

## **Terms And Conditions**

Mployer Advisor Inc., a corporation of Tennessee, (hereinafter "Mployer Advisor"), is the owner of databases used to produce compiled reports (hereinafter "Licensed Material"), which includes copyrighted material and proprietary and trade secret information. As used herein, "Licensee" refers to the party to whom a limited license in the Licensed Material is granted, according to the terms set forth herein.

The Licensed Material and the content of this World Wide Web (hereinafter "WWW") site (together with any underlying source code, hereinafter collectively "this Site") are provided exclusively under the following Terms and Conditions:

1. Title; License & Restrictions on Use: All rights, title and interest (including all copyrights, trademarks and other intellectual property rights) in this Site and the Licensed Material belong to Mployer Advisor. Mployer Advisor retains title to this Site and the Licensed Material and all property rights therein. All materials supplied to Licensee or authorized under these Terms and Conditions, included printed matter or electronic data, remain the sole property of Mployer Advisor. Except as expressly provided, nothing contained herein shall be construed as conferring any license or right, by implication, estoppel or otherwise, under copyright or other intellectual property rights. The Licensee is granted a nonexclusive, nonassignable, nontransferable, limited license to view, print and reproduce the Licensed Material purchased by the Licensee and retrieved from this Site for a period not exceeding one year from the Effective Date, provided the Licensed Material is not distributed outside the Licensee's organization. The scope of the Licensed Material is limited to the particular database, the particular portions of that database, and the particular edition of that database specified at the time of purchase. This license is personal to Licensee, and Licensee understands and agrees that the Licensed Material constitutes proprietary information of Mployer Advisor and contains trade secret material compiled and owned by Mployer Advisor. Licensee who require access to the information to facilitate Licensee's use of the Licensed Material. In no event shall materials from this Site be stored in any information storage and retrieval system without the prior written consent of Mployer Advisor.

2. Pricing, Services, Payment Term & Renewal. Pricing and services provided under this agreement will be governed by the attached Order Form. Mployer Advisor may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Mployer Advisor thirty (30) days after the mailing date of the invoice (which may be sent by email). Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Licensee shall be responsible for all taxes associated with Services other than U.S. taxes based on Mployer Advisor's net income. This Agreement is for the term specified in the Order Form and shall be automatically renewed for additional periods of the same duration as the initial service term unless either party requests termination at least thirty (30) days prior to the end of the then-current term. If the Licensee or Mployer Advisor fail to comply with any provision of this Agreement, either party may terminate this Agreement immediately. No refund will be issued unless legally required.

**3. Liability.** To the fullest extent permitted by applicable law, in no event will Mployer Advisor be liable to any party for any direct, indirect, incidental, special, exemplary, or consequential damages of any type whatsoever related to or arising from the use of the Licensed Material, including, without limitation, any lost profits, business interruption, lost savings, or loss of programs or other data. This exclusion and waiver of liability applies to all causes of action, whether based on contract, warranty, tort, or any other legal theories. Mployer Advisor disclaims all responsibility for any loss, injury, claim, liability, or damage of any kind resulting from, arising out of, or any way related to (a) any errors in or omissions from this Site and its content or the Licensed Material, including but not limited to technical inaccuracies and typographical errors, (b) any third party WWW sites or content therein directly or indirectly accessed through links in this Site, including but not limited to any errors in or omissions therefrom, (c) the unavailability of this Site or any portion thereof, (d) use of this Site, or (e) use of any equipment or software in connection with this Site. THIS SITE IS PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS AND MPLOYER EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT.

**4. Indemnification.** Mployer Advisor and the Licensee each agree to indemnify, defend, and hold harmless the other, its affiliates, officers, directors, employees, consultants, agents, suppliers and resellers from any and all third-party claims arising from their own acts or omissions in (1) the use of the Services, (2) violation of this Agreement, or (3) the infringement or violation of any intellectual property rights.

**5. Arbitration, Disputes & Choice of Law.** Any controversy or claim arising out of or relating to this Agreement shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Arbitrations will be held in Nashville, Tennessee and governed by the laws of the State of Tennessee. Notwithstanding the foregoing, for any business claim that is not subject to arbitration, including without limitation excluded business claims, the Licensee agrees to submit and consent to the personal and exclusive jurisdiction in, and the exclusive venue of, the state and federal courts located within the state of Tennessee, which is the place of performance of these business terms. The Licensee and Mployer Advisor agree that each may bring or participate in business claims the other only in their respective individual capacities, and not as a plaintiff or class member in any purported class or representative proceeding.

6. Changes to This Site and to These Terms and Conditions. This Site may be changed by Mployer Advisor with or without notice. Please review this Site and these Terms and Conditions on a regular basis for changes. Continued use of this Site following any change constitutes an acceptance of the change.

7. DISCLAIMER. LICENSEE ACKNOWLEDGES THAT THE DATA CONTAINED ON THE MPLOYER ADVISOR SITE IS DATA OBTAINED FROM THIRD PARTIES AND WILL CONTAIN A DEGREE OF ERROR AND THAT LICENSEE IS RESPONSIBLE FOR DETERMINING THAT THE DATA CONTAINED ON THE MPLOYER ADVISOR SITE IS SUFFICIENTLY ACCURATE FOR LICENSEE'S PURPOSES. THE DATA CONTAINED ON THE MPLOYER ADVISOR SITE AND PROVIDED HEREUNDER IS PROVIDED ON AN AS-IS, AS-AVAILABLE BASIS AND MPLOYER ADVISOR DOES NOT MAKE AND HEREBY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED DATA, INCLUDING, BUT NOT LIMITED TO, THE ACCURACY, COMPLETENESS, TIMELINESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE DATA. DO NOT RELY ON THE MPLOYER ADVISOR SITE, ANY INFORMATION THEREIN, OR ITS CONTINUATION. WE PROVIDE THE PLATFORM FOR MPLOYER ADVISOR AND ALL INFORMATION AND SERVICES ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DO NOT PROVIDE ANY EXPRESS WARRANTIES OR REPRESENTATIONS. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, WE DISCLAIM ANY

Mployer Advisor Customer Agreement v072523



AND ALL IMPLIED WARRANTIES AND REPRESENTATIONS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT. MPLOYER ADVISOR NEITHER

WARRANTS NOR REPRESENTS THAT YOUR USE OF THE SERVICE WILL NOT INFRINGE THE RIGHTS OF THIRD PARTIES. ANY MATERIAL, SERVICE, OR TECHNOLOGY DESCRIBED OR USED ON THE MPLOYER ADVISOR SITE MAY BE SUBJECT TO INTELLECTUAL PROPERTY RIGHTS OWNED BY THIRD PARTIES WHO HAVE LICENSED SUCH MATERIAL, SERVICE OR TECHNOLOGY TO US. MPLOYER ADVISOR DOES NOT GUARANTEE THAT THE SERVICES IT PROVIDES WILL FUNCTION WITHOUT INTERRUPTION OR ERRORS IN FUNCTIONING. IN PARTICULAR, THE OPERATION OF THE SERVICES MAY BE INTERRUPTED DUE TO MAINTENANCE, UPDATES, OR SYSTEM OR NETWORK FAILURES. MPLOYER ADVISOR DISCLAIMS ALL LIABILITY FOR DAMAGES CAUSED BY ANY SUCH INTERRUPTION OR ERRORS IN FUNCTIONING. FURTHERMORE, MPLOYER ADVISOR DISCLAIMS ALL LIABILITY FOR ANY MALFUNCTIONING, IMPOSSIBILITY OF ACCESS, OR POOR USE CONDITIONS OF THE MPLOYER ADVISOR SITE DUE TO DISTURBANCES RELATED TO INTERRENT SERVICE PROVIDERS, TO THE SATURATION OF THE INTERNET NETWORK, LICENSEE'S USE OF OUTDATED OR INCOMPATIBLE WEB BROWSERS, AND FOR ANY OTHER REASON

**8. Miscellaneous.** This Agreement constitutes the entire agreement between the Licensee and Mployer Advisor regarding the use of the Licensed Material. Failure to exercise or enforce any right or provision of the Agreement shall not operate as a waiver of such right or provision. If any provision of the Agreement is found to be unenforceable or invalid, then only that provision shall be modified to reflect the parties' intention or eliminated to the minimum extent necessary so that the Agreement shall otherwise remain in full force and effect and enforceable.