

Data Software License Agreement

This Data Software License Agreement (the "Agreement") dated as of _____ ("Effective Date") is made by and between the consultant or producer named at the end of this Agreement ("Consultant") and Aetna Life Insurance Company, on behalf of itself and its affiliates, ("Company") and is subject to all of the TERMS AND CONDITIONS OF THIS ENTIRE AGREEMENT, AS SET FORTH HEREIN.

WHEREAS, Consultant has entered into an agreement with each Customer (as defined herein) to provide certain consulting services ("Consultant Services");

WHEREAS, Company has entered into an agreement with each Customer to provide certain administrative services in connection with Customer's health benefits plan(s);

WHEREAS, Customer has authorized and directed Company to disclose certain confidential and proprietary information to Consultant solely for use in performing the Consultant Services; and

WHEREAS, Company is willing to disclose and make available such information to Consultant utilizing certain Company Licensed Software (as defined herein) subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual agreements contained herein and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

I. DEFINITIONS

(a) Authorized User: Any individual employed by Consultant to perform administrative services in connection with Customer's health benefits plan(s) and designated by Consultant as an Authorized User in accordance with the procedures and requirements specified by Company. The number of Authorized Users shall be determined by Company.

(b) Consultant's Related Parties: Consultant's parents, subsidiaries and affiliates and their respective officers, directors, employees, contractors, agents and other representatives.

(c) Customer: The entity or person identified as a "Customer" in a Customer Authorization attached hereto and incorporated herein. The form Customer Authorization is attached hereto as Exhibit "A".

(d) Data Base(s): Data file(s) or portions thereof which contain Plan Sponsor Data.

(e) Licensed Software: The software, object code, source code, user-level documentation, and other information and documents developed and/or licensed by Company and licensed to Consultant for accessing, viewing, and/or manipulating Plan Sponsor Data. Licensed Software may include third-party software that may be used or embedded as part of the Licensed Software. The Licensed Software shall include any updates or modifications made to the software during the Agreement Term (including but not limited to any change in name of the software).

(f) Plan Sponsor Data: Data reflecting benefits of individuals enrolled in Customer's health and/or dental benefits plans.

II. GRANT OF LICENSE AND PROPRIETARY RIGHTS

(a) Company hereby grants to Consultant the non-exclusive, non-transferable and non-sub-licensable right to access and use, during the Agreement Term (as defined in Section VI below) the Licensed Software, in accordance with the terms contained in this Agreement, solely and exclusively to provide certain consulting services to Customers in connection with Customers' administration of certain employee benefit plans and not for any other external or commercial purpose (the "License") at the number of single computer processors authorized by Company. Consultant's right to access and use the Licensed Software shall be solely by means of a web browser at the URL designated by Company. Consultant shall not permit the Licensed Software to be used (i) by anyone other than an Authorized User designated as such in accordance with the procedures and requirements specified by Company, (ii) in a network or multiple user arrangement unless Consultant has obtained a license for each additional terminal and workstation from which the Data Base(s) will actually be accessed, or (iii) by former employees of Consultant. The Agreement does not expressly or by implication, in whole or in part, assign, sublicense, or otherwise transfer to Consultant any rights to access, manipulate, or otherwise use any source code.

(b) Company shall have exclusive title and ownership rights, including all intellectual property rights, throughout the world to and in any and all Licensed Software. Consultant hereby irrevocably assigns to Company all right, title and interest, including all intellectual property rights, it may now or hereafter possess in the Licensed Software and related documentation, and all derivative works and improvements thereof and will cause its representatives, subcontractors and agent to irrevocably assign to Company all such rights in the Licensed Software and related documentation, and all derivative works and improvements thereof. Consultant shall execute all documents and take all actions that may be reasonably necessary to effect and confirm the foregoing.

(c) Consultant shall not, and shall not permit any third party (including, without limitation, any parent, subsidiary or affiliate of Consultant or any Authorized User) to (i) decompile, disassemble or reverse engineer any Licensed Software, (ii) attempt to discover the source code, design, architecture or other trade secret characteristics or other information relating to the Licensed Software (iii) create any derivative works from any part of the Licensed Software, or (iv) license, distribute or disclose the Licensed Software to any third party.

(d) Each Authorized User shall be required by Consultant to indicate his/her understanding of the obligations hereunder and agree to comply in all respects with the terms and conditions of this Agreement. Consultant agrees not to disclose or disseminate the Licensed Software in any form to any person other than employees having a need to know and having agreed in writing to comply with Consultant's confidentiality obligations and shall notify Company in writing within five (5) days of the termination of such relationship.

(e) Consultant shall access and use the Licensed Software in accordance with the system requirements and browser settings specified by Company. Company assumes no responsibility for providing or supporting such computer system.

III. DISCLAIMERS/LIMITATION OF LIABILITY

(A) CONSULTANT ACKNOWLEDGES AND AGREES THAT THE LICENSED SOFTWARE IS PROVIDED TO CONSULTANT ON AN AS "AS-IS" BASIS AND THAT THERE ARE NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SOFTWARE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION. There are no warranties of accuracy, completeness, or timeliness either expressed or implied with respect to the Data Base(s) or any Plan Sponsor Data or other information contained therein.

(B) IN NO EVENT SHALL COMPANY BE LIABLE TO CONSULTANT, REGARDLESS OF THE FORM OR CAUSE OF ACTION, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF ANTICIPATED PROFITS, BUSINESS GOODWILL, REPUTATION, LOST DATA AND ECONOMIC LOSS), WHETHER SUFFERED DIRECTLY OR INDIRECTLY, EVEN IF CONSULTANT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IV. CONFIDENTIALITY

(a) Consultant acknowledges and agrees that all information delivered via the Licensed Software, including the Data Base(s), is and shall be health information, as such term is defined in the privacy rule promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Consultant represents and warrants that it will comply (and cause all Authorized Users to comply) with any and all applicable federal, state, and local laws, regulations and other legal mandates regarding the privacy and/or confidentiality of health information and other information accessed by Consultant or any Authorized User using the Licensed Software, including but not limited to HIPAA and the rules promulgated pursuant thereto. In no event shall Consultant or any Authorized User make any attempt to determine the identity of any individual whose information is provided through the Licensed Software in a masked, aggregated or other format. In addition, Consultant will use all means reasonably necessary to secure the information contained in the Licensed Software reports against inappropriate access and use, including without limitation (i) restricting the use of usernames and PINs (Personal Identification Numbers) assigned to Consultant's Authorized Users to the individuals assigned; (ii) informing Authorized Users of their obligations with respect to the information contained in the Licensed Software reports; and (iii) informing Company in writing within five (5) days of the termination of employment of or of any relationship with any Authorized User.

(b) Any information with respect to the rates paid by Company or Company's affiliates to health care providers and related entities and any information which may allow determination of such rates are deemed to be "Confidential Information". No disclosure of any such information may be made or permitted to any third party whatsoever by Consultant, including, but not limited to, any broker, consultant, auditor, reviewer, administrator or agent unless (i) Company has consented in writing to such disclosure and (ii) each such recipient third party has executed a confidentiality agreement in form satisfactory to Company's counsel. Consultant acknowledges and agrees that Company operates in a highly regulated and competitive environment; and that the unauthorized disclosure or use of Plan Sponsor Data or Confidential Information will cause irreparable harm and significant injury to Company which will be difficult to measure with certainty or to compensate through money damages. Accordingly, Consultant agrees that injunctive or other equitable relief shall be appropriate in the event of any breach by Consultant of any part or parts of this Section IV, in addition to such other remedies as may be available at law, in equity or otherwise.

V. INDEMNIFICATION

Unless otherwise prohibited by law, Consultant agrees to indemnify, hold harmless, and defend Company, its parents, subsidiaries and affiliates and their respective officers, directors, employees, contractors, agents and other representatives ("Company's Related Parties") from and against any legal or administrative actions, claim, liability, penalty, fine, assessment, lawsuit, litigation, or other loss, expense, or damage, including costs and reasonable attorneys' fees (collectively "Liability") arising out of or relating to Consultant's or any of Consultant's Related Parties' (including without limitation, any Authorized User's) (i) actual or alleged breach of any provision of this Agreement, (ii) actual or alleged violation of any law, rule, or regulation governing access, use, and/or disclosure or redisclosure of Plan Sponsor Data, or (iii) services provided to Customers. Nothing in this paragraph shall require Consultant to indemnify, hold harmless, or defend Company or any of Company's Related Parties for acts or omissions that, independent of any acts or omissions of Consultant or any of Consultant's Related Parties, give rise to Liability.

VI. TERM AND TERMINATION

The term of this Agreement shall commence on the Effective Date and, unless otherwise terminated pursuant to this Section VI, continue until the termination or expiration of the administrative services agreement between Company and Customer (the "Agreement Term"). Either party may terminate the license and this Agreement at any time for any reason upon thirty (30) days' written notice to the other party. The license and this Agreement shall terminate automatically and without notice if and when any

aspect of Consultant's relationship with Company or any of its affiliates, successors or assigns terminates or otherwise changes in a material way. Consultant acknowledges and agrees that in the event the services provided by Consultant to any Customer end or are terminated for any reason, Consultant's access to the Data Base(s) and Plan Sponsor Data for such Customer shall terminate immediately. The provisions of Sections III, IV, V, and VII shall survive expiration or termination of this Agreement.

VII. FEES

Consultant hereby agrees to pay Company the fees (the "Fee") for access to and use of the Licensed Software which are set forth on Exhibit "B" attached hereto. The Fees are subject to change by Company upon thirty (30) days prior written notice to Consultant. Consultant shall pay the Fees to Company within thirty (30) days of the date of the applicable invoice from Company.

VIII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to choice of law provisions.

IX. NOTICE

All notices, requests, consents and other communications to any party shall be in writing and shall be delivered in person, or by registered or certified mail with return receipt, or by reputable courier service (e.g., Federal Express):

if to Consultant, to:

Name: _____
Address 1: _____
Address 2: _____
City, State Zip: _____
Attn: _____

if to Company, to:

Aetna Informatics
151 Farmington Avenue, RSAA
Hartford, CT 06156
Attn: Head, Data Warehouse Operations

with a copy to:

Aetna Informatics
151 Farmington Avenue, RSAA
Hartford, CT 06156
Attn: Head, Data Warehouse Operations Support

or such other address as such party may hereafter specify by notice to the other parties.

X. COUNTERPARTS

This Agreement may be signed and executed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have hereto executed this Agreement.

Consulting Firm Name: _____

Aetna Life Insurance Company

By: _____

By: _____

Name (print): _____

Name (print): _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT "A"

Customer Authorization

Customer – Company Name:	<input type="text"/>
Customer – Key Contact Name:	<input type="text"/>
Customer – Key Contact Phone #:	<input type="text"/>
Customer – Key Contact eMail Address:	<input type="text"/>
Consulting Firm – Entity Name:	<input type="text"/>
Consulting Firm – Office Location:	<input type="text"/>
Consulting Firm – Office Contact Phone #:	<input type="text"/>
Consulting Firm – Office Contact eMail Address:	<input type="text"/>
Aetna - Account Manager Name:	<input type="text"/>

By signing below, Customer authorizes Aetna to provide access to Customer’s information, which may include Protected Health Information, to the above Consultant through the software (including any other information and documentation) developed by or on behalf of Aetna or its affiliates and licensed to Consultant (“Licensed Software”). Customer represents that it has entered into a Business Associate Agreement with Consultant in accordance with applicable HIPAA requirements. Access is granted for the purpose of providing consulting and/or broker services. Consultant’s access to the Licensed Software and any data accessed through the Licensed Software shall be limited to such uses directly related to the provision of such consulting and/or broker services. If at any time Consultant ceases providing such services to Customer for any reason, Customer will immediately notify Aetna through its Aetna account manager and acknowledges that Consultant’s access to Customer’s information shall be terminated immediately. Customer acknowledges that any continued access due to Customer’s failure to notify Aetna is solely Customer’s responsibility.

Customer Name: _____

By: _____

Name (print): _____

Title: _____

Date: _____

EXHIBIT "B"

Fees