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1. Product.

The product is the version(s) (Commercial, Medicaid and/or Medicare) of Quality Compass® 2018, which encompasses both the web-based tool (“**Tool**”) and the data Licensee is provided access to therein, described below and any updates to a given version licensed by NCQA, whether in electronic or hard copy under this Agreement (the “**Product**”). Quality Compass is updated annually, and previous licensed versions remain available to Licensee for three additional years beyond the Product release year. Licensee may only access the version for years which they have licensed. Licensee may need additional software to use the Product and NCQA is not responsible for such additional software.

The Product contains audited performance results from individual Healthcare Effectiveness Data and Information Set (“**HEDIS**”®) and HEDIS Consumer Assessment of Healthcare Providers and Systems (“**CAHPS**”®) Survey measures, including submitted health plan rates, with State, Regional and National HEDIS and HEDIS CAHPS Survey benchmarks (averages and percentiles), collectively the “**Data**”.

Each measure may be comprised of a number of individual indicators (the “**HEDIS Measure Indicators**”). For example, the Childhood Immunization Status measure includes nineteen (19) individual HEDIS Measure Indicators (i.e. Childhood Immunization Status – Combo 10 is equivalent to one “**HEDIS Measure Indicator**”). Each question in a HEDIS CAHPS Survey composite measure is considered an individual HEDIS Measure Indicator.

For 2014-2016 Quality Compass: Each RRU + Quality Index measure (Asthma, Cardiovascular Conditions, COPD, Diabetes and Hypertension) is comprised of multiple indices, all of which are also considered as individual HEDIS Measure Indicators.

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 - (1) Licensee may share/publish (internally or externally, whether in single or multiple publications/reports) no more than two (2) benchmarks for each selected HEDIS Measure Indicator.

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9. Injunctive Relief.

Each party acknowledges that a violation of Sections 2, 5, or 8 of this Agreement would cause irreparable harm to the other party for which no adequate remedy at law exists and each party therefore agrees that, in addition to any other remedies available, the aggrieved party shall be entitled to seek injunctive relief to enforce the terms of Sections 2, 5, or 8. The prevailing party shall be entitled to recover all costs and expenses, including reasonable attorney's fees incurred because of any such legal action.

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NCQA will provide Licensee with (a) commercially reasonable telephone and email support for the Product during normal business hours; and (b) updates and enhancements for the Product, to the extent that NCQA generally makes such updates and enhancements available to Licensees without a separate charge.

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14. Severability.

If any portion of this Agreement is determined by a court of competent jurisdiction or any appropriate legislature to be wholly or partially unenforceable, for any reason, such unenforceability shall not affect the balance hereof.

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Licensee's right to use the Product shall be effective from the date Licensee accepts this Agreement by clicking "Accept Agreement" below, and shall terminate when Licensee ceases all access and use of the Product and provides NCQA with notice of such termination or as otherwise provided in this Agreement. NCQA may terminate this Agreement immediately if Licensee breaches a material term of this Agreement and fails to remedy that breach within five (5) business days after notice from NCQA. Upon termination of this Agreement, all rights, including the License granted to Licensee, under this Agreement will cease and Licensee's access to the Product may be disabled. Upon termination of this Agreement, Sections 2, 5, 6, 7, 9, 12, 13, 15, 17(A), 17(C), 17(D) of the Agreement, along with all payment obligations under this Agreement, shall survive such termination.

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- (A) Notices. All questions, comments or notices concerning this Agreement shall be submitted to NCQA by Licensee via <https://my.NCQA.org> or via mail at: NCQA, Attention: Information Products, 1100 13th Street, NW, Third Floor, Washington, DC 20005. All notices to be given under this Agreement to Licensee shall be submitted by NCQA via email at the account Licensee provided to NCQA pursuant to Section 4 or to Licensee upon accessing the Product.
- (B) Acceptance. By clicking "Accept Agreement" below and providing NCQA with Licensee's email address under Section 4, Licensee agrees and consents to (i) contract electronically with NCQA for the Product in accordance with this Agreement; (ii) receipt of electronic legal notices regarding this Agreement to the email account Licensee provided under Section 4 or upon accessing the Product; and (iii) that by clicking "Accept Agreement", Licensee intends to be bound by this Agreement.
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17. Miscellaneous.

- (A) Modifications. This Agreement is the complete and exclusive statement of the agreement between Licensee and NCQA, and supersedes any proposal or prior agreement, oral or written, and any other communications between the parties relating to the subject matter of this Agreement. This Agreement may not be modified by Licensee except upon mutual agreement by the parties in writing signed by an authorized officer of NCQA. NCQA reserves the right, at any time, to change the terms of this Agreement by providing Licensee with notice of such changes. Any use of the Product by Licensee after NCQA's publication or email of any such changes shall constitute Licensee's acceptance of the Agreement as modified.
- (B) Force Majeure. NCQA will not be responsible for any failure to perform due to causes beyond its reasonable control, including but not limited to, acts of God, acts of terrorism, war, riot, embargoes, acts of civil or military authorities, national disasters, strikes and the like.
- (C) Governing Law and General Provisions. This Agreement will be governed by the laws of the District of Columbia,

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- (D) Third Party Beneficiaries. Nothing contained in this Agreement is intended to confer upon any person other than the parties hereto and their respective successors and permitted assigns, any benefit, right or remedy under or by reason of this Agreement, except with respect to NCQA Parties who shall be deemed third party beneficiaries under this Agreement but solely with respect to those terms that specifically reference an NCQA Party or the NCQA Parties.
- (E) Cancellation. In the event Licensee chooses to remit payment, where applicable, for the Product at a later date (via mailed check or otherwise), NCQA reserves the right to cancel Licensee's order if NCQA fails to receive payment for the Product within thirty (30) days of acceptance of this Agreement. Licensee will not be granted access or use of the Product (or it will be rescinded), and all Agreements related to the order and Product will be rendered null and void.

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