

## PORTAL END USER LICENSE AGREEMENT

**IMPORTANT -- READ CAREFULLY:** Welcome to the James D. Miller & Co LLP (“JDM”) Portal (the “JDM Portal” or the “Portal”). By clicking the "Yes" button, the user ("You") agree(s) to be bound by the terms and conditions contained in this agreement (the "Agreement") and the terms and conditions of James D. Miller & Co LLP’s privacy notice, which are published at <http://www.jdmillercpas.com/privacynotice.html> and which are incorporated herein by reference. The privacy notice explains how James D. Miller & Co LLP treats your personal information, and protects your privacy, when you use the JDM Portal. James D. Miller & Co LLP may change the terms of this Agreement and/or the privacy notice from time to time without notice to you, and you are responsible for the then current version of the policies in effect at all times. If you do not agree to be bound by these terms and conditions or privacy notice policies, you may not use the JDM Portal.

### Modifications

You agree that we may modify this Agreement or any policy or other terms referenced in this Agreement at any time and at our sole discretion. By using the JDM Portal, you agree to be bound by any such modifications and should therefore periodically visit this page and the JDM Portal to determine the then current terms and conditions of use to which you are bound. You will note that at the bottom of this Agreement, the date of last modification is indicated. You are encouraged to check the revision date with each use to ensure you are comfortable with the latest revisions. If you are dissatisfied with the JDM Portal site, its content or this Agreement as it may be revised, you agree that your sole and exclusive remedy is to discontinue using the Portal.

### Termination

You agree that James D. Miller & Co LLP may terminate this Agreement, for any reason at our sole discretion, at any time, by providing you seven (7) days advance notice, and that James D. Miller & Co LLP reserves the right to change, suspend, or discontinue all or any aspects of the JDM Portal, for any reason at our sole discretion, at any time, by providing you seven (7) days advance notice. You are personally liable for any charges that you incur prior to any termination, change, suspension or discontinuation of this Agreement or the JDM Portal. You further agree that JDM may terminate this Agreement for cause at our sole discretion at any time, immediately upon notice to you, if you breach the terms and conditions of this Agreement.

### User Restrictions

You agree that:

- You will not tamper with or otherwise interfere or attempt to interfere in any manner with the functionality or proper working of the Portal.
- You will not make illegal use of the Portal or use it for purposes which are illegal.
- You will not interfere with anyone else who is a user of the Portal in their use of the Portal.

- You will follow U.S. and international laws regarding transmitting data and you will not attempt to gain access to our computer system or any other computer systems.
- You will not remove, obscure, or alter any notice, logo, trademark, legend or other intellectual property or proprietary right designation appearing on or contained within the Portal.
- You will not access (or attempt to access) any product or services offered via the JDM Portal by any means other than the interface that is provided by James D. Miller & Co LLP

## **Passwords**

You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the JDM Portal. Accordingly, you agree that you are solely responsible to James D. Miller & Co LLP for all activities that occur under your account. If you become aware of any unauthorized use of your password on the JDM Portal or your account, you agree to notify James D. Miller & Co LLP immediately at [jdm@jdmillercpas.com](mailto:jdm@jdmillercpas.com).

## **CCH ProSystem fx Master Software License Agreement**

You are hereby notified that in connection with providing access to you to the JDM Portal and services related thereto, James D. Miller & Co LLP has entered into a Software License Agreement with CCH Incorporated, a Wolters Kluwer business (“CCH”), a copy of which is located here:

<http://support.cch.com/uploads/CCH%20Profx%20Software%20License%20Agreement.pdf>

(“CCH Software License Agreement”). You hereby agree that you shall thoroughly and completely review the terms of the CCH Software License Agreement, and that you shall use commercially reasonable efforts to ensure that your use of the JDM Portal will not cause or result in any violation by you as “Client” or James D. Miller & Co LLP as “Customer” under the terms of the CCH Software License Agreement.

## **Monitoring**

We reserve the right to log, review, and otherwise examine any information stored on or passing through our networks, servers or systems.

## **Downtime and Service Suspensions**

Your access to and use of the JDM Portal and related services may be suspended for the duration of any anticipated, unanticipated, scheduled or unscheduled downtime, maintenance, system updates, malfunction, or other unavailability of the JDM Portal or any portion or all of such related services for any reason, including as a result of power outages, system failures or other interruptions.

We shall also be entitled, without any liability to you, to suspend access to the Portal or any related services at any time, on a system-wide basis: (a) for scheduled downtime to permit us to conduct maintenance or make modifications to the Portal; (b) in the event of a denial of service attack or

other attack on the Portal or other event that we determine, in our sole discretion, may create a risk to the Portal, to you or to any of our other clients if the Portal service were not suspended; or (c) in the event that we determine that the Portal or any related service is prohibited by law or we otherwise determine that it is necessary or prudent to do so for legal or regulatory reasons.

### **Rights to Use of JDM Portal**

James D. Miller & Co LLP grants you a personal, worldwide, royalty-free, non-assignable and non-exclusive license to use the JDM Portal as part of the services being provided to you by James D. Miller & Co LLP. This license is for the sole purpose of enabling you to use and enjoy the benefit of the JDM Portal and services, in the manner permitted by these terms and conditions. You may not, and you may not permit anyone else to, copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to copy or extract the source code or object code of the JDM Portal or any part thereof. Except as expressly provided herein, unless James D. Miller & Co LLP has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the JDM Portal, grant a security interest in or over your rights to use the JDM Portal, or otherwise transfer any part of your rights to use the JDM Portal. Notwithstanding the foregoing, you are granted limited administrative rights to provide access to the JDM Portal in your reasonable discretion to those parties who would reasonably need to access information located on the JDM Portal, or who could upload information and documents (such as tax documents and other financial papers) onto the JDM Portal for you to access, that would assist you in utilizing the services provided by the JDM Portal in the ordinary course.

### **Intellectual Property**

The content on the JDM Portal including without limitation, the text, software, scripts, graphics, photos, sounds, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein ("Marks"), are owned by or licensed to James D. Miller & Co LLP, subject to copyright and other intellectual property rights under United States and foreign laws and international conventions. Content on the JDM Portal is provided to you AS IS for your information and personal use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners of the Content. James D. Miller & Co LLP reserves all rights not expressly granted in and to the JDM Portal and the Content. You agree to not engage in the use, copying, or distribution of any of the Content other than expressly permitted herein. If you download or print a copy of the Content for personal use, you must retain all copyright and other proprietary notices contained therein. You agree not to circumvent, disable or otherwise interfere with security-related features of the JDM Portal or features that prevent or restrict use or copying of any Content or that enforce limitations on use of the JDM Portal or the Content therein.

### **Copyright and Trademark Policies**

It is James D. Miller & Co LLP's policy to respond to notices of alleged copyright infringement that comply with applicable international intellectual property law (including, without limitation,

in the United States, the Digital Millennium Copyright Act) and to terminate the accounts of repeat infringers.

### **Other Content**

The JDM Portal may include hyperlinks to other websites or content or resources that are not owned or controlled by James D. Miller & Co LLP. James D. Miller & Co LLP has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites or resources which are provided by companies or persons other than James D. Miller & Co LLP. You acknowledge and agree that James D. Miller & Co LLP is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products, or other materials on or available from such websites or resources. You acknowledge and agree that James D. Miller & Co LLP is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy or existence of any advertising, products, or other materials on, or available from, such websites or resources. We encourage you to be aware when you leave the JDM Portal and to read the terms and conditions and privacy policy of each other website that you visit.

### **Warranty Disclaimers and Limitation of Liability**

Except as specifically set forth in this Agreement, James D. Miller & Co LLP makes no other representations or warranties, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose, with respect to the Portal or any content thereon or services related thereto. You agree that use of the Portal is at your sole risk. The Portal is provided on an "as is" and "as available" basis.

Neither James D. Miller & Co LLP nor its partners, agents, affiliates, or designees nor each of their respective officers, directors, employees, agents, contractors, subcontractors or the like (collectively, "Associates") warrant that use of the Portal site will be uninterrupted or error-free.

Under no circumstances shall James D. Miller & Co LLP or its Associates be liable for any direct, indirect, incidental, special, exemplary, punitive or consequential damages that result from, arise out of or otherwise relate to your use of or inability to use the JDM Portal site, or any website linked to the JDM Portal site, including but not limited to reliance by you on any information obtained from the JDM Portal site that results in mistakes, omissions, interruptions, deletion or corruption of files, viruses, delays in operation or transmission, or any failure of performance, or any loss of profit, loss of goodwill or data, or cost of procurement of substitute goods or services or other intangible loss suffered .

The JDM Portal utilizes industry accepted security systems in an attempt to eliminate unauthorized access to private information. By using the JDM Portal, you expressly agree to not hold James D. Miller & Co LLP or its Associates liable in the event of unauthorized access and subsequent use of your company and/or personal information. The foregoing Limitation of Liability shall apply in any action, whether in contract, tort or any other claim, even if an authorized representative of

James D. Miller & Co LLP has been advised of or should have knowledge of the possibility of such damages.

### **Indemnity**

You agree to defend, indemnify and hold harmless James D. Miller & Co LLP and any of its Associates, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to reasonable attorney's fees) arising from: (i) your use of or access to the JDM Portal; (ii) your violation of any term of this Agreement; or (iii) your violation of any third party right, including without limitation any privacy, copyright or other intellectual property right. This defense and indemnification obligation will survive this Agreement and your use of the JDM Portal.

### **Notices**

All Notices by us to you shall be by email to the email address listed as the Portal Administrator. All notices by you to us shall be by email to [jdm@jdmillercpas.com](mailto:jdm@jdmillercpas.com) or in writing to:

James D. Miller & Co LLP

350 Fifth Ave – Suite 4301

New York, New York 10118-4301

### **Entire Agreement**

This Agreement, including James D. Miller & Co LLP's privacy notice incorporated herein, constitutes the entire agreement between you and us regarding the subject matter hereof and supersedes any and all prior or contemporaneous representation, understanding, agreement, or communication between you and us, whether written or oral, regarding such subject matter.

### **Severability**

If any portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect, and any invalid or unenforceable portions shall be construed in a manner that most closely reflects the effect and intent of the original language. If such construction is not possible, the provision will be severed from this Agreement, and the rest of the Agreement shall remain in full force and effect.

### **Waivers**

The failure by us to enforce any provision of this Agreement shall in no way be construed to be a present or future waiver of such provision nor in any way affect our right to enforce such provision thereafter. All waivers by us must be in writing to be effective.

## **Successors and Assigns**

This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and assigns.

## **Assignment**

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by JDM. without restriction.

## **Relationship**

Nothing in this Agreement is intended to or does create any type of joint venture, creditor-debtor, escrow, partnership or any employer/employee or fiduciary or franchise relationship between you and us (or any of our Associates).

## **Applicable Law and Jurisdiction**

The JDM Portal, including [www.jdmillercpas.com](http://www.jdmillercpas.com) website (excluding links to websites operated by others) is controlled and operated by James D. Miller & Co LLP from offices in New York, New York. Although James D. Miller & Co LLP has made no effort to publish the JDM Portal, including [www.jdmillercpas.com](http://www.jdmillercpas.com) website elsewhere, it is accessible in all fifty U.S. states and in other countries due to its presence on the Worldwide Web. As each of these states and countries have laws which may differ from those of New York and from each other, and as you and James D. Miller & Co LLP both benefit from establishing a predictable legal environment in which to publish, access and use the JDM Portal, including [www.jdmillercpas.com](http://www.jdmillercpas.com) website, by publishing, accessing, and/or using the sites you agree that all matters arising from or relating to the use and operation of the sites will be governed by the laws of the State of New York, without regard to its conflict of laws principles. You agree that all claims you may have arising from or relating to the operation or use of the JDM Portal, including [www.jdmillercpas.com](http://www.jdmillercpas.com) website will be heard and resolved in the courts of New York County, New York. You consent to personal jurisdiction of such courts over you, stipulate to the fairness and convenience of proceeding in such courts, and covenant not to assert any objection to proceeding in such courts. The foregoing notwithstanding you agree that James D. Miller & Co LLP shall be entitled to apply for any necessary injunctive remedies in any jurisdiction. If you choose to access the [www.jdmillercpas.com](http://www.jdmillercpas.com) website from locations other than the State of New York, you will be responsible for compliance with all local laws of such other locations.

## **Last Revision Date**

This Agreement was last revised on July 19,2018.