

ACA COMPLIANCE SERVICES INC
MASTER SOFTWARE AS A SERVICE AGREEMENT
TERMS AND CONDITIONS

The Below Terms and Conditions are by reference incorporated into the ACA Compliance Services Inc. (“Cimplx”) Cimplx Order Form.

1. Definitions.

The following terms shall have the meaning given below when used in the MSAAS Agreement.

“Agreement” means the MSAAS Agreement, and also includes all exhibits, attachments, and worksheets attached hereto, as well as all Service Schedules and Order Forms.

“Cimplx” means as defined in the Cimplx Order Form and any of its affiliates, if any, receiving Services under the MSAAS Agreement, and includes all exhibits, attachments, and worksheets attached hereto, as well as all Service Schedules and Order Forms.

“Cimplx Materials” means (i) any property of Cimplx including, without limitation, computer hardware or software programs, products, materials or methodologies and reports, studies, data, diagrams, charts, specifications, gateways, bridges and integrations with third party code; (ii) any modifications to Cimplx’s pre-existing software produced on behalf of CLIENT; (iii) works or materials created and developed by Cimplx prior to or independently of the Services; and (iv) residual knowledge and know-how of general applicability resulting from performance of the Services.

“CLIENT” means as defined in the Cimplx Order Form and any of its affiliates, if any, receiving Services under the MSAAS Agreement, and includes all exhibits, attachments, and worksheets attached hereto, as well as all Service Schedules and Order Forms.

“Company Affiliate” means any entity owned or controlled by, under common ownership or control with, or which owns or controls the referenced entity or any of its subsidiaries.

“Confidential Information” means all information of a confidential or proprietary nature, not generally known to the public, including pricing and pricing related information, all personally identifiable payroll and employee-level data, provided by the disclosing party to the receiving party for use in connection with Services, and including without limitation, information that relates to past, present or future research and development, trade secrets, products and services, pricing, marketing, financial matters, or business affairs. It does not include (i) information that is already known by the receiving party, (ii) information that becomes generally available to the public other than as a result of disclosure by the receiving party in violation of the MSAAS Agreement, and (iii) information that becomes known to the receiving party from a source other than the disclosing party on a non-confidential basis, and (iv) either party’s business or financial information and plans, documents, works in progress, work processes, trade secrets, or other secret or confidential matter related to either party’s business or projects and/or their affiliated or subsidiary companies, including, without limitation, CLIENT information, and (v) any other information that either party designates as confidential, or which, under the circumstances of disclosure, should be treated as confidential.

“Debit” or “Debits” means the drafting or deductions via ACH transactions from the CLIENT’s bank account of funds for payment to their employees that will be facilitated on behalf of the CLIENT by Cimplx.

“Employees” means as defined as the full population of non-terminated employees of the CLIENT based on a count of unique employee numbers, and any individuals who are consultants, contractors or agents of the CLIENT and who are permitted by the CLIENT to access the Service.

“Intellectual Property Rights” means copyrights, trade and service marks, trade names, rights in logos and get-up, inventions, confidential information, trade secrets, registered designs, design rights, patents, all rights of whatsoever nature in computer software and data, database rights, all rights of privacy and all intangible rights and privileges of a nature similar to any of the foregoing, in every case in any part of the world and whether or not registered, and including all granted registrations and all applications for registration in respect of any of the same.

“Network” means as defined in Section 7.2.

“Order Form” shall mean a written order form executed by Cimplx and CLIENT which sets forth the necessary information relating to the Services CLIENT has the right to receive and the Fees payable to Cimplx. Subsequent Order Forms may be executed from time to time by the CLIENT to subscribe to additional services provided by Cimplx and are acknowledged by the CLIENT to be addendums to the original Order Form and MSAAS Agreement. CLIENT may not use any CLIENT standard form or order form which may contain pre-printed or other terms and conditions.

“Payment Services” means as described in Section 3.

“Services” means the work product and services to be provided by Cimplx pursuant to the MSAAS Agreement, Order Forms and the Service Schedule(s). Services may also be referred to as Products, as the Services can be modularized.

“Service Schedule” and “Service Schedules” mean as such are discussed and defined in Section 2, and include those listed on Order Forms. Service Schedules are intended to have more detail than the Order Form and is considered the scope of the work request on the Order Form. A Service Schedule under the MSAAS Agreement is any document, agreed to in writing by the parties, that discusses the terms and conditions of the Services to be rendered, and need not necessarily be labeled “Service Schedule.”

“Term” means as defined in Section 4.1.

Other terms may be defined throughout the MSAAS Agreement.

2. Services.

2.1. Service Schedules

Services that are listed on the Order Form will be performed by Cimplx for CLIENT in accordance to the Service Schedule or Schedules that the parties may agree to from time to time in writing. The CLIENT may purchase additional services upon additional Order Forms and Cimplx may provide those additional services hereunder upon mutual agreement and by completion of additions schedules in accordance with subsequent Service Schedules. All such Order Forms and Service Schedules are to contain, in combination with other terms and conditions of the MSAAS Agreement, all the terms and conditions pursuant to the performance of the Services addressed in the Service Schedule. No Services will be rendered by Cimplx that are not subject to the terms and conditions of the MSAAS Agreement.

2.2. Use of Services

CLIENT agrees to the following regarding its use of Services: (i) CLIENT shall use Services in accordance with the instructions and reasonable policies established by Cimplx from time to time and communicated to CLIENT; (ii) CLIENT shall use Services only for the internal business purposes of CLIENT; (iii) to the extent CLIENT elects to decline any Services, relies on its own provision of Services, or delegates the performance of any such Services to a third party, Cimplx will not be responsible for such Services and CLIENT will be solely responsible; (iv) CLIENT shall not provide, directly or indirectly, Services or any portion thereof to any party other than CLIENT; (v) CLIENT shall not provide service bureau or other data processing services that make use of the Services or any part thereof without the express written consent of Cimplx; (vi) CLIENT shall be responsible for ensuring that CLIENT and its employees have access to the internet; (vii) CLIENT, and not Cimplx, will remain solely responsible for all decisions affecting its employees; (viii) CLIENT will remain responsible for the manner in which it uses Services, including the manner in which it interprets and

acts upon any guidance or recommendation provided by Cimplx; (ix) CLIENT understands and agrees that the Services are intended for use in the U.S. only for employees located in the U.S.; (x) CLIENT will be responsible for the consequences of any instructions CLIENT may give to Cimplx; and (xi) Cimplx may suspend access to Services by any employee of CLIENT if Cimplx has reason to believe that such employee has violated such terms or is otherwise using any Service in an inappropriate manner. All Services provided hereunder may be modified from time to time at Cimplx's sole discretion; provided, however, that any such modifications will not delete or have a material adverse impact on any of the Services CLIENT is receiving.

2.3. Conflicts between MSAAS Agreement, Order Form and Service Schedule

If there is a conflict of terms and conditions between a Service Schedule, Order Forms and the terms and conditions of the MSAAS Agreement, the terms and conditions of the MSAAS Agreement shall control with respect to the conflicting terms and conditions.

2.4. Performance by Company Affiliates

Cimplx reserves the right to have one or more of its affiliates perform parts of the Services.

2.5. Services Modifications

The Services to be provided shall not be modified or changed without the written permission to a change signed by the parties to the MSAAS Agreement.

2.6. Accuracy of CLIENT Information, Review of Data

All Services provided hereunder will be based upon information provided to Cimplx by CLIENT (including proof of federal, state and local tax identification). Upon receipt from Cimplx, whether electronically or otherwise, CLIENT will promptly review all disbursement records and other reports prepared by Cimplx for validity and accuracy according to CLIENT's records and CLIENT agrees that it will promptly notify Cimplx of any discrepancies (but in any case before distributing any paychecks or relying on any such disbursement records or reports). To help prevent employee fraud, Cimplx recommends that CLIENT have someone, other than its designated payroll contact, review its disbursement reports; a prompt and thorough review allows CLIENT to spot and correct errors and inconsistencies.

2.7. Compliance with Laws

CLIENT acknowledges that the Services are designed to assist CLIENT in complying with applicable laws and governmental regulations, and that CLIENT, and not Cimplx, will be solely responsible for (i) compliance with all laws and governmental regulations affecting its business and (ii) any use CLIENT may make of Services (including any reports and worksheets produced in connection therewith) to assist it in complying with such laws and governmental regulations. Unless otherwise agreed by the parties, CLIENT acknowledges and agrees that Services will be utilized by CLIENT solely in the United States. CLIENT will not rely solely on its use of the Services in complying with any laws or governmental regulations (including, but not limited to, any applicable Office of Foreign Assets Control ("OFAC") screening requirement). Each party will be responsible for complying with all requirements of applicable law or regulation regarding security breaches and suspected security breaches involving personal information that is stored on the computer systems of such party or its subcontractors. Payment Services are subject to the operating rules of NACHA -The National Automated Clearinghouse Association ("NACHA"). Cimplx and CLIENT each agree to comply with the NACHA rules applicable to it with respect to Payment Services, which can be found at www.nacha.org.

2.8. Services Do Not Constitute Legal, Accounting or Other Advice

CLIENT ACKNOWLEDGES AND AGREES THAT SERVICES PROVIDED HEREUNDER (INCLUDING, BUT NOT LIMITED TO, ANY AND ALL INFORMATION, MATERIALS, FORMS AND SERVICE CENTER ACCESS) ARE NOT INTENDED TO BE AND WILL NOT BE RELIED UPON BY CLIENT AS EITHER LEGAL, FINANCIAL, INSURANCE, HR OR TAX ADVICE. TO THE EXTENT CLIENT REQUIRES ANY SUCH ADVICE, CLIENT REPRESENTS THAT IT WILL SEEK SUCH ADVICE FROM QUALIFIED LEGAL, FINANCIAL, INSURANCE, ACCOUNTING OR OTHER PROFESSIONALS. CLIENT SHOULD REVIEW APPLICABLE LAW IN ALL JURISDICTIONS WHERE CLIENT OPERATES AND HAS EMPLOYEES AND CONSULT EXPERIENCED COUNSEL FOR

LEGAL ADVICE. If Cimplx creates a general ledger journal entry or general ledger import file for CLIENT to use in recording the accounting transactions associated with processed payrolls, Cimplx assumes no responsibility for reliance upon these entries in the business decisions CLIENT may make based on these entries nor for inaccuracies that are not reported to Cimplx. The entries should be reviewed on an ongoing basis for accuracy by CLIENT accounting personnel to ensure accounting information is reflected accurately in internal accounting records.

3. Payment for Services.

3.1. Payment Terms for Services Fees.

Fees, rates, equipment rentals, expenses, and payment terms for Services are to be set forth in the Service Schedule, or Order Forms and elsewhere in the MSAAS Agreement. Set up and implementation fees are due and payable at the signing of the Order Form and any applicable Service Schedules. Payments owed for Services and other expenses and charges pursuant to the MSAAS Agreement will be invoiced monthly, unless stated to the contrary in the Service Schedule or Order Form. All payments shall be due within fifteen (15) days of receipt of invoice. Cimplx hereby reserves the right to change all fees, rates, expenses, and payment terms in any Service Schedule by giving at least 90 days prior written notice to CLIENT with respect to the changes that are to be made. Services that begin 1) the 1st through the 8th of the month, will be charge for the full monthly fee, 2) from the 9th through the 22nd of the month will be charged half of the monthly fee, and 3) from the 23rd through the end of the month will be charged one quarter of the monthly fee. Payments shall be mailed to the address for Cimplx above. Payments shall include funds impounded from CLIENT's bank account to pay CLIENT's third-party payment obligations (e.g., Tax Filing Services, Wage Garnishment Processing Services, Debit Cards, Employee Direct Deposits and/or PSLLC Trust Services).

3.2. Billing

Cimplx will monitor CLIENT's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; or, (c) per transaction basis (e.g.: pay statement). For purposes of the Agreement, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; (vi) human resource reporting has been performed for or on such employee; or, (vii) such employee has been marked as an "Active" status during the period. The rate at which the CLIENT will be bill shall be set forth in the Schedule of Service or the Order Form.

3.3. Interest on Past Due Amounts

If an invoice is not paid by its due date, Cimplx will charge CLIENT and CLIENT will pay an interest charge of one percent (1%) per month on the unpaid balance of an invoice.

3.4. Certain Remedies for Nonpayment

If CLIENT fails to pay to Cimplx, within 10 days after Cimplx makes written demand therefor, any past-due amount payable under the MSAAS Agreement (including interest thereon), then, in addition to all other rights and remedies which Cimplx may have at law or in equity, Cimplx may, in its sole discretion, decide to suspend CLIENT's access to the Services until all undisputed past due amounts are paid in full. Additionally, upon initial notice of payment required, Cimplx shall have the right to place a No Service Hold for support on CLIENT's account. Any withholding of Services or support due to an undisputed failure by CLIENT to pay does not relieve CLIENT from its obligation to pay for the Services during the time the Services and/or support are withheld.

3.5. Taxes

CLIENT shall, in addition to the payments required under the MSAAS Agreement, be responsible for and pay all sales, use, excise, or other taxes, whether state or local, however designated, which are levied or imposed by reason of the transactions contemplated by the MSAAS Agreement, excluding

however, income or franchise or other taxes imposed upon Cimplx.

4. Term of Agreement.

4.1. Term

Unless set forth to the contrary in any Service Schedule or terminated earlier pursuant to the terms and conditions of the MSAAS Agreement, the term for the provision of Services pursuant to the MSAAS Agreement (the “Term”) shall begin pursuant to Section 4.2 and shall continue indefinitely on a month-to-month basis until terminated pursuant to Section 4.3.

4.2. Services Begin

The Services shall be deemed to start on the earlier of: a) ninety (90) days from Cimplx’s receipt of the relevant Order Form or signing of the MSAAS Agreement; or, b) the date CLIENT is authorized to “go live” with the Services for production purposes, (the “Start Date”). CLIENT acknowledges that execution of separate third-party agreements may be required in order for CLIENT to “go live” with certain add-on features or functionality, including tax filing services.

4.3. Termination

The Term may be terminated pursuant to the terms and conditions of this Section 4.3 below.

- (a) Cimplx may terminate the Term for any reason by giving CLIENT 90 days’ prior written notice.
- (b) CLIENT may terminate the Term for any reason by giving Cimplx 90 days’ prior written notice. CLIENT agrees to continue making full payment for Services during these 90 days. Upon written notice of termination for any Term remaining which is greater than 90 days, CLIENT agrees to pay Cimplx an amount equal to fifty percent (50%) of the Services that would have been charged under the MSAAS Agreement with the notice of termination.
- (c) In the event that the CLIENT becomes insolvent, makes a general assignment for the benefit of creditors, is adjudicated a bankrupt or insolvent, commences a case under applicable bankruptcy laws, files a petition seeking reorganization, Cimplx may terminate the MSAAS Agreement with a 14-day notice.
- (d) If the MSAAS Agreement is terminated for any reason the: 1) CLIENT shall pay Cimplx within thirty (30) days all fees accrued for the Services prior to the date of termination, provided that if CLIENT terminates Cimplx for material breach of the Agreement, Cimplx shall be responsible to refund to CLIENT unused pre-paid service fees, if any; 2) CLIENT’s right to access and use the Services shall be revoked and be of no further force or effect; 3) Within fifteen (15) days of termination CLIENT will retrieve CLIENT’s historical data in accordance with previously established system access procedures and applicable state and federal laws. After such time period, Cimplx shall have no further obligation to store and/or make available CLIENT’s historical data and may delete same. If CLIENT requires additional data conversion services from Cimplx, these services may be contracted from Cimplx at Cimplx’s then published rates.

4.4. Enforceability Post-Termination

Upon the end of the Term, the provision of Services is to stop. All other terms and conditions of the MSAAS Agreement (i.e., all those that are not for the provision of Services) shall remain in full force and effect after the end of the Term.

4.5. Procedures Upon Termination

Upon the end of the Term, Cimplx shall prepare final invoices for Services and provide them to CLIENT, and CLIENT shall pay the same pursuant to the invoice terms.

5. Client Data.

5.1. Client Data

The CLIENT owns all rights, title and interest in and to all Client Data. Client Data is deemed Confidential Information under this Agreement. Cimplx shall only process, use, and store Client Data for the sole purpose

of fulfilling its obligations under this Agreement. Upon written request Cimplx shall deliver to the CLIENT, and/or destroy, Client Data, per CLIENTS instructions.

6. Confidentiality and Certain Restrictive Covenants.

6.1. Confidentiality

Each party shall protect the other party's Confidential Information with the same degree of care that it applies to its own similar Confidential Information, but in no event less than a reasonable degree of care, given the nature of the information disclosed. Each party may disclose the Confidential Information to its affiliates, provided that they are bound by the obligations set forth herein. The prior Confidentiality restrictions shall not apply to (a) information generally available to the public; (b) information released by disclosing party generally without restriction; (c) information independently developed or acquired by receiving party without reliance in any way on the protected information of disclosing party; or (d) information approved for the use and disclosure of receiving party by the disclosing party, in writing. Either party may use or disclose the other party's Confidential Information if required by any request or order of any government authority, or otherwise as required by law, or as necessary to establish and enforce that party's rights under the MSAAS Agreement. Before disclosing the other party's Confidential Information for such purpose, reasonable efforts must be made to notify the other party of the circumstances, if legally allowed, and the parties shall cooperate with each other, at disclosing party's expense, to obtain protection for the confidentiality thereof to the extent available or contest and avoid such disclosure.

6.2. Non-solicitation of Employees

CLIENT shall not offer employment to or employ any personnel of Cimplx or its affiliates for a period of one (1) year after the date that provision of Services by Cimplx under the MSAAS Agreement ends.

7. Warranties and Limitations.

7.1. General Warranty

Cimplx warrants that all Services will be provided in a professional and workmanlike manner in accordance with industry standards.

7.2. Network

CLIENT understands that the general reliability of the private wide-area-networks, network computers, servers and related systems and the Internet, and of connections to and from the network, (collectively the "Network"), may be controlled by factors beyond the control of Cimplx. Because of this it is impossible for Cimplx to guaranty the provision of the Services will be uninterrupted, that the CLIENT will be able to properly access and use the Services or that the Services will be provided without error, Cimplx shall have no obligation to remedy any such interruptions, inabilities or errors.

7.3. All Obligations Set Forth in The MSAAS Agreement

Cimplx shall not be responsible for any delays and Services unavailability of any kind, regardless of cause, except as provided in the MSAAS Agreement. CLIENT expressly waives any claims against Cimplx for loss, injury, or damage of any kind, directly or indirectly, resulting from CLIENT's use of the Services or from any defects therein, except as otherwise expressly provided in the MSAAS Agreement.

7.4. Warranty and Liability Limitation

EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THE MSAAS AGREEMENT, CIMPLX AND ITS COMPANY AFFILITATES DISCLAIMS ALL WARRANTIES ON SERVICES FURNISHED UNDER THE MSAAS AGREEMENT INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; AND THE STATED EXPRESS WARRANTIES ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART OF CIMPLX ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF CIMPLX UNDER THE MSAAS AGREEMENT. EXCEPTAS SPECIFICALLY PROVIDED WITHIN THE MSAAS AGREEMENT, CIMPLX AND ITS COMPANY AFFILIATES WILL NOT BE LIABLE FOR ANY INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE

SERVICES

EXCEPT CIMPLX'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 6.5 BELOW, THE TOTAL AGGREGATE LIABILITY OF CIMPLX OR ITS SUPPLIERS TO CLIENT AND/OR ANY THIRD PARTY IN CONNECTION WITH THE MSAAS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY CLIENT, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY CIMPLX FOR THE SERVICES IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH THE CLAIM ARISES.

7.5. Third Party Matters

Notwithstanding anything herein to the contrary, Cimplx makes no warranties or guarantees regarding (a) the Services that are to be provided by third parties that are not a party to the MSAAS Agreement, or (b) any Services use and utilize the assets, software, or intellectual property of third parties that Cimplx has a contractual right or license to use (the foregoing Services are referred to herein as the "Third Party Services"). In the event of a Service issue or failure with respect to any Third Party Services (a) the parties will work together, each at their own cost and expense, to attempt to either solve the matter or obtain a reasonable solution for the parties (to the extent one is available) from the third party; and (b) if CLIENT desires to pursue a claim against the third party in a court of law, and such claim has a reasonable possibility of success, and Cimplx does not desire to participate in such claim, then CLIENT will be permitted to seek such a claim in a court of law at its own cost and expense, and Cimplx will assign any rights it may have with respect to the third party related to the claim. However, CLIENT hereby acknowledges that taking legal action against any such third party may subject it to indemnification obligations pursuant to the immediately following sentence. CLIENT hereby agrees to indemnify, defend, and hold harmless Cimplx from any and all losses, claims, damages, judgments, expenses, and costs that any third-party provider of Third Party Services may claim or receive from Services Provider arising from or due, in any way whatsoever, to the action, inaction, or negligence of CLIENT (or its employees or agents). CLIENT acknowledges and agrees that Services Provider will enter into contracts or licenses with third parties from time to time related to the Third Party Services. Cimplx will provide copies of any such contracts or licenses related to the Third Party Services within five days of CLIENT's written request for the same. Cimplx shall have the right to enter into, amend, rework, or modify any contract or license related to any Third Party Services as it determines from time to time at its sole discretion and without the consent of or notification to CLIENT.

7.6. Quality Inputs

Notwithstanding anything herein to the contrary, CLIENT agrees and acknowledges that it assumes all risk, loss, and damage that arises from CLIENT either inputting or providing incorrect data, information, dates, or formulas to Cimplx that are used by Cimplx in the provision of Services. Cimplx makes no representation or warranty with respect to the accuracy or validity of information provided pursuant to the Services that may be based upon faulty or incorrect data, information, dates, or formulas provided by CLIENT. CLIENT hereby agrees that it will immediately notify Cimplx when it becomes aware that it has provided or input incorrect or faulty data, information, dates, or formulas with respect to the Services so that Cimplx can address the matter. CLIENT hereby agrees to indemnify, defend, and hold harmless Cimplx from any and all losses, claims, damages, judgments, expenses, and costs it incurs because CLIENT (or its employees or agents) has provided or input incorrect or faulty data, information, dates, or formulas to Cimplx with respect to the Services.

7.7. Limitation on Damages

Notwithstanding anything herein to the contrary, CLIENT acknowledges and agrees that the maximum amount that it can collect from Cimplx or its affiliates for any breach of the MSAAS Agreement or otherwise, whether pursuant to the MSAAS Agreement or otherwise under the law, shall be limited to the average monthly amount invoiced under the MSAAS Agreement during the Term.

7.8. Waiver of Consequential Damages

Notwithstanding anything herein to the contrary, in no event shall either party be liable for indirect, special, incidental, or consequential damages, loss or profits, loss of use of data or interruption of business, whether such alleged damages are alleged in tort, contract, or indemnity, even if such party has been advised of the possibility of such damages.

8. Indemnity.

8.1. Indemnification by CLIENT

CLIENT shall indemnify and hold Cimplx, its affiliates and subsidiaries and their respective directors, officers, employees and representatives, harmless from any and against any claims, damages, losses, liabilities, causes of action or injuries alleged by a third party (other than an Affiliate of Cimplx) together with all costs and expenses, including penalties, interest levied, reasonable attorneys' fees and court costs, arising out of or resulting from (a) any failure by CLIENT, its Users, employees or representatives to comply fully with the obligations set forth in this Agreement, including without limitation obligations for payment of taxes and against unauthorized copying, use, reverse engineering and related infringing activities and disclosure of Proprietary Information; and (b) any failure by CLIENT, its employees or representatives to comply fully with the posted or published terms of use, privacy policies, security policies and guidelines of Cimplx with respect to the Services, as amended from time to time.

8.2. Indemnification by Cimplx

Cimplx shall indemnify and hold CLIENT, its affiliates and subsidiaries and their respective directors, officers, employees and representatives, harmless from any and against any claims, damages, losses, liabilities, causes of action or injuries alleged by a third party (other than an affiliate of CLIENT) together with all costs and expenses, including penalties, interest levied, reasonable attorneys' fees and court costs, arising out of or resulting from (a) any failure by Cimplx, its employees or representatives to comply fully with the obligations set forth in this Agreement, including without limitation disclosure of Proprietary Information; and (b) any claim that any of the Services, or CLIENT's or any User's authorized use of the Software, actually does or threatens to infringe, misappropriate or otherwise violate any copyright, patent, trademark, trade secret or other proprietary rights of a third party; provided however, that Cimplx shall have no liability or obligation for any such third party action or losses to the extent that such action or losses arise out of or result from any unauthorized copying, use, reverse engineering or other related infringing activities by Customer.

9. Security of Information.

9.1. Passwords – CLIENT Responsibility

CLIENT and its employees and agents will protect and keep confidential any passwords related to the Services. If any such password is stolen, acquired, or used by a third party pursuant to the actions, inactions, or negligence of CLIENT or its employees and agents, then, (a) CLIENT assumes all risk of loss with respect to such matter, and (b) CLIENT will indemnify, defend, and hold harmless Cimplx from any and all losses, claims, damages, judgments, expenses, and costs it incurs because CLIENT (or its employees or agents) has breached the terms and conditions of this Section 9.1.

9.2. General Security

Cimplx will take reasonable steps consistent with industry standards to protect and secure any personal information of CLIENT and its employees that may be provided pursuant to the provision of the Services. Notwithstanding the foregoing, CLIENT shall be liable and responsible for (and Cimplx has no liability or responsibility for) the security of any personal information of CLIENT and its employees that may be provided pursuant to the provision of the Services

(a) that is acquired by some third party through CLIENT's hardware or equipment, or (b) that is acquired by some third party due some action, inaction, or negligence of CLIENT (or employee or agent) that is not consistent with the reasonable actions of an employer that desires to keep such data confidential.

9.3. HIPAA

Notwithstanding anything herein to the contrary, (a) CLIENT retains the responsibility for being compliant with any applicable HIPAA laws and regulations that may apply to information provided by CLIENT pursuant to the Services, and (b) Cimplx makes no representation or warranty that the operation of the Services and security of CLIENT information (including employee information) with respect to the Services is compliant with any applicable HIPAA laws and regulations.

10. Intellectual Property Rights and Ownership.

10.1. Ownership

Cimplx shall own all Intellectual Property Rights with respect to the Cimplx Materials, Services and Products, and the ownership of such will not transfer to CLIENT. The right to use Cimplx Services or Products is granted to CLIENT for the sole purpose of utilizing Services as provided in the MSAAS Agreement. All Cimplx Services licensed to CLIENT hereunder are the licensed and/or owned property of and embody the proprietary trade secret technology of Cimplx and/or its licensor(s) and are protected by copyright laws, international copyright treaties, as well as other intellectual property laws, that among other things, prohibit the unauthorized use and copying of any Cimplx Services. CLIENT receives no rights to any Cimplx Services or any intellectual property of Cimplx or its licensors, except as expressly stated herein or in any Additions Schedule. Any license to Cimplx Services shall automatically terminate upon Cimplx ceasing to provide CLIENT with related Services; provided, however, that CLIENT shall be entitled to retain any time collection equipment that has been purchased and paid for in full by CLIENT.

10.2. License

If any Cimplx Materials are delivered to CLIENT as part of the Services, CLIENT shall have a royalty-free, non-exclusive worldwide license to use, copy, modify and distribute internally such Cimplx Materials during the Term. The right to use Cimplx Services is granted to CLIENT for the sole purpose of utilizing Services as provided in the MSAAS Agreement. All Cimplx Services licensed to CLIENT hereunder are the licensed and/or owned property of and embody the proprietary trade secret technology of Cimplx and/or its licensor(s) and are protected by copyright laws, international copyright treaties, as well as other intellectual property laws, that among other things, prohibit the unauthorized use and copying of any Cimplx Services. CLIENT receives no rights to any Cimplx Services or any intellectual property of Cimplx or its licensors, except as expressly stated herein or in any Additions Schedule. Any license to Cimplx Services shall automatically terminate upon Cimplx ceasing to provide CLIENT with related Services; provided, however, that CLIENT shall be entitled to retain any time collection equipment that has been purchased and paid for in full by CLIENT.

11. Miscellaneous.

11.1. Notification

All notices, requests, demands and other communications which are required or may be given under the MSAAS Agreement will be in writing and will be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by confirmed facsimile, electronic or digital transmission method; the day after it is sent, if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice will be sent pursuant to the addresses and notice information for each party on the Order Form, provided, however, that any party may change such party's notice information to the other party, and such change will be effective when received pursuant to

the prior provisions.

11.2. Force Majeure

Either party shall be excused from delays in performing or from its failure to perform pursuant to the MSAAS Agreement to the extent that such delays or failures result from causes beyond the reasonable control of such party; provided that, in order to be excused from delay or failure to perform, such party must act diligently to remedy the cause of such delay or failure. to the extent possible.

11.3. No Agency

Cimplx is acting solely as an independent contractor in rendering performance under the MSAAS Agreement. In no way is Cimplx to be construed as the agent or acting as the agent of CLIENT in any respect.

11.4. Assignment

The MSAAS Agreement may not be assigned by either party without the express written consent of the other party, except that either party may assign or transfer the MSAAS Agreement, in whole or in part, to any of its affiliates or to any successors to substantially all of that part of Cimplx' business to which the MSAAS Agreement relates. Subject to the foregoing, any assignee under the MSAAS Agreement shall be subject to all of the terms, conditions and provisions of the MSAAS Agreement.

11.5. Invalidity

If any provision of the MSAAS Agreement is held to be invalid, the other provisions will not be affected to the greatest extent possible consistent with the parties' intent.

11.6. Compliance with Laws

Each party agrees to comply with all applicable laws, regulations, and ordinances relating to their performance under the MSAAS Agreement.

11.7. Waiver

A waiver by either of the parties of any of the covenants, conditions, or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition, or agreement herein contained.

11.8. Amended Terms and Conditions to the MSAAS Agreement

ACA Compliance Services Inc. ("Cimplx") may amend the Terms and Conditions of this MSAAS Agreement at any time by giving reasonable notice, including without limitation posting the most current agreement at the URL cimplx.com/termsandconditions. All revised and amended Terms and Conditions of the MSAAS Agreement shall be binding upon you.

11.9. Governing Law

The MSAAS Agreement shall be governed by the laws of South Carolina, without regard to its conflict of law provisions. The federal and state courts in the State of South Carolina shall have exclusive jurisdiction to settle any disputes in connection with the MSAAS Agreement.

11.10. Counterparts

The MSAAS Agreement may be executed and delivered by original signature, facsimile, or other image capturing technology, and in one or more counterparts, each of which will be deemed to be an original copy of the MSAAS Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

11.11. Entire Agreement

The MSAAS Agreement, Terms and Conditions, the Order Form and any related and executed Service Schedules, constitute the entire agreement between the parties in relation to the matters addressed in the MSAAS Agreement and supersedes all prior written or oral communications and representations with respect to the matters addressed in the MSAAS Agreement. To the extent there is any conflict between the MSAAS Agreement, Terms and Conditions, the Order Form or any Service Schedules, the MSAAS Agreement shall govern.

