 8 and 9. The survival provision in subsection 4.1 will not apply to termination of this Agreement under this subsection 4.2.

- 4.3. **Suspension of Access.** CCH SFS may suspend or terminate (where appropriate), as determined in CCH SFS' discretion, Customer's use of, or otherwise modify, the Software or the Deliverables at any time in order to: (a) prevent damages to, or degradation of the integrity of, CCH SFS' Internet network; (b) comply with any law, regulation, court order, or other governmental request or order which requires immediate action; or (c) otherwise protect CCH SFS from potential legal liability or harm to its business. CCH SFS will use commercially reasonable efforts to notify Customer of the reason(s) for such suspension or termination action as soon as reasonably practicable. In the event of a suspension, CCH SFS will promptly restore use of the Software to Customer as soon as the event giving rise to the suspension has been resolved as determined in CCH SFS' discretion. Nothing contained in this Agreement will be construed to limit CCH SFS' actions or remedies or act as a waiver of CCH SFS' rights in any way with respect to any of the foregoing activities.

- 4.4. **Renewal of Deliverables.** Customer may be able to renew the Software by paying a renewal fee of 50% of the standard retail price. After renewing, Customer will obtain an upgraded version of the renewed Software, along with another year of access to the Deliverables. Notwithstanding anything to the contrary in subsection 4.1, access to the Deliverables that have been renewed will expire on the anniversary of the shipment date of the version of the Software that was purchased immediately prior to the first version of the Software purchased as a renewal. No credit will be provided for the time that the Deliverables were not utilized if Customer chooses to renew the Software at a time after the expiration of the Deliverables. The option to renew the Software is not guaranteed and is subject to change at the discretion of CCH SFS. In the case of a renewal, any updated license agreement that is included with the new version of the software will govern. CCH SFS, in its discretion and for any reason, may decide not to renew Customer's access to the Software and Deliverables; in which case, CCH will make reasonable effort to notify Customer of this decision prior to the expiration of Customer's then-current term.

5. UPDATES & PRODUCT SUPPORT

- 5.1. **Updates.** CCH SFS may, from time to time, provide Updates of the Software to Customer. However, supplying Updates will be at CCH SFS' discretion and CCH SFS will have no obligation, express or implied, to provide Updates. Customer agrees to install all available Updates to the Software and acknowledges that Customer's failure to do so is at Customer's sole risk. CCH SFS reserves the right to charge additional license fees for any optional enhancements which incorporate significant new features or functionality to the Software, as determined by CCH SFS in its sole discretion.
- 5.2. **Support.** CCH SFS may also offer, in its sole discretion, product support for the Software remotely from CCH SFS' offices. Support for prior year versions of the Software may be more limited and is only available in CCH SFS' discretion. CCH SFS, at its sole discretion, may choose to only support the most recent version of any particular Software. CCH SFS may also choose not to support software that is not installed on hardware that meets CCH SFS' standard published system requirements, as in effect from time to time. Customer agrees that Customer and/or Customer's agents or employees will not place more than one call at any given time to CCH SFS' telephone support number(s) regarding the same situation, support question, issue or matter. CCH SFS reserves the right to terminate Customer's access to product support if it determines that Customer is committing acts that are disruptive to the service (e.g., placing multiple calls at one time; being verbally abusive to support representatives; providing Customer clients with access information to CCH SFS customer support lines, etc.).
- 5.3. **Miscellaneous.** Updates and support will only be available to Customer until the expiration of the Deliverables included with the Software, as specified in subsection 4.1. CCH SFS reserves the right to modify its update and support policies, procedures and fees from time to time.

6. CUSTOMER'S PROFESSIONAL RESPONSIBILITY AND WARRANTIES

- 6.1. **Professional Responsibility.** Customer understands, agrees and acknowledges that:
- 6.1.1. Use of the Software does not relieve Customer of responsibility for the preparation, content, accuracy, and review of tax returns prepared by Customer in connection with the Software or any other work product generated by Customer while using the Software;
- 6.1.2. Customer will review all data digitally created by the Software and all data imported into tax preparation software by the Software and will confirm that such data is identical to the information on the original form that was scanned;
- 6.1.3. Customer will not rely upon CCH SFS for advice regarding the appropriate treatment of tax, accounting and/or other

matters;

- 6.1.4. Customer will retrieve in a timely manner any electronic communications made available to Customer by CCH SFS; and
- 6.1.5. Customer is fully and solely responsible for: (a) selection of adequate and appropriate versions of the Software to satisfy Customer's business needs and achieve Customer's intended results; (b) use of the Software; (c) all results obtained from the Software; (d) selecting, obtaining and maintaining all hardware, software, Internet service, and other equipment and utilities needed for access to and use of the Software, and for all costs associated therewith; and (e) selection, use of, and results obtained from any other programs, computer equipment or services used with the Software.

6.2. Customer's Representations. Customer represents, warrants and covenants that:

- 6.2.1. Customer has full power and authority to enter into this Agreement and to perform its obligations hereunder, and that this Agreement has been duly authorized, executed and delivered by Customer and constitutes a valid and binding obligation of Customer;
- 6.2.2. Customer is licensing the Software solely for Customer's own use and/or to provide services to Customer's direct clients;
- 6.2.3. Customer will not use the Software to create a product, service or database that competes with CCH SFS, the Software or Deliverables;
- 6.2.4. Customer will comply with all applicable rules, regulations and procedures of the United States government and all applicable state and foreign authorities, including, without limitation, all rules, regulations and procedures of the Internal Revenue Service;
- 6.2.5. Customer will be solely responsible for compliance with this Agreement by its employees;
- 6.2.6. Customer is not prohibited by a third-party agreement from entering into the terms and conditions of this Agreement; and
- 6.2.7. Customer will not otherwise violate the rights of any third party while using the Software.

6.3. Indemnification. Customer agrees to indemnify and hold harmless CCH SFS, its employees, officers, directors and affiliates against any and all liability (including damages, recoveries, deficiencies, interest, penalties and reasonable attorney's fees) to third parties (including, but not limited to, the United States government and state taxing authorities) relating to: (a) Customer's breach of any of its obligations, representations and/or warranties under this Agreement; or (b) except for claims for which CCH SFS is liable under Section 7 below, Customer's use of the Software, the Deliverables and/or third party software.

7. CCH SFS WARRANTIES

7.1. CCH SFS' General Warranties. CCH SFS represents and warrants that it has title to the Software and the right to grant Customer the rights granted hereunder. CCH SFS further represents and warrants that the Software does not violate any third party's United States intellectual property rights. Customer's sole and exclusive recourse and remedy for a breach of this warranty by CCH SFS will be the exercise of its indemnity rights under subsection 7.2 below.

7.2. Indemnification by CCH SFS.

- 7.2.1. Subject to the other terms and conditions set forth herein, CCH SFS agrees to defend Customer at CCH SFS' sole cost and indemnify Customer (by paying for damages finally awarded against Customer or any amounts payable in any settlement entered into by Customer in compliance with this Agreement) from and against any claims, demands, actions or proceedings by any third parties alleging that the Software hereunder infringes or violates any third party's United States intellectual property rights; provided that: (i) CCH SFS is notified promptly in writing of the claim; (ii) CCH SFS controls the defense, settlement and approval of the claim; and (iii) Customer cooperates reasonably, assists and gives all necessary authority to CCH SFS and reasonably required information in connection with the defense or settlement of the claim.
- 7.2.2. CCH SFS' indemnity obligations under subsection 7.2.1 hereof will not apply if and to the extent that they arise from or relate to: (i) the use of the Software in any form or substance other than as provided by CCH SFS hereunder and as required to be used by Customer hereunder; (ii) the modification of the Software by Customer or any third party not authorized in writing by CCH SFS to do so; (iii) the use of the Software in combination with any intellectual property, services, reports, documentation, hardware, software, data or technology not supplied by CCH SFS or approved by CCH SFS in writing; or (iv) any data or information, or other intellectual property, supplied by Customer or a third party (other than CCH SFS).
- 7.2.3. If any Software becomes, or in CCH SFS' opinion, is likely to become, the subject of a third party claim covered by CCH SFS' indemnification obligations under subsection 7.2.1, then CCH SFS may, in its sole discretion and at its sole cost and expense: (i) procure for Customer the right to continue using such Software; (ii) modify the infringing portion of the Software so as to render it non-infringing but still appropriate for its intended use under this Agreement; or (iii) replace the infringing portion of the Software with non-infringing items with substantially similar functionality. If CCH SFS reasonably determines that none of the foregoing is commercially practicable, then CCH SFS may elect to terminate this Agreement and grant Customer a refund of all prepaid but unused portions of the Fees previously paid to CCH SFS related to the Software in question. This Section 7.2.3 states CCH SFS' entire liability and the sole and exclusive remedy of Customer for any claim of infringement.

7.3. Limited Warranty. EXCEPT AS STATED IN SUBSECTION 7.1, THE SOFTWARE, THE DELIVERABLES AND ANY THIRD PARTY SOFTWARE ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. CCH SFS DISCLAIMS AND EXCLUDES ANY AND ALL OTHER WARRANTIES INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IRRESPECTIVE OF ANY COURSE OF DEALING OR PERFORMANCE, CUSTOM OR USAGE OF TRADE. CUSTOMER BEARS THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE AND THE DELIVERABLES.

CCH SFS DOES NOT WARRANT THAT THE SOFTWARE OR DELIVERABLES WILL BE UNINTERRUPTED OR THAT THE SOFTWARE WILL PROPERLY OPERATE ON ANY SPECIFIC OPERATING SYSTEM OR COMPUTER HARDWARE OR CONFIGURATIONS OR BEFORE OR AFTER ANY SPECIFIC DATE OR TIME PERIOD. CUSTOMER WILL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE AND SUITABILITY OF THE SOFTWARE AND CCH SFS WILL HAVE NO LIABILITY THEREFORE. NO EMPLOYEE OR AGENT OF CCH SFS OR ANY OF ITS SUBSIDIARIES OR AFFILIATES IS AUTHORIZED TO MAKE ANY STATEMENT THAT ADDS TO OR AMENDS ANY OF THE WARRANTIES OR LIMITATIONS CONTAINED IN THIS AGREEMENT.

7.4 **Limitation of Liability and Damages.** NEITHER CCH SFS NOR ITS SUPPLIERS OR LICENSORS WILL HAVE ANY LIABILITY TO CUSTOMER OR ANY THIRD PARTY (INCLUDING, WITHOUT LIMITATION, ANY CONTRACTOR, AGENT OR AFFILIATE OF CUSTOMER) FOR ANY LOSS OF PROFITS, SALES, BUSINESS, DATA, OR OTHER INCIDENTAL, CONSEQUENTIAL, OR SPECIAL LOSS OR DAMAGE, INCLUDING EXEMPLARY AND PUNITIVE DAMAGES, OF ANY KIND OR NATURE RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, THE SOFTWARE, AND/OR DELIVERABLES. THE TOTAL LIABILITY OF CCH SFS AND ITS SUPPLIERS AND LICENSORS TO CUSTOMER OR ANY THIRD PARTY RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, THE SOFTWARE, AND/OR DELIVERABLES FOR ANY AND ALL CLAIMS OR TYPES OF DAMAGES WILL NOT EXCEED THE TOTAL FEES PAID OR PAYABLE FOR THE SOFTWARE HEREUNDER BY CUSTOMER OR \$10, WHICHEVER IS GREATER. CCH SFS is not an insurer with regard to performance of the Software or Deliverables. Customer agrees to assume the risk for: (a) all liabilities disclaimed by CCH SFS herein, and (b) all alleged damages in excess of the amount of the limited remedy provided hereunder. The allocations of liability in this subsection 7.4 represent the agreed, bargained-for understanding of the parties and CCH SFS' compensation hereunder reflects such allocations. THE LIMITATION OF LIABILITY AND TYPES OF DAMAGES STATED IN THIS AGREEMENT ARE INTENDED BY THE PARTIES TO APPLY REGARDLESS OF THE FORM OF LAWSUIT OR CLAIM A PARTY MAY BRING, WHETHER IN TORT, CONTRACT OR OTHERWISE, AND REGARDLESS OF WHETHER ANY LIMITED REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

7.5 **Third Party Products.** Some documentation, products, and the Software itself may contain code, content, features, functionality, and components that are provided by third-parties. Furthermore, some Software may require data and information from third-parties in order to work properly. These third-party products may or may not have additional licensing requirements independent of CCH SFS. It is agreed that any additional licenses required to access said third-party products will be negotiated solely between Customer and any third-party unless otherwise specified by CCH SFS. ANY CCH SFS-PROVIDED THIRD-PARTY PRODUCTS WILL BE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND BY CCH SFS. ALL RIGHTS AND OBLIGATIONS WITH RESPECT TO SAID CCH SFS PROVIDED THIRD-PARTY PRODUCTS WILL BE GOVERNED EXCLUSIVELY BY THE TERMS AND CONDITIONS OF AGREEMENTS PROVIDED BY SUPPLIERS OF SAID THIRD-PARTY PRODUCTS AND CUSTOMER HEREBY RELEASES CCH SFS FROM ALL LIABILITY AND RESPONSIBILITY WITH RESPECT THERETO.

8. DISPUTE RESOLUTION

8.1. **Force Majeure.** Except for payment obligations, neither party hereto will be held liable for the failure to perform any obligation, or for the delay in performing any obligation, arising out of or connected with this Agreement if such failure or delay results from or is contributed to by any cause beyond the reasonable control of such party including, but not limited to, failures or delays caused by the act or omission of any governmental authority, fire, flood, or other event beyond such party's reasonable control.

8.2. **Licensing Audit.** Upon CCH SFS' written request, Customer will furnish CCH SFS with a signed certificate verifying that Customer's version of the Software is being used pursuant to the terms of this Agreement. At its expense, CCH SFS may audit Customer's compliance with the requirements of this Agreement. Any such audit will be conducted during regular business hours at Customer's facilities and will not unreasonably interfere with Customer's business activities. During any such audit CCH SFS will be allowed to interview any of Customer's employees and contractors. If CCH SFS determines that Customer has not paid appropriate license or other fees for use of the Software or Deliverables at any location, Customer will be invoiced for such license and other fees, plus an additional 1.5% monthly interest rate, or the maximum lawful amount, of the unpaid fees (dating back to the time when such fees should have been paid). CCH SFS will recoup and Customer will pay the reasonable cost of the audit if the audit detects unpaid fees that exceed five percent (5%) of the total fees actually paid for the period so audited. This right will not limit or preclude any additional remedies available to CCH SFS provided by law or equity.

8.3. **Jurisdiction.** The parties hereto, and each of them, acknowledge that they have had the opportunity to be represented by independent counsel of their choice prior to entering this Agreement. Customer agrees that this Agreement will be interpreted and enforced according to the laws of the State of Georgia, without any regard to conflicts of law rules, and will be treated as if executed and performed in Fulton County, State of Georgia. All disputes surrounding the performance of this Agreement and/or Deliverables will be instituted and prosecuted exclusively in Fulton County, State of Georgia, with Customer specifically consenting to extraterritorial service of process for that purpose. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply in any respect to this Agreement or to the parties in general.

8.4. **Waiver of Jury Trial.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND THE TRANSACTIONS IT CONTEMPLATES.

8.5. **Enforcement.** Customer will pay all of CCH SFS' attorneys' fees and costs and expenses incurred in the enforcement of any of

the provisions of this Agreement.

- 8.6. **Remedies.** Customer acknowledges that the Software and other proprietary information of CCH SFS are unique and that, in the event of any breach of this Agreement by Customer, CCH SFS may not have an adequate remedy at law, and will be entitled to seek enforcement of its rights hereunder by an action for damages and/or specific performance and/or injunctive or other equitable relief without the necessity of proving actual damages. Unless specifically stated otherwise elsewhere in this Agreement, the various rights, options, elections, powers and remedies of a party or parties to this Agreement will be construed as cumulative and no one of them exclusive of any others or of any other legal or equitable remedy, which said party or parties might otherwise have in the event of breach or default in the terms hereof.
- 8.7. **Notices.** All notices, demands, consents or requests given by a party hereto will be in writing and sent by delivery via a third party, nationally recognized overnight express mail service or by United States certified mail, postage prepaid, addressed to either Customer's billing address or CCH Small Firm Services, Attn: Legal Department, 6 Mathis Drive, Rome GA 30165. If such notice, demand, consent or request is given by mail, such notice will be conclusively deemed given five (5) days after deposit thereof in the United States mail.
- 8.8. **Enforceability.** In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions and portions thereof of this Agreement will not be affected thereby.
- 8.9. **Waiver.** CCH SFS' failure or delay to require compliance with the conditions of this Agreement, or to exercise any right provided herein, will not be deemed a waiver by CCH SFS of such condition or right. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, will operate as a waiver or legally bar CCH SFS from enforcing any right, remedy or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose that it is given and is not to be construed as a waiver on any future occasion.

9. MISCELLANEOUS

- 9.1. **Entire Agreement.** This Agreement, along with the Order Confirmation and any other terms referenced by this Agreement but otherwise published by CCH SFS outside of this Agreement, constitutes the entire and exclusive agreement, understanding and representation, express or implied, between Customer and CCH SFS with respect to the Software and Deliverables to be furnished hereunder; it is the final expression of that agreement and understanding, and it supersedes all prior agreements and communications between the parties (including all oral and written proposals). In the event of a conflict, this Agreement will control, then the Order Confirmation, and then any other terms provided by CCH SFS, unless CCH SFS explicitly acknowledges and upholds the particular conflict in such other document. Oral statements made by CCH SFS' representatives about the Software and/or Deliverables do not constitute warranties, will not be relied on by Customer, and are not part of this Agreement. No supplement, modification or amendment of this Agreement will be binding unless executed in writing by CCH SFS and Customer after reasonable opportunity to accept or reject such supplement, modification or amendment. CCH SFS reserves the right to revise, in its discretion, this Agreement for future versions, Updates, renewals and/or upgrades of the Software.
- 9.2. **Evaluation Copies of Software.** If Customer is installing an evaluation version of any of the Software, then this Agreement will govern Customer's use except as modified by this subsection 9.2. Software licensed to Customer for evaluation purposes will only be used at one authorized location for a limited period of time. Certain functionality of such software may be disabled or restricted. Commercial use of such software is not authorized, is outside the scope of this Agreement, and is a violation of U.S. and international copyright laws. Any evaluation or demonstration copies of the Software must be removed from any and all Customer equipment upon the conclusion of the evaluation or demonstration and such copies must be destroyed or promptly returned to CCH SFS. If Customer wishes to use the Software for commercial purposes then Customer must purchase a license from CCH SFS. The following sections of this Agreement will not apply to Customer's use of an evaluation version of the Software: subsections 2.1, 2.2, 7.1 and 7.2, and Sections 3, 4 and 5.
- 9.3. **Contact Information.** Customer agrees to always provide CCH SFS with Customer's most current contact information, including Customer's address, phone number, fax number and e-mail address.
- 9.4. **Export Restrictions.** Customer is advised that the Software is subject to the U.S. Export Administration Regulations and diversion contrary to U.S. law and regulation is prohibited. Customer agrees to not directly or indirectly export, import or transmit the Software to any country, end user or for any end use that is prohibited by any applicable U.S. regulation or statute (including but not limited to those countries embargoed from time to time by the U.S. government or the United Nations). Additionally, Customer agrees not to directly or indirectly export, import, transmit or use the Software contrary to the laws or regulations of any other governmental entity that has jurisdiction over such export, import, transmission or use. Customer represents and agrees that neither the United States Bureau of Industry and Export Administration nor any other governmental agency has issued sanctions against Customer or otherwise suspended, revoked or denied Customer's export privileges.
- 9.5. **Modification/Replacement of Software/Deliverables.** CCH SFS reserves the right, in its sole discretion and without first consulting with Customer, to discontinue or modify the Software or Deliverables for any reason. CCH SFS may choose to replace any discontinued product, in which case CCH SFS will provide Customer with the opportunity to purchase such replacement product. If Customer purchases software that is discontinued prior to its shipment to Customer, CCH SFS will

provide Customer with a refund of the Fees paid toward such software.

- 9.6. **Data Transmission Notification.** CCH SFS' tax preparation software may also transmit to CCH SFS' internal servers certain tax records that Customer has created while using the Software but that Customer did not otherwise transmit. CCH SFS may use this transmitted data for internal quality assurance and software error checking, as well as to assist users with multiple offices. Transmitted data is limited to records created with or by the Software only and is not transmitted to the IRS. CCH SFS does not attempt to access any other information on Customer's computer that is not related to the Software.
- 9.7. **Assignment.** Neither the License granted hereunder nor the Software may be sublicensed, assigned, sold, hypothecated, or transferred by Customer without the prior written consent of CCH SFS. Any attempt to sublicense, assign or transfer any of the rights, duties or obligations under this Agreement without the prior written consent of CCH SFS will terminate the License automatically and will be void and of no effect. Customer agrees that CCH SFS' retention of these contractual and other legal rights is an essential part of this Agreement.
- 9.8. **Delivery.** Delivery of the Software to Customer will take place when it becomes available to the entire client base of CCH SFS. Customer acknowledges that the Software and all Updates thereof are pre-written software of general application. All Deliverables will be delivered to Customer remotely via interstate means from CCH SFS' offices.

Master 08/09