

RAC SUBSCRIPTION SERVICE AND LICENSE AGREEMENT

THIS SUBSCRIPTION SERVICE AND LICENSE AGREEMENT (this “Agreement”) is made and entered into by and between Aegis Compliance & Ethics Center, LLP, an Illinois limited liability partnership (“Aegis”), and the subscriber (“Subscriber”). The Agreement is effective as of the date of acceptance (the “Effective Date”) by Subscriber. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in Section 1 of this Agreement.

RECITALS

A. Aegis is a health care consulting firm with expertise in managing and responding to inquiries and demands from Medicare recovery audit contractors (“RACs”). Aegis operates and manages a members-only website for purposes of assisting clients with RAC audits and demands (the “Website”).

B. Subscriber is a health care provider that participates in Medicare fee for service programs and, therefore, is subject to audit and inquiry by the relevant RAC.

C. In furtherance of its RAC compliance and management efforts, Subscriber seeks: (i) access to the Website; and (ii) a license to download and use the Website proprietary information, templates and guides owned by Aegis or its Affiliate (the “Website Content”), as further described on Exhibit A attached hereto, as may be amended from time to time by Aegis.

D. Aegis and Subscriber desire to set forth herein their general agreement as to (i) the terms and conditions under which Aegis shall provide Subscriber with access to the Website and to the Website Content, and (ii) Subscriber’s confidentiality, use and disclosure requirements relating to any Website Content hereunder.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. Definitions. The following terms as used herein have the following meaning:

a. “Affiliate” means, with respect to a Person, any person that, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.

b. “Confidential Information” means information not generally known outside Aegis or any of its Affiliates (unless as a result of a breach of any of Subscriber’s obligations imposed by this Agreement) or which is identified as confidential by Aegis concerning Aegis and/or any of its Affiliates’ business and technical information, whether in written, computerized, oral or other form, including information relating to: (i) the terms and provisions of this Agreement; (ii) any and all trade secrets concerning the business,

customers and affairs of Aegis and/or any of its Affiliates, product specifications, data, know-how, formulae, compositions, processes, designs, sketches, photographs, graphs, drawings, samples, inventions and ideas, past, current and planned research and development, current and planned manufacturing and distribution methods and processes, customer lists, current and anticipated customer requirements, price lists, market studies, business plans, computer software and programs (including object code and source code), database technologies, systems, structures architectures processes, improvements, devices, discoveries, concepts, methods, and information of Aegis and/or any of its Affiliates and any other information, however documented, of Aegis and/or any of its Affiliates that is a trade secret under applicable law; (iii) any and all information concerning the business and affairs of Aegis and/or any of its Affiliates (which includes historical financial statements, financial projections and budgets, rebates, discounts, payment terms, pricing, historical and projected sales, capital spending budgets and plans, the names and backgrounds of key personnel, contractors, agents, customers, suppliers and potential suppliers, personnel training and techniques and materials, purchasing methods and techniques), however documented; and (iv) any and all notes, analysis compilations, studies, summaries and other materials prepared by or for Aegis and/or any of its Affiliates containing or based, in whole or in part, upon any information included in the foregoing.

c. “Medicare” means the health insurance program for the aged and disabled established by Title XVIII of the Social Security Act, as amended (42 U.S.C. Sections 1395 et seq.) and all related regulations and any succeeding statute.

d. “Person” means any individual or any group of individuals or any general partnership, limited partnership, limited liability partnership, limited liability company, professional limited liability company, corporation, joint venture, trust, business trust, cooperative or association or any other organization that is not a natural person and any combination of any such entity or organization and any natural persons acting in concert, and the heirs, executors, administrators, legal representatives, successors and assigns of any “person” where the context so permits.

2. License(s); Consideration.

a. License(s). Subject to the terms, conditions and restrictions of this Agreement, Aegis hereby grants to Subscriber a limited, nontransferable, non-sublicensable, and non-exclusive right(s) and license(s) (the “License(s)”) to use the Website and Website Content in accordance with the provisions of this Agreement during the Term (as defined in Section 8(a)). Without the prior written consent of Aegis, which consent may be withheld by Aegis in its sole and absolute discretion, Subscriber shall not rent, lease, sublicense, sell, transfer, commercially exploit or otherwise distribute or disclose to any Person any of the Website Content. The Website and Website Content shall not be considered to have lost their proprietary and confidential nature due to its disclosure to or use by Subscriber or its disclosure by Aegis or any of its Affiliates. Except for the License(s) granted hereunder, all rights, title and interest in and to any of the Website and Website Content, including all copyrights and other intellectual property rights associated therewith, are and shall be retained by Aegis (or its Affiliates, as appropriate). Nothing herein shall restrict the right or

ability of Aegis to use, sell or license any of the Website and Website Content to any other Person.

b. License Fee. In consideration of the License(s) provided to Subscriber hereunder, Subscriber shall pay Aegis an annual fee equal to Twelve Hundred Dollars (\$1200), or such other amount agreed to by the parties (the "License Fee"). The parties hereto agree that the License Fee is consistent with a mutually agreed upon fair market value, as negotiated between the parties in arm's length transactions, based upon: (i) the Website and Website Content provided by Aegis to Subscriber; and (ii) the permitted uses and disclosures of the Website and Website Content.

c. Payment Terms. The License Fee is immediately due and payable upon acceptance of this Agreement by Subscriber. Payment of the License Fee shall be made prior to the issuance of any user name(s) or password(s). Aegis shall invoice Subscriber for the License Fee due and payable upon extension of this Agreement, if any. Failure by Subscriber to pay the License Fee upon extension of this Agreement will result in the termination of this Agreement and Subscriber's access to the Website and the Website Content.

3. Obligations of Subscriber Relating to the Website and Website Content.

a. Permitted Uses and Disclosures of the Website and Website Content. Except as otherwise provided herein, during the Term, Subscriber may use and disclose the Website and Website Content, without limitation, for its own, non-commercial purposes.

b. Non-Permitted Disclosures of the Website and Website Content. In the event Subscriber discloses any Website Content or element contained within the Website and Website Content to a third party in violation of this Agreement, regardless of whether Aegis is identifiable as a source of the Website and Website Content, Subscriber shall notify Aegis, in writing, of such disclosure. Subscriber will notify Aegis not more than five (5) days after Subscriber learns of such non-permitted disclosure. Subscriber's notice shall at least:

- i. identify the nature of the non-permitted disclosure including how such disclosure was made;
- ii. identify who made the non-permitted disclosure and who received the non-permitted disclosure;
- iii. identify the Website Content disclosed;
- iv. identify what corrective action Subscriber took or will take to prevent any further non-permitted disclosure;
- v. identify what Subscriber did or will do to mitigate any deleterious effect of the non-permitted disclosure; and
- vi. provide such other information, including, a written report, as Aegis may reasonably request.

c. Compliance with Agreement and Law. Subscriber shall hold in confidence and not use or disclose the Website and Website Content, except as permitted or required by this

Agreement. To the extent that Subscriber may be requested to make a disclosure of the Website Content that is required by law, Subscriber shall provide Aegis with prompt written notification of such requested disclosure (but in no event later than two (2) days after the receipt of such request) and give Aegis an adequate opportunity to take whatever steps it deems necessary to prevent, limit the scope of, or contest the disclosure. Aegis shall pay all of the costs and expenses incurred in connection with any attempt to prevent disclosure or limit the scope of any such disclosure that is required by law, and Subscriber agrees that it will not unreasonably interfere with the actions Aegis takes in connection therewith.

d. Security. Subscriber will issue appropriate instructions to each agent, employee and contractor given access to any of the Website and Website Content of the restrictions in this Agreement, and shall provide physical security of the Website and Website Content to at least the degree that it protects its own most sensitive data, but in no event less than a reasonable degree of care.

4. Representations and Warranties of Subscriber. Subscriber hereby represents and warrants to Aegis as follows:

a. Organization, Standing and Authority. Subscriber is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and has the requisite corporate power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. Subscriber's acceptance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Subscriber.

b. Execution, Delivery and Binding Effect. This Agreement has been duly accepted by Subscriber, and constitutes the legal, valid and binding obligation of Subscriber, enforceable against Subscriber in accordance with its terms.

c. No Conflicts. Neither the acceptance or performance of this Agreement by Subscriber nor the consummation of the transactions contemplated in this Agreement, shall (i) conflict with, contravene or result in a breach of any statute or administrative regulation, or of any law, rule, regulation, ordinance, order, writ, injunction, judgment, decree of any court or governmental authority or of any arbitration award to which Subscriber is a party or by which any of the properties or assets of Subscriber are or may be bound; or (ii) conflict with, contravene or violate any provision of Subscriber's organizational documents or any agreement, understanding or arrangement to which Subscriber is a party or by which any of the properties or assets of Subscriber are or may be bound.

5. Representations and Warranties of Aegis. Aegis hereby represents and warrants to Subscriber as follows:

(a) Organization, Standing and Authority. Aegis is a limited liability partnership duly organized, validly existing and in good standing under the laws of the State of Illinois and has the requisite power and authority to enter into this Agreement and to consummate the transactions contemplated hereby. Aegis's execution and delivery of this Agreement and the

consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Aegis.

(b) Execution, Delivery and Binding Effect. This Agreement has been duly executed and delivered by Aegis, and constitutes the legal, valid and binding obligation of Aegis, enforceable against Aegis in accordance with its terms.

(c) No Conflicts. Neither the execution, delivery or performance of this Agreement by Aegis nor the consummation of the transactions contemplated in this Agreement, shall (i) conflict with, contravene or result in a breach of any statute or administrative regulation, or of any law, rule, regulation, ordinance, order, writ, injunction, judgment, decree of any court or governmental authority or of any arbitration award to which Aegis is a party or by which any of the properties or assets of Aegis are or may be bound; or (ii) conflict with, contravene or violate any provision of Aegis's organizational documents or any agreement, understanding or arrangement to which Aegis is a party or by which any of the properties or assets of Aegis are or may be bound.

6. DISCLAIMERS, EXCLUSION OF WARRANTIES, EXCLUSIONS OF DAMAGES AND LIMITATION OF LIABILITY. THE WEBSITE AND WEBSITE CONTENT DELIVERED TO SUBSCRIBER HEREUNDER AND THE INFORMATION CONTAINED THEREIN ARE PROVIDED TO ON AN "AS IS" BASIS, WITHOUT ANY WARRANTY WHATSOEVER. THE WARRANTIES SET FORTH IN SECTION 5 ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND AEGIS MAKES NO OTHER WARRANTIES EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF THE WEBSITE OR THE WEBSITE CONTENT FOR ANY PARTICULAR PURPOSE) WITH RESPECT TO THE WEBSITE OR THE WEBSITE CONTENT. IN NO EVENT WILL AEGIS BE LIABLE FOR ANY LOST PROFITS OR INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, WHETHER BASED UPON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, INCLUDING NEGLIGENCE, WHETHER OR NOT FORESEEABLE, AND EVEN IF AEGIS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OF ANY KIND ARISING OUT OF THIS AGREEMENT, FROM THE USE OR INABILITY TO USE ANY OF THE WEBSITE OR THE WEBSITE CONTENT. IF SUBSCRIBER IS DISSATISFIED WITH ANY PORTION OF THE WEBSITE OR THE WEBSITE CONTENT, SUBSCRIBER'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT IS TO CEASE USING THE WEBSITE OR THE WEBSITE CONTENT. IN THE EVENT THAT THE FOREGOING LIMITATION IS FOUND NOT TO BE ENFORCEABLE UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL THE AGGREGATE LIABILITY OF AEGIS UNDER THIS AGREEMENT WITH RESPECT TO ANY OF ITS OBLIGATIONS EXCEED THE AMOUNT OF ANY REMUNERATION PAID TO AEGIS BY SUBSCRIBER.

7. Confidential Information.

(a) Confidential Information Covenants. Subscriber agrees that in connection with the transactions contemplated by this Agreement, it and its Affiliates will have access to

Confidential Information of Aegis and its Affiliates. Therefore, Subscriber agrees for the longest time permitted under applicable law during and after the Term, that it and its Affiliates will (i) hold any Confidential Information delivered or communicated to them by Aegis or any of its Affiliates in the strictest confidence, including taking all reasonable precautions to prevent the inadvertent of the Confidential Information to any unauthorized third party or parties and (ii) not at any time without Aegis's express written consent, which consent may be withheld by Aegis in its sole and absolute discretion (A) disclose, reproduce, display, perform, record, broadcast, transmit, distribute, modify, translate, combine with other information or materials, create derivative works based on, exploit commercially or otherwise use the Confidential Information in any manner or medium whatsoever, (B) disclose or publicize any of the Confidential Information or the terms of this Agreement to any third party or parties or (C) discuss with, or otherwise disclose or reveal to, any third party or parties any information relating to Aegis's business or Subscriber's duties or responsibilities to Aegis's business or Subscriber's duties or responsibilities to Aegis, regardless of whether such information constitutes Confidential Information for any purpose other than in connection with a Study, without the prior written consent of Aegis, which consent may be withheld by Aegis in its sole and absolute discretion.

(b) Return and/or Destruction of Confidential Information. Neither Subscriber nor any of its Affiliates shall take or retain any Confidential Information that is in written, computerized, model, sample, or other form capable of physical delivery, upon or after the expiration or earlier termination of this Agreement without the prior written consent of Aegis, which consent may be withheld by Aegis in its sole and absolute discretion. At any time upon the request of Aegis, Subscriber shall (and Subscriber shall cause its Affiliates to) promptly redeliver to Aegis or destroy all written materials containing or reflecting any information contained in the Confidential Information (including all copies, extracts or other reproductions) and agree to destroy all documents, memoranda, notes and other writings whatsoever (including all copies, extracts or other reproductions), prepared by Subscriber or any of its Affiliates based on the information contained in the Confidential Information. Notwithstanding the return or destruction of the Confidential Information, Subscriber and its Affiliates will continue to abide by their obligations of confidentiality and other obligations hereunder.

(c) Exclusions from Confidential Information. Notwithstanding anything to the contrary herein, Confidential Information shall not include any information that (i) was already known to Subscriber at the time of disclosure by Aegis free of any restriction, (ii) is generally available to the public or becomes publicly known through no wrongful act of Subscriber or any of its Affiliates, employees, consultants, agents or advisors, (iii) is received by Subscriber from a third-party who has a legal right to provide such information to Subscriber or (iv) is independently developed by Subscriber or any of its Affiliates without the use or benefit of any Confidential Information belonging to Aegis as evidenced by Subscriber's written records or other reliable documentary evidence.

(d) Disclosures Required By Law. In the event that Subscriber or any of its Affiliates is required by law (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or any other similar process) to disclose any

Confidential Information, Subscriber agrees to provide Aegis with prompt written notice of such request(s) (but in no event later than two (2) days after the receipt of such request) and shall consult with Aegis as to the advisability of taking legally advisable steps to resist or narrow such requests. Notwithstanding the foregoing, if disclosure of such Confidential Information is required by law, Subscriber will (i) furnish only that portion of the Confidential Information which, in the reasonable opinion of Subscriber's counsel and Aegis's counsel, it is legally obligated to disclose, and (ii) use its best efforts to obtain an order or other reliable assurances that confidential, non-public treatment will be accorded to all such disclosed Confidential Information.

(e) Principals, Officers, Employees, Agents etc. For purposes of this Section 7, any Confidential Information received by any shareholder, director, officer, member, manager, partner, employee, agent, subcontractor or representative of Subscriber or any of its Affiliates pursuant to the terms of this Agreement shall be deemed received by Subscriber, and any breach by such persons of this Section 6 shall be deemed a breach by Subscriber of this Agreement.

(f) Reasonableness of Restrictions. If, at the time of enforcement of any of the provisions of this Section 6, a court of competent jurisdiction shall hold that the duration or scope restrictions stated herein are unreasonable under circumstances then existing, the parties hereto agree that the maximum duration or scope reasonable under such circumstances shall be substituted for the stated duration or scope and that the court shall be allowed to revise the restrictions contained herein to cover the maximum period and scope permitted by law. Subscriber expressly acknowledges and agrees that the restrictions contained herein are reasonable in terms of duration and scope restrictions and are necessary to protect the Confidential Information and the goodwill of the businesses of Aegis and its Affiliates, and Subscriber agrees not to challenge the validity or enforceability of the restrictions contained herein. The parties hereto agree that money damages would not be an adequate remedy for any breach of this Agreement. Therefore, in the event of a breach or threatened breach of this Agreement, Aegis or its successors or assigns may, in addition to other rights and remedies existing in its favor, apply to any court of competent jurisdiction for specific performance and/or injunctive or other relief in order to enforce or prevent any violation of the provisions hereof (without proving monetary damages or posting a bond or other security).

8. Indemnification and Insurance.

(a) Indemnification by Subscriber. Subscriber agrees to indemnify and hold Aegis and its Affiliates and each of their respective directors, officers, members, managers, partners, employees, agents, legal representatives, successors and assigns harmless, from and against any and all losses, liabilities, damages, fines, costs, claims, causes of action, judgments, proceedings, demands, and expenses of all kinds, including attorney's fees and expenses (collectively, "Losses"), that they may sustain or incur as a result of: (i) any breach of any representation or warranty made by Subscriber in this Agreement, (ii) any breach by Subscriber of any of its covenants or obligations in this Agreement; (iii) any reckless, wanton, malicious or tortious conduct by Subscriber or any of its Affiliates in connection

with the transactions contemplated by this Agreement; or (iv) any use of the Website and Website Content.

(b) Indemnification by Aegis. Aegis agrees to indemnify and hold Subscriber and its directors, officers, members, managers, partners, employees, agents, legal representatives, successors and assigns harmless, from and against any and all Losses, that they may sustain or incur as a result of: (i) any breach of any representation or warranty made by Aegis in this Agreement; (ii) any breach by Aegis of any of its covenants or obligations in this Agreement; or (iii) any reckless, wanton, malicious or tortious conduct by Aegis or any of its Affiliates in connection with the transactions contemplated by this Agreement.

(c) Insurance. Subscriber hereby agrees and covenants that it shall keep in continuing force and effect throughout the Term, general liability insurance sufficient to cover any liabilities arising from Subscriber's obligations under this Agreement. Such general liability insurance shall be in an amount reasonably satisfactory to Aegis and shall name Aegis and its Affiliates as additional insured parties. Additionally, if Subscriber procures such insurance coverage on a "claims made" policy form basis, Subscriber must secure a reporting endorsement ("tail" coverage) to cover, following the expiration or termination of this Agreement for any reason, any act or omission that may have occurred during the Term. Upon the request of Aegis, made at any time or from time to time during or after the Term, Subscriber shall provide Aegis with a copy of certificates of insurance or a reporting endorsement or other appropriate evidence of the procurement and effectiveness of such insurance. Subscriber shall notify Aegis at least thirty (30) days prior to the effective date of any proposed change in Subscriber's insurance arrangements. The provisions of this Section 8(c) apply to any cancellation, expiration, material change in content, change in carrier, reduction in amount of coverage, material modification, replacement, or substitution of any policy or policies. To the extent permitted by law, Subscriber may provide all or any part of the insurance coverage it is required to maintain pursuant to this Section 8(c) under a plan or plans of self-insurance. In addition, if Subscriber elects to self-insure, Aegis shall be considered to be covered by the same insurance terms, including insuring grants, exclusions, conditions and limits, by which Aegis would have been covered had insurance covering such risk been in effect.

9. Term and Termination.

(a) Term and Renewal. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated as provided in Sections 9(b), (c), or (d) below, shall continue in effect for an initial term of one (1) year (the "Initial Term"). This Agreement may be extended for successive terms of one (1) year each, upon the mutual written agreement of the parties hereto (each a, "Renewal Term"). Any Renewal Term shall be upon the same terms and conditions stated in this Agreement, unless otherwise agreed in writing by the parties hereto. The Initial Term, together with any Renewal Term, shall be referred to herein as the "Term."

(b) Aegis Termination Rights. This Agreement may be terminated by Aegis as follows:

- i) Immediately in the event of a breach by Subscriber of any of its covenants and obligations set forth in Section 3(b) or 7; or
- ii) Upon thirty (30) days prior written notice to Subscriber in the event of a breach, as determined by Aegis in its reasonable discretion, by Subscriber of any representation, warranty, covenant or obligation of Subscriber contained in this Agreement (other than the covenants and obligations set forth in Section 3(b) or 7), and Subscriber fails to cure such breach within thirty (30) days following the date of such notice; or
- iii) Immediately upon the occurrence of any of the following: (A) Subscriber files a voluntary petition in bankruptcy seeking protection from creditors (a “Bankruptcy Filing”); or (B) Subscriber fails to contest an involuntary Bankruptcy Filing made against it or, despite contesting such Bankruptcy Filing, fails to obtain its dismissal within sixty (60) days from its filing; or (C) a trustee or custodian is appointed for a substantial portion of or all of the assets of Subscriber, or (D) Subscriber fails to pay its debts as they become due or admits its inability to do so (each of the foregoing, an “Insolvency Event”); or
- iv) For convenience, upon sixty (60) days prior written notice to Subscriber.

(c) Subscriber Termination Rights. This Agreement may be terminated by Subscriber as follows:

- i) Upon thirty (30) days prior written notice to Aegis in the event of a breach, as determined by Subscriber in its reasonable discretion, by Aegis of any representation, warranty, covenant or obligation of Aegis contained in this Agreement, and Aegis fails to cure such breach within thirty (30) days following the date of such notice; or
- ii) Immediately upon the occurrence of an Insolvency Event with respect to Aegis; or
- iii) For convenience, upon sixty (60) days prior written notice to Aegis.

(d) Mutual Agreement. This Agreement may be terminated at any time, upon the mutual written agreement of Subscriber and Aegis.

(e) Effect of Termination. Termination of this Agreement will not release either party hereto from any liability or obligation which, at the time of such termination, has already accrued or which thereafter may accrue in respect to any act or omission prior to such termination, nor will any such termination affect in any way the survival of any right, duty or obligation of any party hereto, which is expressly stated elsewhere in this Agreement to survive the termination. Upon termination of the Agreement by Subscriber pursuant to Section 9(c), Aegis shall refund to Subscriber a *pro rata* portion of the License Fee. This Section 9(e) sets forth Subscriber’s exclusive right to a refund of the License Fee. Upon the expiration or termination of this Agreement for any reason, Subscriber will return to Aegis or destroy all of the Website and Website Content in whatever form or medium, including all copies thereof and all data, compilations, and other works derived therefrom, including any such works that allow identification of any individual who is a subject of the Website and

Website Content. Subscriber will require any subcontractor or agent, to which Subscriber disclosed the Website and Website Content as permitted by Section 3(a) of this Agreement to return to Subscriber (so that Subscriber may return it to Aegis) or destroy all of the Website and Website Content in whatever form or medium received from Subscriber, including all copies thereof and all data, compilations, and other works derived therefrom that allow identification of any individual who is a subject of the Website and Website Content, and certify on oath to Subscriber that all such information has been returned or destroyed. Subscriber will complete these obligations as promptly as possible, but not later than five (5) days following the termination or expiration of this Agreement for any reason.

10. Relationship of the Parties. This Agreement is not intended to create and shall not be construed as creating between Subscriber and Aegis the relationship of Affiliate, principal and agent, joint venture, partnership, or any other similar relationship, the existence of which is hereby expressly denied. Neither party hereto shall have (nor shall it hold itself out as having) any right, power or authority to make or incur any legally binding agreement, obligation, representation, warranty or commitment on behalf of the other party hereto or to direct any action of, or activity by the other party hereto or any of its officers, directors, members, managers, employees or agents.

11. Miscellaneous.

(a) Complete Agreement; Amendment; Assignment. This Agreement, including its recitals, constitutes the entire agreement between the parties hereto and supersedes all agreements, representations, warranties, statements, promises and understandings, whether written or oral, with respect to the subject matter hereof, and no party to this Agreement shall be bound by nor charged with any written or oral agreements, representations, warranties, statements, promises or understandings not specifically set forth in this Agreement. Except as otherwise provided herein, this Agreement may not be amended, altered or modified except by a writing signed by the parties hereto. Subscriber may not assign its rights hereunder without Aegis' prior written consent.

(b) Notices. All notices given pursuant to this Agreement shall be sent by: (i) certified mail, return receipt requested, in which case notice will be deemed delivered three (3) business days after deposit, postage prepaid in the United States mail; (ii) a nationally recognized overnight courier, in which case notice will be deemed delivered one (1) business day after deposit with such courier; (iii) facsimile transmission, in which case notice will be deemed delivered upon electronic verification that transmission to the recipient was completed, provided that notices sent by facsimile transmission on a day other than a business day or after 5:00 p.m. recipient's time on a business day, shall be deemed given on the first business day following the date of transmission; or (iv) personal delivery. Addresses and facsimile numbers of the parties hereto are as follows:

As to Aegis:

Aegis Compliance & Ethics Center, LLP
401 North Michigan Avenue
Suite 1200-76
Attention: Brian D. Annulis

Facsimile: 773-472-3976

As to Subscriber: To the contact person, organization and address set forth on the RAC Subscription Service Payment Form

The above address and facsimile numbers may be changed by written notice to the other party hereto, provided that no notice of a change of address or facsimile number will be effective until actual receipt of such notice.

(c) Choice of Law. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by and construed in accordance with, the laws of the State of Illinois, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Illinois or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the laws of the State of Illinois.

(d) JURISDICTION. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY CONSENTS TO THE JURISDICTION OF ANY FEDERAL OR STATE COURT LOCATED IN CHICAGO, ILLINOIS IN ANY ACTION TO ENFORCE, INTERPRET OR CONSTRUE ANY PROVISION OF THIS AGREEMENT OR ANY PROJECT SCHEDULE HERETO, AND ALSO HEREBY IRREVOCABLY WAIVES ANY DEFENSE OF IMPROPER VENUE OR FORUM NON CONVENIENCE TO ANY SUCH ACTION BROUGHT IN THOSE COURTS. EACH PARTY HERETO CONSENTS TO SERVICE OF PROCESS AT ITS ADDRESS SET FORTH IN SECTION 11(B) OF THIS AGREEMENT. EACH PARTY HERETO FURTHER IRREVOCABLY AGREES THAT, ANY ACTION TO ENFORCE, INTERPRET OR CONSTRUE ANY PROVISION OF THIS AGREEMENT WILL BE BROUGHT ONLY IN ONE OF SUCH COURTS AND NOT IN ANY OTHER COURT.

(e) WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS OR EVENTS CONTEMPLATED HEREBY OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF ANY PARTY HERETO. THE PARTIES HERETO EACH AGREE THAT ANY AND ALL SUCH CLAIMS AND CAUSES OF ACTION SHALL BE TRIED BY THE COURT WITHOUT A JURY. EACH OF THE PARTIES HERETO FURTHER WAIVES ANY RIGHT TO SEEK TO CONSOLIDATE ANY SUCH LEGAL PROCEEDING IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER LEGAL PROCEEDINGS IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED.

(f) Attorneys Fees. In the event of any legal proceeding between the parties hereto with respect to this Agreement, the enforceability of any of their provisions or any alleged or actual breach of this Agreement by any party hereto or thereto, the prevailing party shall be entitled to recover reasonable attorney's fees and all other costs and expenses incurred in connection with pursuing any action with respect hereto or thereto, in addition to any other relief to which such party may be entitled. The term "prevailing party" shall mean the party in whose favor final judgment after appeal (if any) is rendered with respect to the claims asserted in the complaint.

(g) Waiver. No consent or waiver, express or implied, by a party hereto to or for any breach or default by any other party hereto in the performance by such party of its obligations under this Agreement shall be deemed or construed to be a consent or waiver to or of any breach or default in the performance by such party of the same or any other obligations of such party hereunder or thereunder. Failure on the part of a party hereto to complain of any act or failure to act of any other party hereto or to declare any other party hereto in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of such default, irrespective of how long such failure continues, and shall not constitute a waiver by such party of such default or its rights under this Agreement. The giving of consent by a party hereto in any one instance shall not limit or waive the necessity to obtain such party's consent in any future instance.

(h) Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby or thereby is not affected in any manner adverse to any party hereto. Upon such a determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties hereto as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the greatest extent possible.

(i) Interpretation. All section headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter as the context requires. Unless the context otherwise requires, the term "including" shall mean "including, without limitation", "including but not limited to", or other words of similar meaning.

(j) No Third Party Beneficiaries. Subject to the provisions of Sections 8(a) and (b) of this Agreement, nothing in this Agreement is intended or shall be construed to confer upon any Person other than the parties hereto or thereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement of any term, covenant or condition hereof or thereof, as a third party beneficiary or otherwise. All of the terms, covenants and conditions hereof shall be for the sole and exclusive benefit of the parties hereto or thereto and their respective permitted successors or assigns.

(k) No Strict Construction. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto or thereto to express their mutual intent and agreement, and no rule of strict construction shall be applied against any party hereto or thereto.

(l) Survival. Notwithstanding anything to the contrary that may be contained elsewhere in this Agreement, this Section 11 and Sections 7 and 8 of this Agreement shall survive, and remain in full force and effect, following the expiration or termination of this Agreement, for any reason.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Subscription Service and License Agreement to be duly executed and delivered as of the Effective Date.

Aegis:

AEGIS COMPLIANCE & ETHICS CENTER, LLP

By: 

Name: Brian D. Annulis

Title: Managing Director

Subscriber:

Subscriber evidences its execution of this Agreement and acceptance of its terms and conditions by completion and submission of the RAC Subscription Service Payment Form and payment of the License Fee.

Exhibit A

Website Content AEGIS COMPLIANCE & ETHICS CENTER, LLP RAC SUBSCRIPTION SERVICE

Product and service offerings for subscribers to the Aegis RAC Subscription Service include:

1. RAC Webinars:

Subscriber will be able to participate in twice monthly audio and webinar lectures. The lectures will be regularly scheduled for the second and fourth Tuesday of each month. One lecture will be entitled “RACs: Being Proactive” and the other lecture, “RACs: What are We Learning?”

“RACs: Being Proactive” – second Tuesday of each month

- Discusses one or two high risk areas of RAC review
- Discusses the associated Medicare rule
- Reviews ideas how to proactively audit
- Proposes operational safeguards to manage compliance risk

“RACs: What are We Learning?” – fourth Tuesday of each month

- Pools questions from subscribers
- Discusses areas RACs around the country are reviewing
- Analyzes results of public appeals decisions
- Keeps subscribers up to date on new regulations of risk
- Operations suggestions
- Summarizes experiences for the previous month

Occasional special edition or “emergency” lectures will be offered without charge with at least one week advance notice.

All lectures will be recorded and archived and accessible to subscribers during their subscription period.

2. “Organic” RAC Tools and Templates:

Subscriber will have access to and may download a RAC Guidebook, RAC templates and tools, including redetermination and reconsideration requests. Additional templates may include model policies and procedures associated with assembling and operating a RAC Response Committee, responding to a medical record production request. Templates and forms will be added, as necessary.

The Organic RAC Tools will be updated to accommodate lessons learned and discuss substantive areas of audit by RACs. Each RAC Proactive audioconference lecture will be developed into a chapter in the RAC Guidebook.

3. RAC Resource Library

Subscribers will have on-line access to documents and information published by the RACs and CMS, as well as publicly available decisions from the Medicare Appeals Council and courts concerning RACs and substantive issues relevant to the RAC audits. The RAC Resource Library page on the Aegis website will serve as a clearinghouse for an organization's RAC information needs.

4. RAC Tracking Software

Subscriber will have access to a software tool designed to assist providers with the management of a RAC audit, tracking response and re-determination.

5. Training and Education

Subscriber will be eligible for discounted fees from Aegis for RAC education and training programs, including RAC retreats.

6. Appeals

Subscriber will be eligible for discounted fees from Meade & Roach, LLP for RAC administrative appeals.