

**NOTICE TO ALL USERS - IMPORTANT - READ CAREFULLY:** This End-User Service Agreement (“AGREEMENT”) is a legal agreement between you (either an individual or a single entity) (“YOU”) and Carvajal Consultants, Inc., a Florida corporation (“CCI”), for the service specified below in the section **Service**.

CCI is a software development company that has created a system of computer programs to provide retail sales businesses with software applications for customer billing, customer prospecting and sales management, these CCI's computer programs known as Direct Sales Management, includes modules: Easy Billing and Collection, Easy Marketing and Prospecting, and Easy Sales & Commissions, includes software components created by CCI, and other components from other providers, used with their permissions, and optionally may include associated media, electronic documentation, or associated materials (collectively or partially the “SOFTWARE-PRODUCT”).

By clicking the ACCEPT button, installing, registering, copying, accessing any module of the SOFTWARE-PRODUCT, or otherwise using the SOFTWARE-PRODUCT, YOU are indicating your desire to retain the services provided by CCI concerning to the SOFTWARE-PRODUCT, and your agreement to be bound by the terms and conditions of this AGREEMENT. If YOU do not agree to all of the terms and conditions of this AGREEMENT click the button that indicates that YOU do not accept it, in such case CCI is unwilling to license the SOFTWARE-PRODUCT to YOU. In such event, YOU may not install, copy, or use the SOFTWARE-PRODUCT, and YOU should promptly contact CCI for instructions on return of the SOFTWARE-PRODUCT, and if applicable for instructions how to get a refund.

**NOW, THEREFORE,** in consideration that it is CCI's desire and intention that YOU be permitted to use the SOFTWARE-PRODUCT as a tool to conduct your business, and YOU are willing to retain the services provided by CCI concerning to the SOFTWARE-PRODUCT subject to the terms and conditions of this AGREEMENT, the parties, intending to be legally bound, agree as follows:

1 **SERVICE.** CCI grants YOU the right to use the SOFTWARE-PRODUCT subject to the terms and conditions of this AGREEMENT (“SOFTWARE-USAGE”). CCI or one of its affiliated representatives provide support for the SOFTWARE-PRODUCT (“SERVICE-SUPPORT”). The SOFTWARE-PRODUCT, the SOFTWARE-USAGE, and the SERVICE-SUPPORT, altogether are the service provided by CCI (“CCI-SERVICE”). Before the SOFTWARE-PRODUCT becomes workable and accessible for YOU, an activation key will be provided through a registration process. CCI renders the CCI-SERVICE on a monthly calendar basis, according with this AGREEMENT.

YOU acknowledge that in entering into this AGREEMENT, YOU have not relied in any way on CCI's representations, descriptions, illustrations, specifications, skill or judgment and that YOU have satisfied yourself as to the condition and suitability of the CCI-SERVICE for its purposes.

2 **GRANT OF LICENSE.** The SOFTWARE-PRODUCT is licensed, not sold, as a single integrated product, and cannot be separated in its components. If the SOFTWARE-PRODUCT is licensed as a suite or bundled with more than one specified software product, this AGREEMENT applies to all such specified software products, subject to any restrictions or usage terms specified on the price list or product packaging, if applicable, that apply to any of such software products individually. Subject to the payment of the applicable fees, and subject to the terms and conditions of this AGREEMENT, YOU are granted with the following rights:

2.1 **Use.** CCI hereby grants YOU a limited, non-exclusive, non-transferable right to use the SOFTWARE-PRODUCT for the term of this AGREEMENT solely for your own internal business purposes.

2.2 **Registration.** The SOFTWARE-PRODUCT must be used only with its corresponding Serial Number obtained at the Registration time. If applicable, this serial number could restrict the number of accounts to be handled by the SOFTWARE-PRODUCT.

2.3 **Copies.** For each Serial Number YOU may install one copy of the SOFTWARE-PRODUCT on one server, computer or workstation, or other electronic device (“HOST-DEVICE”) for which the SOFTWARE-PRODUCT was designed.

2.4 **Host-Devices.** Per every Serial Number the SOFTWARE-PRODUCT may be used on an unlimited number of computers or workstations connected to the HOST-DEVICE.

2.5 **Locations.** The SOFTWARE-PRODUCT must be used only in the registered location; it may not be used on any other location. If YOU wish to use the SOFTWARE-PRODUCT at another location, YOU must require an additional Serial Number at an additional cost.

2.6 **Best Efforts.** CCI agrees to provide its best efforts in performing the CCI-SERVICE.

2.7 **Upgrades.** From time to time, CCI could offer upgrades of the SOFTWARE-PRODUCT, which could include received recommendations from users of the SOFTWARE-PRODUCT like YOU, on such terms and conditions as CCI may reasonably impose (including limiting the availability of support in respect of any SOFTWARE-PRODUCT not upgraded). Any such upgrades shall form part of the License and are subject to the terms and conditions of this

AGREEMENT as if they formed part of the original SOFTWARE-PRODUCT.

YOU acknowledge that CCI is not responsible for notifying YOU of any upgrades, fixes or enhancements to the SOFTWARE-PRODUCT.

- 3 OWNERSHIP.** This AGREEMENT does not pass on any intellectual property or other ownership rights on the SOFTWARE-PRODUCT. Except as expressly licensed to YOU in this AGREEMENT, CCI retains all rights, titles, ownership, and interests in and to the SOFTWARE-PRODUCT and any copies of the SOFTWARE-PRODUCT, regardless of the location or the form in which the copies may exist. The SOFTWARE-PRODUCT's structure, organization, and code are valuable trade secrets of CCI and its suppliers.

By accepting this AGREEMENT, YOU do not become the owner of the SOFTWARE-PRODUCT, but YOU do have the right to use the SOFTWARE-PRODUCT as a part of the CCI-SERVICE, in accordance with this AGREEMENT.

- 4 COPYRIGHT.** All titles and copyrights in and to the SOFTWARE-PRODUCT, in all forms, and any copies of the SOFTWARE-PRODUCT are owned by CCI or its suppliers. The SOFTWARE-PRODUCT is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Therefore, YOU must treat the SOFTWARE-PRODUCT like any other copyrighted material.

## **5 TERMS AND TERMINATION.**

**5.1 Term.** This AGREEMENT enters into effect for a period of 12 months from the date YOU accept this AGREEMENT or the date of the first invoice for the CCI-SERVICE, whatever occurred first ("EFFECTIVE DATE"), and continues in effect until maturity of the 12-month period or such other period agreed to between YOU and CCI. This period will be renewed automatically at the maturity of the current period for another same period.

**5.2 Rates and Charges.** YOU agree to pay all fees due according to the prices and terms listed in the CCI Software Price List, or Service Order Form, or if provided, the CCI Software Quotation, reinstatement of service fees, all in accordance with CCI's then current prices and policies. YOU hereby acknowledge to honor CCI's then current policies and prices and waive any claim, complaint or dispute upon them.

YOU agree to pay the Monthly service fee in advance on the 1<sup>st</sup> day of every calendar month. YOU agree to pay all costs, charges and expenses (including but not limited to attorney fees), if any, incurred by CCI in collecting overdue fees from YOU.

**5.3 Embedded Codes/Continuing Use.** CCI has placed embedded codes in the SOFTWARE-PRODUCT. YOU must activate the initial code to begin using this SOFTWARE-PRODUCT (at registration time) and, if your CCI-SERVICE requires monthly, incentive or other time-related payments to continue to use the CCI-SERVICE, YOU must make the payments by the required date to receive another Activation Key to continue to use the CCI-SERVICE.

**5.4 Delinquent Payments.** Should any payment be delinquent, CCI shall be entitled to interest on any unpaid balance at the maximum interest rate permitted by state law and any reconnection or service charges that may become necessary to make the SOFTWARE-PRODUCT operable.

IN THE EVENT YOU FAIL TO MAKE TIMELY PAYMENT TO CCI, CCI WILL NOT PROVIDE YOU WITH THE CODE INFORMATION NECESSARY TO ALLOW YOU TO CONTINUE TO USE THE CCI-SERVICE AND THE SOFTWARE-PRODUCT WILL BECOME INOPERATIVE. IN SUCH CASE, YOU MUST SATISFY ALL DELINQUENT LEASE PAYMENTS, TOGETHER WITH ANY PENALTY OR OTHER CHARGES, BEFORE CCI WILL PROVIDE YOU WITH THE ACTIVATION KEY NECESSARY TO USE THE CCI-SERVICE AGAIN.

**5.5 Continuing Delinquent Lease Payments.** Notwithstanding any other provision of this AGREEMENT should YOU become delinquent in payments for three consecutive months and fail to cure such delinquency within 10 days of due date of the third delinquent month or should YOU become delinquent and subsequently cure such delinquent lease payments more than four times in one calendar year, then CCI shall not be obligated to provide YOU with the Activation Key necessary re-institute your use of the CCI-SERVICE if YOU are delinquent thereafter.

**5.6 Restatement of Service Charges.** CCI will be entitled to reasonable service charges to install any required code subsequent to the payment of all arrearage and interest thereon.

**5.7 Termination by CCI.** This AGREEMENT may be terminated by CCI upon the occurrence of any of the following events:

- A. Any material breach of this AGREEMENT by YOU.
- B. Your failure to make timely payment of the required fees.
- C. Insolvency, liquidation, expropriation, or bankruptcy of YOU, whether voluntary or involuntary.

**5.8 Termination by YOU.** This AGREEMENT may be terminated by YOU upon the occurrence of any of the following

events:

- A. Any material breach of this AGREEMENT by CCI.
- B. Stopping the use of the SOFTWARE-PRODUCT, and giving CCI written notice of termination pursuant to the terms herein.

**5.9 Upon any termination.** Upon any termination or expiration of this AGREEMENT, YOU must cease all use of the SOFTWARE-PRODUCT, YOU must immediately destroy all copies of any portion of the SOFTWARE-PRODUCT and/or accompanying documentation in its possession or control and take such other actions as CCI may reasonably request to ensure that no portions of the SOFTWARE-PRODUCT remain in your possession or control. Any such termination shall be without prejudice to the accrued rights of the parties.

At that time, YOU must also certify in writing that YOU have destroyed any archival copies YOU may have recorded on any memory system, magnetic or other medium. Any such termination shall be without the prejudice to the accrued rights of the parties.

YOU will be responsible for all lease payments until any termination.

## **6 DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS.**

**6.1 Illegal Use.** CCI and/or its representatives are not liable for any illegal use of the SOFTWARE-PRODUCT.

**6.2 Other Copies.** Without the prior written consent of CCI, YOU must not, nor permit any third party to copy, reproduce, translate, make error corrections, alter, adapt, modify or delete any information or data contained therein or do any act which infringes the copyright of the SOFTWARE-PRODUCT. This AGREEMENT authorizes YOU to make only as many back-up copies of the SOFTWARE-PRODUCT as are necessary for its lawful use and solely for back-up purposes, provided that all such copies contain all of the SOFTWARE-PRODUCT's proprietary notices. YOU will maintain records of the number and location of all copies of the SOFTWARE-PRODUCT and will take all reasonable precautions to protect the SOFTWARE-PRODUCT from unauthorized copying or use.

**6.3 Derivative Work.** Without the prior written consent of CCI, YOU must not, nor permit any third party to create a derivative work from the SOFTWARE-PRODUCT by any means, decompile, reverse engineer, disassemble or otherwise reduce any part of this SOFTWARE-PRODUCT to human readable form. Further, YOU may not reproduce all or any portion of the SOFTWARE-PRODUCT (except as expressly permitted in this AGREEMENT) or the manuals or documentation.

**6.4 Other Persons.** YOU agree to notify your employees, representatives, sub-contractors, agents and/or any other persons related to YOU, who may have access to the SOFTWARE-PRODUCT of the restrictions contained in this AGREEMENT to ensure their compliance with these restrictions.

**6.5 Interoperability.** The interface information necessary to achieve interoperability of the SOFTWARE-PRODUCT with independently created computer programs will be provided by CCI on request upon payment of its reasonable costs and expenses for procuring and supplying such information.

**6.6 Rental.** Without the prior written consent of CCI, YOU must not, nor permit any third party to give, rent, lease, lend, license, rent, assign or transfer the SOFTWARE-PRODUCT to any other person, or use the SOFTWARE-PRODUCT in any service bureau arrangement. YOU may not either temporarily or permanently transfer or sub-license your license rights to use the SOFTWARE-PRODUCT under this AGREEMENT without the prior written consent of CCI, to any other person. YOU may distribute hardcopy reports generated by the SOFTWARE-PRODUCT to your customers on a strictly confidential basis and not for your commercial gain.

**6.7 Sale of Host Device.** If YOU sell the HOST-DEVICE on which the SOFTWARE-PRODUCT is installed, YOU will ensure that all copies of the SOFTWARE-PRODUCT have been previously deleted.

**6.8 Unauthorized Use.** YOU agree to use your best efforts and to take all reasonable steps to protect the SOFTWARE-PRODUCT from unauthorized use, illegal reproduction or illicit distribution.

**6.9 Trademarks.** This AGREEMENT does not grant YOU any rights in connection with any trademarks or service marks of CCI, or its suppliers.

**6.10 Disclaimer.** The performance of the SOFTWARE-PRODUCT varies with various manufacturers' equipment with which it is used. CCI does not warrant the level of performance of the SOFTWARE-PRODUCT or that earlier versions superseded by new versions (whether or not distributed or made available to YOU) will continue to be capable of access to and use with current versions of the SOFTWARE-PRODUCT.

YOU acknowledge that some of the sample letters, and some other texts included in the SOFTWARE\_PRODUCT have legal, financial, or other implications. If YOU are not sure about the use of any letter or text, consult with an

appropriate professional first.

YOU acknowledge that some information, such as zip codes table, product costs table, price list, or any other information that could be included in the SOFTWARE-PRODUCT, are provided as-is and CCI makes no guarantee that it is complete, accurate or updated.

**7 LIMITED WARRANTY.** CCI warrants that the SOFTWARE-PRODUCT will perform substantially in accordance with the accompanying or electronic documentation created by CCI for the duration of this AGREEMENT. CCI does not warrant that the CCI-SERVICE or the functions contained in the SOFTWARE-PRODUCT will meet your requirements, operate without interruption or be error free.

**7.1 Your Remedies.** CCI and/or its representative's entire liability and your exclusive remedy under the express warranty is, at CCI's option, either (a) refund the amount actually paid by YOU for the use of the CCI-SERVICE, corresponding to the last month, or (b) repair or replace the SOFTWARE-PRODUCT that does not meet CCI's Limited Warranty, and which is noticed to CCI in written. This Limited Warranty is void if failure of the SOFTWARE-PRODUCT has resulted from accident, abuse or misapplication. Any replacement of the SOFTWARE-PRODUCT will be warranted according this Limited Warranty.

**7.2 No Other Warranties.** To the maximum extent permitted by applicable law, CCI and/or its representatives disclaim all other warranties, either express or implied, including but not limited to implied warranties of performance or merchantability and fitness for a particular purpose, with regard to the SOFTWARE-PRODUCT. This limited warranty gives YOU specific legal rights.

**7.3 No Liability for Consequential Damages.** YOU acknowledge and agree that CCI and/or its representatives are not liable for any loss or damage whatsoever (including without limitation, special, incidental, consequential, indirect, or any other type of damages, including loss of business, loss of business profit, business interruption, loss of information, or any other pecuniary loss) arising out of the use of or inability to use the CCI-SERVICE (including as a result of any suspension of use for non-payment, malfunction, breakdown, error or virus in the SOFTWARE-PRODUCT), even if CCI has been advised of the possibility of such damages. In any case, CCI and/or its representative's entire liability under any provision of this AGREEMENT shall be limited to the amount actually paid by YOU for the CCI-SERVICE, corresponding to the last 30-day period.

Should CCI terminate your use of this CCI-SERVICE for any reason, CCI shall not be held liable for any damages, consequential or otherwise, arising from its failure to supply any code to activate, reactivate or release the SOFTWARE-PRODUCT.

## **8 OTHER PROVISIONS.**

**8.1 Statistics Purposes.** YOU acknowledge that CCI has the right to get any information from your database at any time to be used for statistical purposes.

**8.2 Indemnity.** YOU will indemnify CCI and/or its representatives and keep them indemnified against: (a) all and any demands, claims, actions and proceedings whatsoever and howsoever arising made by any third person in connection with or arising out of your use of the CCI-SERVICE; and (b) all and any losses, costs, expenses and damages whatsoever and howsoever incurred by CCI in connection with or arising out of a breach by YOU of any provision of this document.

**8.3 Governing Law.** This AGREEMENT will be governed by and construed under the laws of the State of Florida, U.S.A.

**8.4 Waiver.** Failure of CCI to enforce any provisions of this AGREEMENT does not constitute and should not be construed as a waiver of such provision or of the right to enforce such provision.

**8.5 Severability.** In the event any provision of this AGREEMENT is determined to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions will not be affected thereby.

**8.6** Nothing in this AGREEMENT excludes, restricts or modifies any condition, warranty, right or remedy which is conferred on YOU by any other consumer or other laws, rules, regulations or legislation (the "Acts") which we are not lawfully able to exclude, restrict or modify. Where CCI breaches a non-excludable condition or warranty which has been implied by the Acts, CCI's liability for breach will be limited, to the extent lawfully permissible, to the supplying of the services again, or the payment of the cost of having the services supplied again; whichever CCI sees fit to provide.

**8.7 Effect of Agreement.** This AGREEMENT embodies the entire understanding between YOU and CCI with respect to, and supersedes any prior understanding, or agreement, oral or written, relating to, the CCI-SERVICE.

**8.8 Headings.** The headings at the beginnings of the Sections of this AGREEMENT are for identification purposes and shall not affect the interpretation of construction of this AGREEMENT.

**8.9 Export Laws.** The SOFTWARE-PRODUCT, the SOFTWARE-PRODUCT technology and its related Documentation may not be exported or re-exported in violation of the U.S. Export Administration Act and its implementing regulations.

**8.10 U.S. Government Restricted Rights.** The SOFTWARE-PRODUCT, Documentation and any other accompanying materials are commercial computer software provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software--Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is Carvajal Consultants, Inc./7265 SW 138 Avenue/Miami, FL 33183.

9 **Notice.** Any and all notices or other communications which are required or permitted under this AGREEMENT shall be in writing and shall be sufficient if delivered or mailed by registered or certified mail, return receipt requested, and shall be effective three days upon delivery, to the address set forth below or to such other address CCI may advise the other parties.

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