



## Refunds Today, LLC - 2018 2-Year Software License Agreement Terms and Conditions

By signing this agreement (this "Agreement") or installing the Licensed Program(s) or by using the Licensed Program(s), whichever occurs first, Licensee acknowledges that Licensee has read, understands and agrees to the terms and conditions set forth below. Refunds Today, LLC (the "Licensor") is willing to license the Licensed Program(s) to Licensee only upon the condition that Licensee accepts all of the terms and conditions contained in this Agreement. If Licensee has not previously signed a copy of this Agreement and does not agree to its terms, immediately return the Licensed Program(s) to Licensor in their original packaging for a full refund. In the event there is a conflict or inconsistency between the terms, conditions and limitations set forth in this Agreement and the click-through license agreement included in Licensed Program, this Agreement shall control.

### 1. Definitions

1.1 "Licensee" shall mean the person or entity that acquires/purchases the Licensed Program(s) pursuant to invoice of Licensor and this Agreement.

1.2 "Licensed Program(s)" shall mean (i) any software program(s) developed or licensed by Licensor which may be used by Licensee; (ii) related materials such as reference manuals and operating instructions provided for use in connection with the software program(s); (iii) copies or backups of any software programs licensed by Licensor, including translations, compilations and partial copies and (iv) any updated program portion, including any updates from Licensor, relating to the same tax year.

1.3 "Deliverables" means the Licensed Program(s) and related benefits, such as electronic filing, available for use in connection with the Licensed Program(s).

1.4 "BP Guidelines" shall mean Licensor's Settlement Solution Enrollment Agreement (as revised from time to time) and Licensor's Settlement Solution Fee Agreement (as revised from time to time), both of which are incorporated into this Agreement in their entirety. **A copy of the BP Guidelines may be found at [www.refundstoday.com/legal](http://www.refundstoday.com/legal). Licensee acknowledges and agrees that Licensee has carefully reviewed the BP Guidelines in their entirety and knowingly and voluntarily assents to all of the terms, conditions and limitations contained therein.**

### 2. License, Restrictions & Ownership

2.1 Grant. Subject to the terms and conditions of this Agreement, Licensor hereby grants Licensee a personal, nonexclusive, nontransferable contractual right and license to use, and to copy for back-up purposes only, each Licensed Program, at the single location designated in the Licensor's database of Licensee's name and address information, solely for Licensee's internal use and for the limited purpose of performing tax and/or accounting services for Licensee's clients without any further right to use, sublicense, distribute, transfer, transmit or otherwise exploit the Licensed Programs in any other manner. All proprietary rights in the Licensed Programs shall remain in Licensor and its suppliers and licensors, as applicable. Licensee shall not use any of Licensor's Licensed Programs except those covered by this Agreement. Licensee shall not modify any Licensed Program in any way. Any modifications to any Licensed Program by or on behalf of Licensee, without the express written consent of Licensor, shall result in cancellation of this Agreement as well as possible civil damages and criminal penalties, it being understood that Licensor is retaining the contractual rights specified in this Agreement and other legal rights with respect to the Licensed Programs as an essential part of Licensor's agreement to provide them to Licensee. Without limiting the foregoing, Licensor and its suppliers and licensors, as applicable, reserve all patent, copyright, trade secret, trade name, trademark, and other proprietary rights related to the Licensed Programs, which are protected under United States Copyright Laws and International Treaty Provisions, and Licensee will not infringe or violate such rights. Unauthorized use of the Licensed Programs shall result in cancellation of this Agreement as well as possible civil damages and criminal penalties.

2.2 U.S. GOVERNMENT RESTRICTED RIGHTS. The Licensed Program is provided with RESTRICTED RIGHTS. Use, duplication or disclosure of the Licensed Program 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 (the "Manufacturer"), 225 Chastain Meadows Ct. NW, Suite 200, Kennesaw, GA 30144. If Licensee 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 Licensee hereby agrees to protect the Licensed Program from public disclosure and to consider the Licensed Program 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 Licensed Program.

2.3 Restrictions. Licensee must not do or attempt to do, or permit others to do or attempt to do, any of the following: (i) create derivative works of, copy or modify the Licensed Program(s) in any way, except as permitted in [Section 2.1](#); (ii) remove or modify Licensor or Manufacturer copyright notices, trademark, logo, legend or other notice of ownership from the Licensed Program(s) or any copy thereof; (iii) access, view, read, modify, reverse compile, reverse assemble, disassemble or print the Licensed Program(s)'s source code or object code or other runtime objects, components or files distributed with the Licensed Program; (iv) otherwise reverse engineer, modify or copy the look and feel, functionality or user interface of any portion of the Licensed Program(s); (v) defeat, disable or circumvent any protection mechanism related to the Licensed Program(s); (vi) rent, lease, distribute (or redistribute), provide or otherwise make available the Licensed Program(s), in any form, to any third party (including in any service bureau or similar environment); (vii) share use or access of the Licensed Program(s) with other practitioners (including outsourcers performing work for Licensee) who are not authorized users in Licensee's practice, even if Licensee shares office space or equipment; (viii) share online account or online account access Information with third parties; (ix) link to, frame or mirror web-based Licensed Programs or any

portion thereof; (x) use the Licensed Program(s) to process the data of clients of a third party (whether on an outsourcing, service bureau, or other basis); (xi) install a copy of any Licensed Program at an office location not registered and/or licensed as a designated office with Licensor; or (xii) publish, distribute (or redistribute) or sell any document retrieved through the Licensed Program(s) (even if in the public domain) to any individual or entity outside of Licensee's own firm, except for documents prepared for clients within the scope of the normal and intended use of the Licensed Program(s). In addition, Licensee shall not take actions to violate or attempt to violate the security of Licensor or Manufacturer's networks or servers, including (x) accessing data not intended for Licensee or logging into a server or account which Licensee is not authorized to access; (y) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper written request and authorization; or (z) attempting to interfere with service to any user, host or network, including by means of submitting a virus, overloading, flooding, spamming, mail bombing or crashing.

2.4 Compliance Mechanisms. The Licensed Program(s) may contain technological copy protection or other security features designed to prevent unauthorized use of the Licensed Program(s), including features to protect against use of the Licensed Program(s): (a) beyond the scope of the license granted to pursuant to Section 2.1; or (b) prohibited in Section 2.3. Licensee shall not, and shall not attempt to, remove, disable, circumvent or otherwise create or implement any workaround to, any such copy protection or security features.

#### 2.5 Customer Data and Statistical Data

2.5.1 Authorized Use. As between Licensor and Licensee, Licensee is and shall remain the sole and exclusive owner of all right, title, and interest in and to the all information, data, and any content, that is uploaded to or stored on the Licensed Program(s) by or on behalf of Licensee ("Licensee Data"). Licensor, Manufacturer and their affiliates and subcontractors will only use Licensee Data as (i) necessary to provide the Licensed Program(s) to Licensee (or in connection with ancillary products or services integrated in, or transmitted through, the Licensed Programs); (ii) expressly authorized pursuant to the terms of this Agreement; and (iii) otherwise authorized by Licensee in writing (each use an "Authorized Use"). Licensee hereby grants to Licensor, Manufacturer and their affiliates and subcontractors a limited license to use Licensee Data for each Authorized Use.

2.5.2 Disclosure. Licensor may disclose Licensee Data to taxing authorities and third party service providers that Licensor may use in conjunction with the services it renders hereunder, subject to applicable laws and regulations, including Internal Revenue Code Section 7216. In addition, Licensor may disclose Licensee Data to tax authorities, federal and state agencies/regulators and third-parties for purposes related to detecting or reporting suspicious or fraudulent tax returns and/or possible fraudulent activity. Except as otherwise set forth in this Agreement or required by law, Licensor shall not disclose Licensee Data to any third party without Licensee's consent.

2.5.3 Data Retention. Licensor will use reasonable efforts to retain the Licensee Data that Licensee has properly submitted to Licensor's online servers for at least one (1) year following the year in which Licensee submitted any such Licensee Data. Licensor will then maintain such Licensee Data in accordance with its internal business practices. It is Licensee's responsibility to back-up on Licensee's own local system all Licensee Data that Licensee submits to Licensor. Upon Licensee's request, and subject to payment of any fees charged by Licensor therefor, Licensor shall use commercially reasonable efforts to make available for retrieval by Licensee, all Licensee Data then in Licensor's possession or control per Licensor's customary internal business practices.

2.5.4 Statistical Data. As between Licensor and Licensee, Licensor is and shall remain the sole and exclusive owner of all right, title, and interest in and to any and all information reflecting the access or usage patterns of any Licensed Program(s) by or on behalf of Licensee or any authorized user and general information about Licensee's and its authorized users' computer system from which the Licensed Program is being accessed (for example, system configuration, type of internet connectivity, RAM, CPU, operating system, browser version), including any statistical or other analysis, information or data based on or derived from any of the foregoing; provided that such information has been anonymized so as to not identify Licensee or any of its authorized users (collectively, "Statistical Data"). Licensor, Manufacturer and their affiliates may use Statistical Data for their own business purposes, including the support, improvement, and development of the Licensed Programs or other Licensor products.

2.5.5 Security. Licensor shall implement and maintain reasonable information security measures and policies intended to: (i) safeguard the security of Licensee Data, (b) protect against known or anticipated threats to the security of such Licensee Data and (c) investigate and react to any known or suspected unauthorized access to or loss of such Licensee Data. As between Licensor and Licensee, Licensor acknowledges that Licensee retains ownership of the Licensee Data. However, by submitting Licensee Data to the Licensed Program, Licensee grants Licensor the nonexclusive, worldwide, transferable right, on a royalty-free basis, to possess, store, use, copy, distribute and process Licensee Data solely for the purposes of fulfilling Licensor's obligations and/or exercising Licensor's rights hereunder. This right may be sub-licensed only to third parties assisting Licensor in providing the Licensed Program or otherwise fulfilling Licensor's obligations hereunder. For avoidance of doubt, the parties acknowledge and agree that unauthorized access to or loss of Licensee Data shall not constitute a breach by Licensor of its confidentiality obligations under this Agreement. LICENSOR SHALL HAVE NO LIABILITY FOR ANY BREACH OF LICENSOR'S NETWORK SECURITY THAT RESULTS IN ANY UNAUTHORIZED DISCLOSURES OF LICENSEE DATA, SO LONG AS LICENSOR HAS NOT MATERIALLY BREACHED ITS OBLIGATIONS REGARDING SECURITY OF SUCH LICENSEE DATA.

2.6 Unauthorized Acquisition. Licensor prohibits the use of any product or service from Licensor that has been improperly obtained and/or accessed by or on behalf of Licensee or any third party. For purposes of illustration, but not limitation, examples of products or services obtained or accessed improperly include any products or services that are: (i) acquired from an unauthorized reseller or distributor; (ii) pirated, cracked or hacked; (iii) 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 such product or service; or (iv) 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).

2.7 Data Transmission Notification. The Licensed Program may transmit to the servers on which the Licensed Program is hosted, various information relating to how Licensee and its authorized users access and/or use the Licensed Program, as well as general information about Licensee's and his/her/its authorized users' computer system from which the Licensed Program is being accessed (for example, system configuration, type of internet connectivity, RAM, CPU, operating system, browser version), as well as certain records that Licensee has created while using the Licensed Program, including those that Licensee did not otherwise transmit to the IRS. Licensor may use this information for purposes of improving, enhancing or further developing the Licensed Program, for internal quality assurance and software error checking, to assist users with multiple offices and as otherwise necessary or appropriate to perform its obligations pursuant to this Agreement. Licensor shall keep this information confidential in accordance with confidentiality obligations set forth hereunder.

### **3. Warranties**

3.1 Limited Warranty. THE LICENSED PROGRAM(S) AND OTHER DELIVERABLES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE LICENSED PROGRAMS AND OTHER DELIVERABLES IS WITH LICENSEE. LICENSOR DOES NOT WARRANT THAT THE LICENSED PROGRAM(S) WILL PROPERLY OPERATE ON ANY SPECIFIC OPERATING SYSTEM OR COMPUTER HARDWARE OR CONFIGURATIONS OR BEFORE OR AFTER ANY SPECIFIC DATE OR TIME PERIOD. LICENSOR SHALL IN NO EVENT BE LIABLE TO LICENSEE OR ANY OTHER PERSON FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR TORT DAMAGES OR FOR ANY LOST PROFITS ARISING OUT OF THE USE OF OR INABILITY TO USE THE LICENSED PROGRAM(S) AND/ OR ANY OTHER DELIVERABLES, EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY OTHER CLAIM BY LICENSEE OR ANY OTHER PERSON.

3.2 Limitation of Liability and Exclusive Remedy. Licensee agrees that regardless of the form of any claim, Licensor's entire liability and Licensee's exclusive remedy for damages arising out of or connected with this Agreement (including but not limited to damages due to performance or non-performance of the Licensed Programs and/or any other Deliverables) shall be limited to the return of the license fees paid to Licensor by Licensee for the applicable tax year of the Licensed Program(s) during the Term of this Agreement.

3.3 Licensor is not an insurer with regard to performance of the Licensed Programs or any Deliverables. The terms of this Agreement, including but not limited to the license fees limited warranties and the limitation of liability and exclusive remedy are a reflection of the risks assumed by the parties in order to obtain the Licensed Programs at the specified license fee. Licensee agrees to assume the risk for: (i) all liabilities disclaimed by Licensor contained herein; and (ii) all damages in excess of the amount of the exclusive remedy for damages provided hereunder. The essential purpose of the exclusive remedy for damages provided Licensee hereunder is to allocate the risks as provided above.

### **4. Termination of this Agreement; Suspension or Termination of Access**

4.1 This Agreement may be terminated by Licensor as to all or any of the Licensed Programs immediately upon notice to Licensee if Licensee breaches this Agreement or any other agreement between Licensor or any affiliate of Licensor and Licensee or fails to comply with any of its terms or conditions. Licensor may terminate this Agreement at any time if Licensee does not pay license fees or other amounts (for example, fees for electronic filing deliverables) when due. Licensor may terminate this Agreement at ANY time upon notice to the Licensee should Licensee threaten, harass, berate or otherwise treat in a disrespectful manner any person or persons employed by Licensor. If, in the sole judgment of Licensor, a change in the competitive, legislative, or regulatory environment makes the current offering no longer commercially feasible, profitable or practical, Licensor reserves the right to terminate this Agreement without penalty. Should Licensee attempt to terminate this Agreement through any financial recovery methods offered by a bank or Credit Card, Licensor reserves the right to charge a \$50 "chargeback" fee. Upon termination of the license, Licensee shall immediately destroy the Licensed Programs and all copies thereof and certify to Licensor that the Licensed Programs and all copies have been destroyed or at Licensor's request, return the Licensed Programs to Licensor by US mail or common carrier. Termination of this Agreement by Licensor shall not affect the sums due or paid hereunder or any additional remedies provided by law or equity and shall not require any refund. Subsequent use of the Licensed Programs by Licensee shall require a new agreement and payment of the then current license fee.

4.2 Licensee acknowledges and agrees that all durable promotional items (banner, posters, tabletop advertisements) provided by Licensor, remain property of Licensor and must be returned to the Licensor by US mail or common carrier upon termination, cancellation, or expiration of this agreement. Failure to return any durable items promptly may result in a \$250.00 charge per missing or non-returned items.

4.3 In addition to any other suspension or termination rights of Licensor pursuant to this Agreement, Licensor may suspend or terminate any licenses without notice (i) in the event Licensee (including any authorized user, employee, Client or other person or entity acting through or on behalf of Licensee) is determined by Licensor, in Licensor's sole judgment, to have or attempted to have damaged, harmed or misused Licensor's or Manufacturer's software, server, network or other systems, (ii) as necessary or appropriate to comply with any law, regulation, court order, or other governmental request or order which requires immediate action or otherwise protect Licensor from potential legal liability or harm to its business, or (iii) Licensee has obtained unauthorized access to the Licensed Program(s). Nothing contained in this Agreement will be construed to limit Licensor' actions or remedies or act as a waiver of Licensor' rights in any way with respect to any of the foregoing activities. Licensor will not be responsible for any loss or damages incurred by Licensee as a result of any termination or suspension of access as set forth in this section.

### **5. Updates**

5.1 Licensor may, if practical and appropriate, update the Licensed Programs from time to time and offer such updated Licensed Programs to Licensee ("update(s)"). However, updates shall be at Licensor's sole discretion and Licensor shall have no obligation, express or implied, to provide updates for the Licensed Programs. Licensee agrees to apply all of any such updates to the Licensed Programs and acknowledges that Licensee's failure to apply updates is at Licensee's sole risk. The Licensed Programs relate to a single tax year. Programs relating to subsequent tax years shall require a separate license agreement and payment of the then current license fee.

### **6. Protection and Security of Licensed Programs**

6.1 Without Licensor's prior written permission, Licensee will not provide or otherwise make available any Licensed Programs in any form to any party other than Licensee and its employees and only in accordance with the terms of this Agreement.

6.2 All copies of Licensed Programs made by Licensee, including, without limitation, translations, compilations and partial copies are governed by the terms of this Agreement as Licensed Programs. Licensee will reproduce and include Licensor's copyright notice on all such copies in accordance with instructions from Licensor. Licensee shall not attempt to view, read, reverse compile, reverse assemble or print the Licensed Program source code or object code. Licensee agrees that Licensor's retention of these contractual and other legal rights is an essential part of this Agreement. The parties agree that these Licensee representations contained in this section are material and shall survive the expiration of the termination of this Agreement.

## 7. Professional Responsibility; Representations

7.1 Licensee understands and agrees that all decisions regarding the tax treatment of items reflected on tax returns prepared by Licensee using a Licensed Program(s) are made solely by Licensee and that use of a Licensed Program(s) does not relieve Licensee of responsibility for the preparation, content, accuracy, and review of such tax returns. Licensee agrees that Licensee is not relying upon Licensor or the Licensed Program(s) for advice regarding the appropriate tax treatment of items reflected on tax returns processed using Licensed Program(s). The parties agree that Licensee will review any computations made by a Licensed Program(s) and satisfy himself or herself that those computations are correct.

7.2 Licensee accepts full responsibility for: (i) selection of adequate and appropriate Licensed Program(s) to satisfy Licensee's business needs and achieve Licensee's intended results; (ii) use of the Licensed Program(s); (iii) all results obtained from the Licensed Programs; (iv) selection, use of, and results obtained from any other programs, computer equipment or services used with the Licensed Programs; and (v) selecting, obtaining and maintaining all hardware, software, computer capacity, Internet service, program and system resources and other equipment and utilities needed to install or use the Licensed Program(s), and for all costs associated therewith. Licensee acknowledges Licensor is not responsible for any missing or misdirected fees, including but not limited to tax preparation fees, electronic filing fees, other fees, and Bank Product fees. Licensee acknowledges it must retrieve in a timely manner electronic communications made available to Licensee by Licensor (for example, electronic filing transaction data such as acknowledgements and email messages in the Licensee's mailbox). Such communications may become unavailable if not retrieved within 5 business days of being made available by Licensor.

7.3 Licensee agrees to take full responsibility for any and all liability arising from preparation of the tax returns processed using a Licensed Program(s) provided under this Agreement and Licensee agrees to indemnify Licensor and hold it harmless against any and all liability to the United States government or other parties arising out of the use by Licensee of a Licensed Program(s) under this Agreement, including damages, recoveries, deficiencies, interest, penalties and reasonable attorney's fees. Licensee is solely responsible for complying with all applicable rules, regulations and procedures of the United States government and all applicable state authorities.

7.4 Licensee is responsible for securely managing and controlling all passwords and account access information and shall immediately contact Licensor if Licensee becomes aware of any unauthorized access to such information. Further, Licensee is responsible for protecting the information on Licensee's computer(s) such as by installing anti-virus software, updating software, password protecting files, and not permitting third party physical or electronic access to your computer(s). Licensee is responsible for safeguarding taxpayer Information as set forth in applicable IRS rules, regulations and guidelines, including, without limitation, the IRS Publication 4600 and Publication 4557.

7.5 Licensee represents, warrants and covenants that: (i) Licensee has full power and authority to enter into this Agreement and to perform its obligations as set forth in this Agreement, and that this Agreement, BP Guidelines and all ancillary addendums and agreements have been duly authorized and constitute valid and binding obligations of Licensee; (ii) Licensee is licensing the Licensed Program(s) solely for Licensee's own use and/or to provide tax and accounting services to its clients; (iii) Licensee will not use the Licensed Program(s) to create a product, service or database that competes with Licensor or the Licensed Program(s); (iv) Licensee is responsible for complying with all rules, regulations and procedures of local, state, federal and foreign authorities applicable to Licensee and its business, including all rules, regulations and procedures of the Internal Revenue Service; (v) Licensee will be solely responsible for compliance with this Agreement by its employees, contractors, agents and authorized users and, to the extent applicable, all of its clients; (vi) Licensee has sole responsibility for the accuracy, quality, integrity, reliability, and appropriateness of all Licensee Data; (vii) Licensee has all rights necessary to legally transmit the Licensee Data to Licensor's networks or servers, and the possession, storage and use by Licensor of such Licensee Data will not infringe, misappropriate or otherwise violate any intellectual property rights, or other rights, of any third party. Licensor reserves the right, in its sole discretion, at any time, to remove any Licensee Data that it believes to be in violation of this Agreement; and (viii) Licensee will not otherwise violate the rights of any third party while using the Licensed Program(s).

7.6 The following electronic filing terms and conditions will apply to electronic filing services and are in addition to all other terms and conditions contained within this Agreement: (i) Licensee agrees that Licensee will comply with all State and/or Federal electronic filing and direct deposit/direct debit rules and regulations as shall be in effect from time to time; (ii) Licensee acknowledges and agrees that all EFINs used by Licensee and provided to Licensor are registered to Licensee or else are registered to an authorized user who is using the Licensed Program on behalf of Licensee. Licensee also agrees to provide Licensor with Licensee's most current EFIN, as well as proof of the EFIN holder's name and address, as requested by Licensor; (iii) Licensee acknowledges and agrees that Licensee is solely responsible for any direct deposit or direct debit option which Licensee elects in accordance with applicable federal and state signature authorization forms (or any other similar form(s)) and that Licensee is solely responsible for providing all complete, correct and necessary information directly to the IRS and any other taxing authority with respect to the same; (iv) Licensee acknowledges and agrees that Licensor cannot guarantee that taxing authorities will accept all returns due to circumstances that are beyond Licensor's reasonable control. Licensee agrees to review the electronic filing and remittance status after submission to confirm the file was accepted. For jurisdictions that do not accept electronic remittance, Licensee must submit returns using standard paper methods; and (v) Licensee acknowledges and agrees that by using a computer system and the Licensed Program(s) to prepare and transmit client returns electronically, Licensee consents to the disclosure of all information pertaining to the user (including, without limitation, Licensee and each of its employees, contractors and authorized users) of such systems and Licensed Program(s) to create such client returns and to the electronic transmission of client tax returns to the applicable state and federal tax agencies.

7.7 Licensee hereby represents, warrants, covenants and agrees that (i) any and all tax returns filed electronically by or through Licensee during the Term of this Agreement shall utilize and be transmitted through the Licensed Program(s), and (ii) any and all applications for Bank Products made by or through Licensee during the term of this Agreement in connection with such Returns shall utilize and be processed through the Licensed Program(s). Failure to process the tax returns and/or Bank Products exclusively through the Licensed Program(s), shall be a breach of this Agreement. In addition to any other remedies Licensor may have, Licensee shall pay to Licensor a sum equivalent to the fees currently listed in the pricing section for the applicable Licensed Program as if the tax return and/or Bank Product were processed by or through Licensee, directly to Licensor.

## 8. Product Support

8.1 Licensor may offer, in its sole discretion, customer support for the Licensed Programs from its offices during regular business hours. Such customer support will be available to Licensee until November 15 following the end of the single tax year to

which the Licensed Programs relate. Customer support will be provided only for use of the Licensed Programs on the hardware and operating systems specified in the documentation for the Licensed Programs, and will be provided only in the event Licensee has applied all updates, if any, to the Licensed Programs made available by Licensor.

8.2 Licensee agrees that by contacting Licensor for support, Licensee will be authorizing Licensor to access and perform work on its account, computer(s) and/or network(s), including but not limited to software, hardware, peripherals and memory (the "Computer System"). Licensor will not be responsible for the loss of any information or data from Licensee's Computer System (whether related to the Licensed Program or otherwise) or any malfunction or failure of the Computer System. It is Licensee's responsibility to ensure that the Computer System has been backed up.

## 9. Miscellaneous

9.1 This Agreement constitutes the entire and exclusive agreement, understandings and representations express or implied, between Licensee and Licensor with respect to the Licensed Programs and other Deliverables to be furnished hereunder; it is the final expression of that agreement and understanding, and it supersedes all prior communications between the parties (including all oral and written proposals). Oral statements made by Licensor's sales representatives about the Licensed Programs do not constitute warranties, shall not be relied on by Licensee and are not part of this Agreement.

9.2 The following terms and conditions will apply to any Bank Products services used by Licensee while using the Licensed Program(s) and are in addition to all other terms and conditions contained within this Agreement: (i) Licensee agrees that if it elects to offer "Bank Products" (i.e., all products that involve the settlement of a tax refund, including refund transfers, tax refund-related credit products, and tax preparation fee collection products) to taxpayers whose tax returns are prepared with the Licensed Program(s), then Licensee will enroll with Licensor and a Bank Products provider authorized by the Licensor; (ii) Licensee must accept all terms of the BP Guidelines if Licensee elects to offer Bank Products; (iii) Licensee acknowledges that each application for a client's Bank Product that is transmitted through the Licensed Program(s) will be subject to the applicable fees; and (iv) Licensee agrees that the Bank Product provider, and not Licensor or its affiliates, is responsible for the performance, processing, approval, origination, servicing, marketing and issuance of Bank Products. Licensor does not review, approve, monitor, endorse, warrant, or make any representations with respect to Bank Products, and the transmission of a Bank Product application through the Licensed Programs does not imply an endorsement, approval, investigation or monitoring by Licensor of the Bank Product provider or Bank Products in general. No statements in the BP Guidelines constitute representations or warranties of Licensor, and the BP Guidelines do not bind Licensor in any way. Licensor may change the BP Guidelines at any time and from time to time without notice to Licensee. Licensee agrees that Licensee will not use or attempt to use any Licensed Program(s) in conjunction with offering Bank Products of any financial institution not authorized by Licensor.

9.3 Sections 3, 6, 7, 9, 11 and 14 shall survive termination of this Agreement.

9.4 Neither the licenses granted hereunder nor any of the Licensed Programs may be sublicensed, assigned, sold, hypothecated, or transferred by Licensee without the prior written consent of Licensor. Any attempt to sublicense, assign or transfer any of the rights, duties or obligations under this Agreement without the prior written consent of Licensor shall terminate the license automatically and shall be void and of no effect. Licensee agrees that Licensor's retention of these contractual and other legal rights is an essential part of this Agreement.

9.5 If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision shall be, to the maximum extent permitted by applicable law, construed or limited, and/or deemed replaced by a revised provision, to the extent (and only to the extent) necessary to render it valid, legal and enforceable and, as nearly as possible, to reflect and achieve the parties' intentions in agreeing to the original provision. If it is not possible to so construe, limit or reform any such provision, then the invalid, illegal or unenforceable provision shall be severed from this Agreement. In any event, the remaining provisions of this Agreement shall be unaffected thereby and shall continue in full force and effect.

9.6 Licensor is not in the business of providing accounting, tax, financial or other professional services or advice. Consult the services of a competent professional when assistance of this nature is needed.

9.7 Neither party hereto shall 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.

9.8 Licensee is required to furnish a debit card, credit card, or authorize ACH drafts for all fees incurred, which will usually be billed weekly. If Licensee's payment is returned unpaid for any reason, Licensor reserves the right to charge a service fee of a minimum of \$15 or the maximum amount permitted by law, and may suspend any further Electronic Filing or customer service until said balance is paid in full.

9.9 A party's failure or delay to require compliance with any term of this Agreement, or to exercise any right provided herein, shall not be deemed a waiver by the party of such term or right. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition set forth in this Agreement, and no course of dealing between the parties, shall operate as a waiver or legally bar a party from enforcing any right, remedy or condition. All waivers must be made in writing and signed by the waiving party and any such waiver 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.

9.10 Each of the parties hereto acknowledges that it has had the opportunity to be represented by independent counsel of its choice prior to entering into this Agreement. As a consequence, the parties agree that in construing this Agreement, no provision hereof shall be construed in favor of one party on the ground that such provision was drafted by the other.

9.11 Licensor reserves the right to amend or modify this Agreement at any time, and the changes will be effective when the amended Agreement is posted on Licensor's web site or otherwise delivered to Licensee. Licensee's continued use of the Product(s) shall represent Licensee's agreement and acceptance of the amendments or modifications.

9.12 Licensor reserves the right, in its sole discretion and without first consulting with Licensee, to discontinue or modify the Licensed Program, Deliverables, or any component thereof for any reason. If the Licensed Program is discontinued during the term of the license granted hereunder, then Licensor will, in its discretion, either: (i) provide a pro-rata refund of any software fees (if applicable) paid for the discontinued Licensed Program; or (ii) provide Licensee with access to a product having substantially similar or greater functionality (with Licensor reserving the right to charge fees or additional fees for any such greater functionality) for the remainder of the then current term.

9.13 Licensor (either itself or through a third party) will make the Licensed Program available for access via the Internet. Licensee shall provide, at Licensee's own expense, all necessary hardware, applications and Internet connectivity necessary to access the Licensed Program. Licensee acknowledges that the Internet is known to be unpredictable in performance and may, from time to time, impede access to the Licensed Program or performance hereunder. Licensee agrees that Licensor is not in any way responsible for any interference with Licensee's use of or access to the Licensed Program arising from or attributable to the Internet and Licensee waives any and all claims against Licensor in connection therewith.

## 10. Term

10.1 This Agreement shall commence on the date set forth below and continue in effect until November 15, 2020.

## 11. Indemnification

11.1 Licensee agrees to indemnify, defend and hold harmless Licensor, Manufacturer and their affiliates, directors, agents, officers, employees, successors and assigns, from and against any and all liability (including, but not limited to, damages, recoveries, deficiencies, interest, penalties and reasonable attorney's fees) to third parties (including any taxpayers, clients, IRS, attorneys general, and any taxing authorities) relating to: (i) Licensee's breach of any of its obligations, responsibilities, representations and/or warranties set forth in this Agreement or the BP Guidelines, or (ii) Licensee's use of the Licensed Program(s), electronic filing, Bank Products, Deliverables, and/or any third party software, application or service.

## 12. Contractual Relationship

12.1 At no time will Licensor be, or be deemed to be, an agent for or representative of Licensee, or have any responsibility or liability whatsoever in connection with any tax return or Bank Product. Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of employer and employee, principal and agent, partners, joint ventures, or any other similar such relationship, between the parties hereto. At no time shall Licensor contact or solicit Licensee's clients unless required by law or in order to obtain additional information for the purposes of settling a debt incurred from an obtained Bank Product. Licensee shall not engage in, act as, open, work for, undertake planning, conspire with others to create, or own shares in, any Electronic Filing Service Bureau which directly competes with Licensor or its successors, for a period of two years after this Agreement expires. Licensee also agrees not to employ any Licensor's (or its successors) employee(s) for a period of two years after the termination of this agreement.

## 13. Pricing

**INITIAL** 13.1 Licensee agrees to pay the software License fees as set forth on the order form for the Licensed Programs selected by Licensee as provided by Licensor at time of purchase of the Licensed Programs. Licensee acknowledges and agrees that payment for the second year of the license for the Licensed Program(s) shall be due, in full, on May 1, 2019, and will be charged, without notice, to the payment method then currently on file, if Licensee does not otherwise qualify (as determined in Licensor's sole discretion) for a free license as set forth in Section 15. Licensee also agrees to pay an additional fee (based on purchased package) for each Business return requested, selected, or processed in addition to or exceeding the original amount purchased.

13.2 Licensee acknowledges that if they have licensed the "Refunds Today Basic" – (Basic), "Refunds Today Online" – (Online), "Refunds Today Standard" – (Standard), "Refunds Today Plus" – (Plus), or "Refunds Today Premier" – (Premier) license, Licensee is required to file a minimum of five (5) tax returns by April 15 of the current processing year, through the licensed program or may be required to pay a \$300 "No E-File Fee".

13.3 Licensee agrees to pay to Licensor the following transmission fees as follows: For electronically filed Federal tax returns, the sum of \$8 (Online, Standard, Plus, or Premier Package) or \$10 (Basic Package) for each tax return submitted for filing. This price includes unlimited resubmissions of the same tax return at no additional charge. For electronically filed State returns, the sum of \$4 (Online, Standard, Plus, or Premier Package) or \$6 (Basic Package) for each state tax return submitted. For electronically filed combined Federal and State tax returns, the sum of \$8 (Online, Standard, Plus or Premier Package) or \$12 (Basic Package) for each combined tax return submitted. For electronically filed extensions, the sum of \$5 for each extension submitted for filing. For each Federal Bank Product, the sum of \$20 will be deducted from the client's refund disbursement. For each State Bank Product, the sum of \$6 will be deducted from the client's refund disbursement. For electronically filed Federal Business tax returns, the sum of \$15 for each tax return submitted for filing. If the IRS accepts the return and does not timely release the client's refund, Licensee will remain liable for the electronic filing fee of \$8 per federal bank product processed.

13.4 Notwithstanding section 13.3, if Licensee's business is located in and conducts business from within the state boundaries of **Arkansas, Connecticut, Illinois, Maryland or Maine**, Section 13.3 will be amended to read as follows: Licensee agrees to pay to Licensor the following transmission fees as follows: For electronically filed Federal tax returns, the sum of \$8 (Online, Standard, Plus, or Premier Package) or \$10 (Basic Package) for each tax return submitted for filing. This price includes unlimited resubmissions of the same tax return at no additional charge. For electronically filed State returns, the sum of \$4 (Online, Standard, Plus, or Premier Package) or \$6 (Basic Package) for each state tax return submitted. For electronically filed combined Federal and State tax returns, the sum of \$8 (Online, Standard, Plus or Premier Package) or \$12 (Basic Package) for each combined tax return submitted. For electronically filed extensions, the sum of \$5 for each extension submitted for filing. For electronically filed Federal Business tax returns, the sum of \$15 for each tax return submitted for filing.

13.5 Notwithstanding sections 13.3 and 13.4, if Licensee's business is located in and conducts business from within the state boundaries of **New York**, Section 13.3 will be amended to read as follows: Licensee agrees to pay to Licensor the following transmission fees as follows: For electronically filed Federal tax returns, the sum of \$8 (Online, Standard, Plus, or Premier Package) or \$10 (Basic Package) for each tax return submitted for filing. This price includes unlimited resubmissions of the same tax return at no additional charge. For electronically filed combined Federal and State tax returns, the sum of \$8 (Online, Standard, Plus or Premier Package) or \$10 (Basic Package) for each combined tax return submitted. For electronically filed extensions, the sum of \$5 for each extension submitted for filing. For electronically filed Federal Business tax returns, the sum of \$15 for each tax return submitted for filing.

13.6 Licensee agrees to pay the current posted price for each additional Business Pay-Per-Return requested, selected, or processed in addition to or exceeding the original amount purchased.

13.7 All amounts payable to Licensor under this Agreement shall be paid to Licensor in full without any setoff, recoupment, counterclaim, deduction or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable law).

#### 14. Dispute Resolution

14.1 Except for collection actions which may be brought by Licensor at any time and without limiting claims for indemnification hereunder, any claim or cause of action arising under or otherwise relating to this Agreement, or the subject matter hereof or thereof, whether based on contract, tort (including negligence) or otherwise, must be commenced within one year from the date such claim or cause of action first arose.

14.2 Licensee agrees that this Agreement shall be interpreted and enforced according to the laws of the State of New York, without any regard to conflicts of law rules that would require another jurisdiction's law to apply, and shall be treated as if executed and performed in New York, New York. All disputes arising out of or relating to this Agreement shall be instituted and prosecuted exclusively in a state or federal court located in New York, New York, with Customer specifically consenting to extraterritorial service of process for that purpose.

14.3 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, OR THE SUBJECT MATTER HEREOF OR THEREOF.

14.4 Licensee will pay all of Licensor's attorneys' fees and costs and expenses incurred in the enforcement of any of the provisions of this Agreement.

14.5 Licensee acknowledges that the Licensed Programs and other proprietary information of Licensor are unique and that, in the event of any breach of this Agreement by Licensee, Licensor may not have an adequate remedy at law, and shall be entitled to enforce 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.

14.6 All notices, demands, consents, or requests which may be or are required to be given by any party to another party shall be in writing (which may include email). No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties hereto. In the event that any of the provisions, or portions hereof, of this Agreement is 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 shall not be affected thereby. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective by Refunds Today unless made in writing and signed by an authorized representative of the waiving party.

#### 15. Free Software For Life Offer

15.1 Licensor agrees to provide to Licensee the following tax year Refunds Today software version free of license fee charges provided that Licensee processes and has funded through Licensor's Licensed Program(s) a minimum of 150 Federal Bank Products or a minimum of 300 electronically filed and IRS Accepted Federal tax returns in the current Tax year if Licensee uses the "Refunds Today Premier" software package, a minimum of 100 Federal Bank Products or a minimum of 200 electronically filed and IRS Accepted Federal tax returns in the current Tax year if Licensee uses the "Refunds Today Plus" software package, a minimum of 75 Federal Bank Products or a minimum of 150 electronically filed and IRS Accepted Federal tax returns in the current Tax year if Licensee uses the "Refunds Today Standard" or "Refunds Today Online" software package. Licensee must qualify for the offer by processing the minimum amount of Bank Products or the minimum number of electronically filed and IRS Accepted Federal tax returns specified each tax year. All taxes and shipping fees remain the responsibility of Licensee and will be automatically charged to the specified method of payment on file by May 1st of each year Licensee qualifies for this offer. If a renewal offer is required, Licensee must remit the accepted offer to Licensor no later than May 1st of each year to qualify for this offer.

15.2 Notwithstanding section 15.1, if Licensee's business is located in and conducts business from within the state boundaries of **Connecticut, Illinois, Maine, Maryland or New York**, Section 15.1 will be amended to read as follows: Licensor agrees to provide to Licensee the following tax year Refunds Today software version free of license fee charges provided that Licensee processes through Licensor's Licensed Program(s) a minimum of 300 electronically filed and IRS Accepted Federal tax returns in the current Tax year if Licensee uses the "Refunds Today Premier" software package, a minimum of 200 electronically filed and IRS Accepted Federal tax returns in the current Tax year if Licensee uses the "Refunds Today Plus" software package or a minimum of 150 electronically filed and IRS Accepted Federal tax returns in the current Tax year if Licensee uses the "Refunds Today Standard" or "Refunds Today Online" software package. Licensee must qualify for the offer by processing the minimum amount electronically filed Federal tax returns specified each tax year. All taxes and shipping fees remain the responsibility of Licensee and will be automatically charged to the specified method of payment on file by May 1st of each year Licensee qualifies for this offer. If a renewal offer is required, Licensee must remit the accepted offer to Licensor no later than May 1st of each year to qualify for this offer.

#### 16. Refund Policy

**INITIAL** 16.1 Signed Agreement. Upon the written request of Licensee received by Licensor within 72 hours of the date of placing the order for Licensed Program(s) with Licensor, Licensor shall refund all license fees paid by Licensee under this Agreement, less an 18% order processing fee. Subsequent to refund approval by Licensor (but prior to Licensor's issuing of refund credit), all Licensed Program(s) must be returned to Licensor in their original package along with a written statement that Licensee has retained no copies of any Licensed Program(s) and has not made available any Licensed Program(s) to any party other than Licensee. Licensee understands and agrees that the Licensor shall have incurred expenses in anticipation of its performance under this Agreement and that no refund shall be made for any reason more than 72 hours after the date of placing the order for Licensed Program(s) with Licensor.

[Click here to accept and agree to the Refund Policy listed in section in Section 16.1.](#)

Licensee's Initial's:

**INITIAL** 16.2 Licensee acknowledges that due to customization of the Licensed Program(s), the Licensed Program(s) will not be made available to Licensee immediately upon payment. The Licensed Program(s) will be made available upon IRS approval, typically before December 22, for the then current tax year.

16.3 All other refunds shall be granted in the sole discretion of the Licensor.

[Click here](#) to accept and agree to the future availability of the licensed product listed in section in Section 16.2.

**I agree to use an electronic signature**

**Authorized Signature:** \_\_\_\_\_

**Licensee Name:** \_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**ELECTRONIC SIGNATURE RECORD**

RECORD ID:  
SIGNED AS:  
DATE/TIME STAMP:  
IP ADDRESS: