



ACA Reporter Software as Service License Agreement

Purpose. The purpose of this Agreement is to define the rights and obligations of MRAK, LLC dba (POINTS NORTH) and (CUSTOMER) for use of the ACA Reporter Software as a Service solution (ACA REPORTER). Customer signature in the ADP Marketplace is thereby acknowledgement of Customer review and acceptance of the terms and conditions of that order from and this specific License Agreement. Customer acknowledges that it has, pre-purchase, determined the fitness of the application for its use and that purchase is non-refundable.

License. Points North hereby grants Customer a non-transferable, non-exclusive license to use the Software as a Service solely for Customer's own internal purposes. Title and ownership of the Software as a Service and of the copyright in the Software as a Service remain with Points North. Customer may not make copies of the Software, nor assign, sell, distribute, lease, rent, loan, sublicense or otherwise transfer the Software. Customer may not alter, modify or adapt (nor cause to be altered, modified or adapted) the Software.

Deployment. POINTS NORTH will work with Customer to facilitate configuration of platform during implementation.

Software Support. POINTS NORTH shall provide Application Support to Customer as part of the Services. Services to be provided using telephone or secure remote web connection.

Indemnity. POINTS NORTH will at all times indemnify and hold the CUSTOMER, its officers, directors and employees harmless from and against any and all claims, damages, liabilities, costs and expenses, including reasonable counsel fees, arising out of (i) any breach or alleged breach by POINTS NORTH of any representation, warranty or undertaking made herein, (ii) any defect materially affecting functionality in ACA Reporter or (iii) any willful misconduct, gross negligence or bad faith actions or omissions on the part of POINTS NORTH and (iv) any misuse, loss, theft or unauthorized access to Employee Data; provided that the CUSTOMER gives prompt written notice, cooperation and assistance to POINTS NORTH relative to any such claim or suit, and provided further that POINTS NORTH has the option to undertake and conduct the defense and/or settlement of any such claim or suit so brought, and no settlement of any such claim or suit shall be made without the prior written consent of the CUSTOMER.

Warranties. POINTS NORTH warrants for the duration of the Agreement that the Application shall perform consistent with generally accepted industry standards, shall be in substantial compliance with this Agreement and shall be in substantial compliance with the written Application specifications agreed upon in good faith by the CUSTOMER and POINTS NORTH. CUSTOMER waives all claims to erroneous data provided by CUSTOMER for entry into ACA Reporter except for claims relating to loss or corruption of data or breach of confidentiality, or as otherwise provided in the Agreement.

POINTS NORTH Limitation of Liability. IN NO EVENT SHALL POINTS NORTH LIABILITY TO CUSTOMER EXCEED THE AMOUNT INCURRED BY THE CUSTOMER DUE TO A SECURITY BREACH OF PERSONAL OR INSTITUTION INFORMATION CAUSED BY THE POINTS NORTH PRODUCT. IN NO EVENT WILL POINTS NORTH BE LIABLE FOR ANY LOST PROFITS OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE EVEN IF POINTS NORTH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Confidential Information. "Confidential Information" means (a) all Employee Data, (b) business or technical information of either Party, and (c) any information designated by either Party as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential.

Non-Disclosure. Each Party agrees: (a) that it will use Confidential Information only to fulfill its obligations under this Agreement, (b) that it will not disclose to any third-party or use the Confidential Information disclosed to it by the other Party except as expressly permitted in this Agreement; (c) that it will take all reasonable measures to maintain the confidentiality of all Confidential Information of the other Party in its possession or control, which will in no event be less than the measures it uses to maintain the confidentiality of its own information of similar importance; except that either Party may disclose information if required by law or court order, so long as the Party from which the disclosure is required gives the non-disclosing Party prior written notice and makes good faith efforts to cooperate with the non-disclosing Party's efforts to obtain confidential treatment for that Confidential Information; and (d) shall comply with all applicable privacy laws pertaining to the privacy, confidentiality, handling, storage, disposal, and/or safeguarding of CUSTOMER, employee, financial, health, or other personal information, records, or data, all federal and state data security breach notification and incident response laws and regulations, and all implementing rules and regulations, amendments to, and successors of each of the foregoing.

Exceptions. "Confidential Information" will not include information that: (a) is in or enters the public domain without breach of this Agreement or other obligation of non-disclosure; or (b) the receiving Party lawfully receives from a third-party without restriction on disclosure and without breach of a nondisclosure obligation.

Confidentiality of Employee/Participant Data, Data Ownership: POINTS NORTH acknowledges that the CUSTOMER and Users have a responsibility to employee/participants in the CUSTOMER's benefit plans to keep their personal data and records strictly confidential. POINTS NORTH shall not disclose such data or permit its employees, officers or agents to disclose said information to any third-party under any circumstances, or to any person not having a specific need to know in performance of their work in connection with the Services. POINTS NORTH shall take all reasonable steps to ensure fulfillment of this obligation including restricting access to Employee Data to employees who require access to perform the Services, having all employees sign written confidentiality and data security agreements and expressly forbidding employees to sell, lease, assign, transfer, distribute, recombine, or reveal any information acquired in relation to services performed by POINTS NORTH for the CUSTOMER and Users without the CUSTOMER's prior written consent. POINTS NORTH understands that all Employee Data is the property of the CUSTOMER and the Users. POINTS NORTH has no rights of any kind in any such data other than the license rights expressly granted in Section 1.