

Society of Manufacturing Engineers

2024



KAPNICK STRIVE GOLD SERVICE AGREEMENT



WORKSITE WELL-BEING

This Service Agreement, (hereinafter referred to as “Agreement”) made and entered into as of **January 1, 2024** (hereinafter referred to as “Effective Date”), is between **Society of Manufacturing Engineers**, (hereinafter referred to as “Client”) and Kapnick Insurance Group (hereinafter referred to as “Consultant”).

WHEREAS, Client desires to establish and maintain a wellness plan (the “Plan”);

WHEREAS, Client desires the assistance of Consultant for strategic health and wellness planning and program implementation for the Plan;

WHEREAS, Consultant has superior knowledge and expertise in assisting employers with designing, servicing, implementing and communicating health and wellness programs through its KAPNICK strive® program (“Strive”);

WHEREAS, the parties wish to set forth their respective expectations in this Agreement;

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the parties hereby agree as follows:

1. Scope of Services to be Provided by Consultant

- 1.1 **Kapnick Strive Program** – see Exhibit A.
- 1.2 **Additional Services** – see Exhibit B.

2. Disclosure and Record Keeping

- 2.1 **Disclosure.** Upon the request of Consultant, Client must provide to Consultant information necessary for Consultant to perform the services or compute the fees described in this Agreement and its Exhibits, including updated employee census information (see Section 7.1).

Consultant may contract with subcontractors to perform services under this Agreement. Prior to the effective date of any subcontractor arrangement in connection with, or arising out of or in any way related to Client's Plan, Consultant shall notify Client and give Client a period of ten (10) calendar days to notify Consultant in writing of any objection to such subcontractor arrangement. If no written objection is received by Consultant within the ten (10) calendar day period of Consultant's notice to Client of the subcontractor arrangement, Consultant may proceed with the engagement of such subcontractor.

- 2.2 **Record Keeping.** Consultant will maintain accurate and current files in accordance with industry standard record retention practice and applicable laws.

3. Term and Termination

- 3.1 **Term.** Unless terminated earlier under Sections 3.2 or 3.3, this Agreement shall initially be in effect for a period commencing on the Effective Date and ending on December 31, 2025 (the “Initial Term”), and shall automatically renew for successive one (1) year periods. Consultant shall notify Client of any changes to the Fees under Exhibit C at least sixty (60) calendar days prior to the effective date of any increase; however, no fee change shall occur during the Initial Term other than as provided under Section 4.9.
- 3.2 **Termination for Cause.** This Agreement shall terminate: (i) immediately upon written notice by a party if the other party files a petition for bankruptcy or is adjudicated bankrupt; (ii) immediately upon written notice by Consultant or Client if Consultant or Client shall breach any material provision of this Agreement and fail to cure such breach within ten (10) calendar days after written notice from Consultant or Client specifying the breach; or (iii) immediately upon written notice of Consultant when Client is sixty (60) calendar days late in payment of any fee pursuant to this Agreement and the Exhibits hereto (the right to



terminate the Agreement is in addition to any other remedies provided under this Agreement or as provided by law).

- 3.3 Termination Without Cause.** Unless terminated earlier under Section 3.2 and only after the expiration of the Initial Term, this Agreement may be terminated without cause at any time by either Client or Consultant by delivering written notice to the other party of its intent to terminate the Agreement at least ninety (90) days in advance of the proposed effective date for termination.
- 3.4 Effect of Termination.** Upon any expiration or termination of this Agreement, the rights and obligations of the parties under this Agreement will terminate, except with respect to: (i) the confidentiality and indemnification provisions under Sections 8 and 11 of this Agreement, (ii) as provided for in the Business Associate Agreement incorporated by reference (see Exhibit D), and (iii) except for any preexisting and outstanding obligations for the payment of Fees for services already performed under this Agreement.

4. Biometric Screenings

- 4.1** Consultant shall not hold or confirm biometric screening dates until this Agreement is complete, signed, and returned. Pursuant to Section 7.1(ii), Client will provide Consultant with a biometric screening eligibility census. Biometric screening is subject to a 50% minimum participation requirement based upon Client's biometric screening eligibility census as further explained in Exhibit C.
- 4.2** Client must provide Consultant with an onsite contact and coordinator for each location for every health screening event. Duties include, but are not limited to, confirming site contact address, phone number and entrance point of building to use on screening days. Onsite contact will also be responsible for arriving one (1) hour prior to the start of screenings to allow screeners into the building to set-up supplies for screenings in a timely manner. Onsite contact will need to remain for the entire duration of screening event to assist with participant registration and employee engagement.
- 4.3** Consultant shall provide, or arrange to provide, the examiners, equipment and blood collection kits necessary to conduct Biometric Screenings for Participating Eligible Persons onsite at each Work Site on such dates and times as shall be mutually acceptable to Consultant and Client, as applicable. Notwithstanding the foregoing, Work Site biometric screening dates should be scheduled by Client with Consultant at least ninety (90) days in advance of a biometric screening so that Client's preferred biometric screening date may be confirmed; a failure to timely schedule a Work Site biometric screening date at least ninety (90) days in advance of such date may result in an inability to secure Client's preferred date.
- 4.4** Each Eligible Person must sign and submit to Consultant a written consent, in form and content acceptable to Consultant, before the Biometric Screening will be performed. Only Participating Eligible Persons may receive a Biometric Screening. For purposes of this Agreement:
- "Eligible Person" means an individual who is eligible to enroll in coverage under Client's group health plan and/or is eligible to participate in the Plan (including spouses of Eligible Persons if permitted by the Plan).
 - "Participating Eligible Person" means an Eligible Person who has completed and executed a written consent for biometric screening. For efficiency, an average of four (4) Participating Eligible Persons is scheduled per Wellness Examiner per hour.
- 4.5** Each Eligible Person is required to register an individual account on the Online Wellness Platform in order to schedule their Biometric Screening, which must be scheduled no later than (10) days prior to the



screening event. Biometric Screening results will be provided to each Eligible Person through a Personal Health Report that is posted and available through their individual account on the Online Wellness Platform.

- 4.6 Cancellation.** A cancellation occurring twenty one (21) days or less prior to a scheduled confirmed event date shall be subject to a charge of fifty percent (50%) of the Fee that would have been incurred from the event, plus any travel cost.
- 4.7 Walk-In Clinic Option.** Walk-In Clinics are operated as a third party vendor through CRL labs, Consultant's preferred lab, or another appropriate vendor to process bloodwork and provide reporting. Consultant does not operate or contract with any Walk-In Clinics; therefore, Consultant cannot control or set the standard of service provided at such Walk-In Clinics. Geo-matching capability is available and a list of convenient clinics shall be provided to Client upon request. If nearest clinic is not in a feasible distance, Participating Eligible Person will have to show proof of physician visit and lab results will be provided to Kapnick Strive for system upload.
- 4.8 General Fees.** Consultant will be compensated by the Fees described in Exhibit C for services rendered to Client as detailed in Exhibits A and B. Additional programs and services not indicated in this Agreement or its Exhibits will be provided for an additional fee only after the additional services have been disclosed in writing and shall be undertaken upon mutual agreement between Consultant and Client for the agreed upon fees for such services. Any additional programs and services will be added to the applicable Exhibits and become subject to the terms of this Agreement. Upon expiration of the Initial Term, Consultant reserves the unilateral right to increase or decrease Fees. Consultant will provide written notice to Client of the revised Fees and the date on which they become effective, which effective date shall be at least thirty (30) days after the date on which Consultant provides written notice to Client. If the Fees are changed effective as of a date other than the first day of the contract year, any annual Fees shall be changed for the remainder of the contract year prospectively only from the effective date of the change, but shall be pro-rated for the days remaining in that contract year.
- 4.9 Fee Increases.** In addition to changes permitted under Sections 3.1 and 4.8 above, in the event that the Consultant's suppliers/subcontractors materially increase their charges to Consultant in connection with providing services under this Agreement (e.g. charges for biometric screenings, etc.), Consultant will increase the fee structure under this Agreement and Exhibit C by 3-5% per contract year. Consultant shall notify Client of the revised fee schedule at least thirty (30) calendar days prior to the effective date of the increase. If Client does not object, in writing, to the modified fee structure during this 30-day notice period, then Client shall be deemed to accept such modified fee structure. If there is a dispute over the modified fee structure, the parties agree to negotiate in good faith in attempt to resolve the dispute. Absent agreement between the parties, Consultant may, at its discretion, terminate the Agreement at the end of the 30-day notice period.
- 4.10 Non-Biometric Screening Services.** For all additional services that the parties agree to have provided under this Agreement, other than the biometric screening services, Consultant will require a minimum participation of at least 10 Eligible Persons. These additional services include, but are not limited to, Onsite Health Coaching, Onsite Education Classes, Employee Kick-off Meetings, or other services made available by Consultant and agreed to by the parties. If this minimum participation standard is not met and, at the discretion of Consultant, the event will either be cancelled or Client will incur fee of \$250 per event in addition to the other fees outlined in Exhibit C.
- 4.11 Travel.** Client will incur and pay travel costs associated with all onsite events such as educational classes, health coaching, health fair, biometric screenings, etc. provided under this Agreement at any location greater than 150 miles from the nearest Consultant location if a Kapnick STRIVE representative is requested onsite. Mileage will be based on the standard mileage rate for business travel at the then published rate set by the Internal Revenue Service at the time travel (e.g. 2019 rate is 58 cents per mile). All air travel and



overnight expenses will be submitted and approved by Client in advance to booking, which approval shall not be unreasonably withheld.

5. Billing of Fees

5.1 Once the applicable services have been chosen by Client and the corresponding fees have been determined by Consultant and agreed upon by Client, a Client specific billing schedule will be developed by Consultant for each Contract Year. Consultant will estimate the annual fees for services to be provided to Client for the Contract Year under the Agreement based upon: (1) a 50% minimum participation fee established based on Client's biometric screening eligibility census, (2) Client's participant portal eligibility census, and (3) such other additional services agreed upon between the parties (collectively the "anticipated annual fees"). Generally, Consultant will furnish Client two invoices for payment, as follows:

- i. The first invoice will be sent upon execution of the Agreement and upon Consultant's receipt of the required censuses. The first invoice will be 50% of the anticipated annual fees. In the second year of the Initial Term and subsequent years, the first invoice will be sent upon the start date of the calendar year and will be 50% of the anticipated annual fees for services for the Contract Year based upon the actual number of Participating Eligible Persons from the previous year.
- ii. The second invoice will be mailed thirty (30) calendar days after the last initial biometric screening period has been completed and will represent the remaining fees to be paid for services rendered under the Agreement (*i.e.* the second invoice will reconcile (including an updated 50% minimum participation calculation) and bill the balance of any fees for the Contract Year not yet paid by Client for services under this Agreement.

5.2 Screenings outside of initial billing period will be billed automatically as incurred.

Notwithstanding anything to the contrary in this Agreement, Consultant may separately invoice Client for additional services not included in prior invoices at any time.

Client must remit payment to Consultant of any invoiced fees within thirty (30) calendar days of the earlier of the receipt of the invoice by Client or three (3) calendar days after the notice is mailed by first class mail. If Client fails to timely remit payment of the invoice by the end of this thirty (30) calendar-day period, Consultant, in its sole discretion, may charge an additional late payment fee equal to 1% per month on the balance due on all late payments over five (5) calendar days past due. Client also will reimburse Consultant for all collection costs, including attorneys' fees, incurred by Consultant as a result of any payment default by Client under this Agreement.

6. Personnel. Consultant, in its sole and absolute discretion, will assign its personnel according to the needs of Client and the disciplines required to complete the appointed task in a professional manner. Consultant retains the right to substitute personnel as it deems appropriate to render the services under this Agreement.

7. Client's Responsibilities

7.1 Required information:

- i. As soon as possible prior to the Effective Date, Client will provide Consultant with a "participant portal eligibility census" and will provide an updated participant portal eligibility census monthly. If Client removes a Participating Eligible Person from the census, Consultant will permanently delete that Participating Eligible Person from its records and will not retain that Participating Eligible Person's data.



- ii. As soon as possible prior to the Effective Date and no later than thirty (30) days prior to any biometric screening, Client will provide Consultant with a “biometric screening eligibility census” identifying each Eligible Person (as defined in Section 4.4 above).
- iii. Client will make available such other information as is reasonably required for Consultant to conduct its services under this Agreement, including additional employee census information. Such data will be made available to Consultant as promptly as possible, but not later than ten (10) calendar days following the request made by Consultant. If the information requested by Consultant cannot be reasonably fulfilled within the ten (10) calendar-day time period, Client shall notify Consultant, in writing, within such ten (10) calendar-day period and the Parties shall agree to a different time period. Consultant understands that the time of Client’s personnel is limited, and judicious use of that time is a requirement of this Agreement.

7.2 Client’s additional responsibilities under this Agreement include Client:

- i. Implementing a financial incentive arrangement under the Plan, in consultation with Consultant, which encourages participation in the Client’s Plan. Client agrees that it is solely responsible for designing the Plan and the financial incentives offered thereunder in a manner that is compliant with all applicable laws, including, but not limited to, the Health Insurance Portability and Accountability Act (“HIPAA”) (as recently amended by the Patient Protection and Affordable Care Act (“ACA”)) and applicable regulations thereunder.
- ii. Distributing to eligible persons (as determined solely by Client and communicated in writing to Consultant) materials prepared by the Client (along with any additional materials prepared by Consultant describing the Kapnick Strive Program), describing Plan terms and RAS program requirements, including any financial incentive arrangement provided by Client thereunder.
- iii. Providing Consultant and its subcontractors with an appropriate, accessible, and safe setting at each Work Site adequate for the purpose of conducting biometric screenings of eligible persons who desire to participate.
- iv. Encouraging each Eligible Person to complete all actions necessary for the Kapnick Strive Program to generate a Personal Health Report.
- v. Designating one or more appropriate Client representatives at each Work Site location as a site coordinator to serve as a liaison to Consultant and the Kapnick Strive Program and to be available during normal business hours to respond to inquiries from Consultant.
- vi. Making all decisions regarding amendment and termination of the Plan.
- vii. Serving as the Plan Administrator and named fiduciary of the Plan pursuant to the Employee Retirement Income Security Act of 1974 (“ERISA”). As such, the Client’s powers and duties include, but are not limited to:
 - Plan Interpretation. Client shall have sole discretionary authority to decide all questions of eligibility and entitlement to benefits, and determine the amount, manner and time payments are to be made.
 - Participant Communications. Client shall communicate to Eligible Persons all information concerning the Plan, as required by law, including written information informing Eligible Persons of: (A) what benefits are being provided and (B) any changes of benefits.



- 8. Confidentiality.** The Confidential Information of a party (the “disclosing party”) which is disclosed to the other party (the “receiving party”) will be held by the receiving party in strictest confidence at all times and will not be used by the receiving party (or its affiliates, employees, officers, directors or limited liability company managers (“Representatives”)) for any purpose not previously authorized by the disclosing party, except as necessary for Consultant to perform the services under this Agreement. The Confidential Information of the disclosing party will not be disclosed or divulged by the receiving party to anyone, except as otherwise permitted under the Agreement or with the prior written permission of the disclosing party and on the condition that the party to whom the Confidential Information is disclosed agrees in writing in advance to be bound by these terms and conditions. The receiving party may disclose the Confidential Information to those of its Representatives who need to review the Confidential Information for the purposes authorized by the disclosing party but only after the receiving party has informed them of the confidential nature of the Confidential Information and directs them to treat the Confidential Information in accordance with the terms of this Agreement. The disclosing party retains all right, title and interest in and to its Confidential Information.

The term “Confidential Information” includes, but is not limited to, any information of either the receiving or disclosing party (whether oral, written, visual or fixed in any tangible medium of expression), relating to either party’s services, operations, systems, programs, inventions, techniques, suppliers, customers and prospective customers, contractors, cost and pricing data, trade secrets, know-how, processes, Plans, reports, designs and any other information of or relating to either party’s business, including its therapeutic, disease management, and health education programs, but does not include information which (a) was known to the receiving party before it was disclosed to the receiving party by the disclosing party, (b) was or becomes available to the receiving party from a source other than the disclosing party, provided such fact is evidenced in writing and the source is not bound by a confidentiality obligation to the disclosing party, or (c) is developed by the receiving party independently of the disclosing party’s Confidential Information, provided that such fact can be documented. Each party will also keep the terms of this Agreement confidential as Confidential Information, except as required by law or regulation.

If the receiving party is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand, any informal or formal investigation by any government or governmental agency or authority, law or regulation, or otherwise) to disclose any of the Confidential Information, the receiving party will notify the disclosing party promptly in writing so that the disclosing party may seek a protective order or other appropriate remedy or, in its sole discretion, waive compliance with the terms of this Agreement. The receiving party agrees not to oppose any action by the disclosing party to obtain a protective order or other appropriate remedy. If no such protective order or other remedy is obtained, or the disclosing party waives compliance with the terms of this Agreement, the receiving party will furnish only that portion of the Confidential Information which it is advised by counsel is legally required and will exercise its reasonable best efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

Client and Consultant may not utilize the service marks, trademarks or trade names of any other party to this Agreement, or any service marks, trademarks, or trade names so similar as likely to cause confusion, without express written approval of such other party. The programs implemented by Consultant will remain the sole property of Consultant and will only be used by Client in connection with the Kapnick Strive Program and so long as Consultant provides services to Client.

Consultant and Client will comply with all applicable laws and regulations regarding participant confidentiality. Consultant will not furnish any participant identifiable or Client identifiable data or information to any third party without the written consent of Client, except as reasonably necessary to provide the services and fulfill its obligations pursuant to this Agreement or as required by applicable law.

Consultant understands and agrees to limit its use and disclosure of protected health information as described in the attached Business Associate Agreement (Exhibit D). Consultant further agrees to limit the use and disclosure of protected health information provided to any subcontractor in the performance of services under this Agreement as required under law.



- 9. Fiduciary Responsibility.** Client acknowledges that: (i) Consultant shall have no discretionary authority or discretionary control respecting the management of the Plan and any of the Client's other health, welfare and occupational programs; (ii) Consultant shall exercise no authority or control with respect to management or disposition of the assets of the Plan and any of Client's other health, welfare and occupational programs; and (iii) Consultant shall perform services pursuant to this Agreement in a non-fiduciary capacity. Client agrees to notify Consultant in writing as soon as possible prior to the adoption of any proposed amendments to the Plan's legal documents to the extent that the amendments would affect Consultant in the performance of its obligations under this Agreement. Client agrees to submit (or cause its agent, consultants, or vendors to submit) all information in its (or their) control reasonably necessary for Consultant to perform the services covered by this Agreement.
- 10. Compliance with Laws.** Client agrees that it shall remain solely responsible and liable for compliance with all applicable laws that apply to its Plan and any other of Client's health, welfare and occupational programs and the management thereof, including, but not limited to, HIPAA, ACA, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Genetic Information Nondiscrimination Act.
- 11. Indemnity.** Client agrees to indemnify and hold harmless Consultant and its directors, officers, employees, agents, subcontractors, and attorneys against any and all claims, lawsuits, settlements, judgments, costs, penalties, and expenses, including attorney fees resulting from or arising out of or in connection with any function or action of Consultant or of any subcontractor hired by Consultant to perform services for the Client, unless it is determined by a court or governmental agency that the liability was the direct consequence of Consultant's or Consultant's subcontractor's gross negligence; provided that, Consultant's aggregate liability in all instances under this Agreement is limited to one (1) times the fees paid to Consultant for the Initial Term of this Agreement. Neither Client nor Consultant (or its third-party service providers or subcontractors) shall be liable to the other for special, punitive, incidental, exemplary, indirect or consequential damages arising out of or in any way connected with this Agreement, irrespective of the cause or causes, including strict liability, breach of warranty, or negligence of any party.
- 12. Limitation on Services.** Consultant does not assume any obligations with respect to Client or the Client's Plan other than the duties and responsibilities expressly stated in, and as limited by, this Agreement or in a subsequent writing signed by both Client and Consultant. Specifically, Consultant does not have the following obligations:
- Not a fiduciary. Consultant is not the Plan Administrator, as defined in ERISA Section 3(16), the trustee of any assets associated with the Plan, or a fiduciary of the Plan as defined in Section 3(21) of ERISA.
 - Not Benefit Guarantor. Consultant does not guarantee payment of any benefits due under the Plan, and does not provide insurance for any such benefits provided for under the Plan.
 - Compliance. Although Consultant may assist the Client in legal compliance efforts, Consultant does not assume responsibility for operating Client's Plan in compliance with applicable laws.



- 13. Notices.** All notices, requests, and other communications shall be communicated in writing (electronically or otherwise) at the following address or such other address as may be specified by notice:

Society of Manufacturing Engineers

1000 town Center, Suite 1910
Southfield, MI 48075

Kapnick Insurance Group

Attention: Kapnick Wellness Department
333 Industrial Drive
Adrian, Michigan 49221

All notices pursuant to this Agreement shall be effective upon the earlier of actual receipt by an officer of the party to whom the notice is addressed or three (3) calendar days after the notice is mailed by express mail, certified mail-return receipt requested or other means of certified delivery.

- 14. Assignment.** Consultant may assign this Agreement to any subsidiary or affiliate under its control or as part of the sale of any substantial portion of its assets, or pursuant to any merger, consolidation or other reorganization, without Client's prior written consent. Otherwise, neither party may assign its rights and responsibilities under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- 15. Waiver.** Failure to enforce any provision of this Agreement does not alter or waive the provision or affect the future enforceability of the provision.
- 16. Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the State of Michigan, unless preempted by federal law. Suit to enforce any provision of this Agreement or to obtain any remedy with respect hereto shall be brought exclusively in the applicable state or federal courts of Lenawee County, Michigan. Each party waives any objection (on the grounds of lack of jurisdiction, forum non conveniens, or otherwise) to the exercise of such jurisdiction over it by any such courts.
- 17. Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed and original. Such counterparts shall constitute but one and the same instrument.
- 18. No Agency Created or Third Party Beneficiaries.** Consultant and Client shall not be deemed to be partners, joint venturers, agents or employees of each other solely by virtue of the terms and conditions of this Agreement. Consultant is an independent contractor of Client for all purposes, including under federal and state statutory and common law. This Agreement is entered into solely for the benefit of the parties, and is not entered into for the benefit of any third party, including without limitation, any employees, participants, dependents or their legal representatives.
- 19. Taxes and TPA.** Any applicable sales, use or other similarly assessed and administered tax imposed on services provided under this Agreement or any other amounts Consultant may incur or be required to pay arising from or relating to Consultant's performance of services as a third-party administrator in any jurisdiction, will be the sole responsibility of Client. If Consultant is legally obligated to collect and remit sales, use or other similarly assessed and administered tax in a particular jurisdiction, or to incur or pay any amount relating to third-party administrator services, such tax or other amount will be reflected on the applicable invoice or subsequently invoiced at such time as Consultant becomes aware of such obligation or as such obligation becomes due.
- 20. Enforceability and Construction.** Consultant and Client have participated jointly in the negotiation of this Agreement, and each has had the opportunity to seek legal counsel to review, comment upon, and draft this Agreement. Accordingly, it is agreed that no rule of construction shall apply against any party or in favor of any



party, and any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall be construed as though such invalid or unenforceable provision were omitted, provided that the remainder of this Agreement continues to satisfy all of the requirements in applicable law. If it does not, then the parties shall immediately renegotiate this Agreement so that it does comply with the requirements of applicable law, or terminate this Agreement and the service relationship between Consultant and Client.

- 21. Dispute Resolution.** Any controversy, claim, or dispute (“Disputed Claim”) arising out of or relating to this Agreement must follow the dispute resolution process stated in this Agreement. The parties shall use reasonable efforts to resolve any claim or dispute arising under this Agreement as soon as is reasonably practicable. In the event of a Disputed Claim, each party shall in the first instance promptly bring the Disputed Claim to the attention of a Director or similar person in a management position (“Responsible Executives”). If any Disputed Claims are not resolved by the Responsible Executives within a reasonable time period, but in no instance more than sixty (60) days, either party may pursue its rights and remedies available under law or in equity. Notwithstanding the foregoing, nothing shall prevent either party from seeking temporary injunctive relief to protect its intellectual property rights, Confidential Information, or to maintain the status quo pending resolution of any dispute.
- 22. Non-Exclusivity.** Consultant shall retain the right to perform similar work for others, including competitors of Client, during the term of this Agreement.
- 23. Force Majeure.** Neither Consultant nor Client will be deemed to have breached this Agreement or be held liable for any failure or delay in the performance of all or any portion of its obligations under this Agreement if prevented from doing so by a cause or causes beyond its control. Without limiting the generality of the foregoing, such causes include acts of God or the public enemy, fires, floods, storms, earthquakes, riots, strikes, boycotts, lock-outs, acts of terrorism, acts of war or war-operations, restraints of government, power or communications line failure or other circumstances beyond such party’s control, or by reason of the judgment, ruling or order of any court or agency of competent jurisdiction, or change of law or regulation (or change in the interpretation thereof) subsequent to the execution of this Agreement.
- 24. Entire Agreement and Amendment.** This Agreement and its Exhibits constitute the entire agreement between the parties, and any other warranties, representations, promises or agreements, whether or oral or written, are hereby superseded. Subsequent amendments to this Agreement and/or its Exhibits shall only be in writing signed by both parties.

**** Signatures on Following Page ****

Society of Manufacturing Engineers

Kathleen M Borgula

12/22/2023

Signature

Date

Kathleen M Borgula / VP, Human Resources

Name/Title

KAPNICK INSURANCE GROUP

Angela Dean

12/22/2023

Signature

Date

Angela Dean/President Employee Benefits

Name/Title

©Kapnick Insurance Group (Kapnick strive® Service Agreement rev 06/2019)



EXHIBIT A

KAPNICK strive® Gold PROGRAM SERVICES

- **Incentive Design and Development**

Consultant will assist with the continued design and development of incentive solutions in an effort to maximize enrollment and keep Eligible Persons engaged in the wellness program. Industry research thus far has shown that the greater the level of incentive, the greater the program participation. Typically high participation rates increase the chances of success in modifying unhealthy behaviors and reducing healthcare costs.

- **Program Implementation/Employee Kick-Off Session**

Consultant will develop and provide customized communications materials to promote and explain the Kapnick Strive Program. Materials may include: posters, letters, postcards and/or videos. Kapnick Strive Program representatives will also conduct at least one Employee Kick-Off session (onsite or remotely) to review the program with Eligible Persons.

Consultant will work with Client to develop a customized calendar of events and assist with implementation of programs. Based upon subsequent findings and reports, additional programs may be subsequently implemented.

- **Educational/Communication Campaigns**

Consultant will provide customized monthly communication campaigns (including newsletters, emails and posters) regarding various health and/or employee benefit-related topics, such as heart disease, utilization of preventive services, etc. These engaging communication campaigns are intended to inform and motivate Participating Eligible Persons to change and improve health behaviors.

- **Online Participant Portal**

- Wellness Platform

- Web-based platform
 - Access to individualized health report with recommendations
 - Online Health Risk Assessment
 - Point/Reward Tracking
 - Health Coaching
 - Fitness wearable synchronization
 - Educational Library
 - Virtual Educational Classes
 - Healthy Living Tracking (*i.e.* physical activity, nutrition, water, etc.)
 - Objective Health Report with Health Score
 - Integrated challenge programs

- Participant Reports

- Biometric Health Report – objective report based on results from biometric screening.
 - Lifestyle Report – based on health risk assessment.

- **Biometric Screenings**

- Biometric screenings are conducted by licensed professionals provided by Consultant
 - Biometric screenings are subject to a 50% minimum participation requirement based upon Client's biometric screening eligibility census, as further explained in the Agreement and Exhibit C.



- Standard Biometric Screening Testing includes:
 - Height, weight, and waist and hip circumference
 - Blood Pressure Test
 - Full Lipid Panel
 - Total Cholesterol, HDL, LDL, Triglycerides
 - Fasting Glucose
 - Nicotine
 - Gamma Glutamyl Transferase (GGT)
 - Blood Urea Nitrogen
 - A1C
 - Creatinine
 - Total Bilirubin
 - AST (SGOT)
 - ALT (AGPT)
 - Alkaline Phosphatase
 - Total Protein
 - Albumin
 - Globulin
- Review of all data for critical values:
 - Screening of all biometric screening performed on Participating Eligible Persons for critical values to identify any extremely severe conditions.
 - When a critical value is identified, the lab shall inform assigned medical personnel within 48 hours of screen.

- **Personal Health Report and Follow Up**

- Personal Health Report
Personal Health Report will be issued and available on the Online Wellness Platform to each Participating Eligible Person that provides his or her biometric screening results and health score, and details the correlation between risk factors and diseases.
- Review of Findings Session
The Kapnick Strive Health Coaches will conduct a Review of Findings telephone call with Participating Eligible Persons with a score of 60 points or less. This call is designed to ensure a thorough understanding of the results and to set goals for the upcoming year.
- Understanding Your Health Score Session
Consultant strongly recommends conducting these sessions after the health screenings. Attendees will learn how to interpret their Health Score in their Personal Health Reports from the recent health assessments. The scoring methodology will be reviewed for each biometric. In addition, Participating Eligible Persons will learn how they can improve their Health Score by making simple lifestyle modifications. These sessions are provided upon request.

- **Educational Health Classes and Challenge Programs**

Subject to Section 4.10 and Exhibit C, Client is eligible for up to four (4) onsite events per year and up to six (6) challenge programs per year. An onsite event is defined as any one event scheduled at any physical Client location. Examples of available events are as follows:

- Educational Health Classes
Consultant is available to provide customized on-site seminars on a variety of topics. The classes range



from 30 minutes to 1 hour in length. Health awareness and education are key tools to leading a healthier life. Individuals who are educated with clear, easy-to-understand, up-to-date information are more likely to take the next step in changing their attitudes and behaviors for better health.

- Health Fair
Consultant can coordinate and implement one health fair per year.
- Challenge Programs
Sometimes a little competition is needed to motivate employees to make improvements in their health. Client may inspire Participating Eligible Persons to increase physical activity, reduce stress, and/or practice good eating habits by implementing a challenge program.

If a client wishes to receive more than four (4) onsite classes per year, an additional fee will be charged for each additional onsite Educational Health class as described in Exhibit C.

Program Evaluation and Reporting

- Program Evaluation
Evaluates goals and objectives and determines whether the program achieved the desired result. Program evaluation further allows you to celebrate goals that have been achieved, to discontinue or change ineffective initiatives, and to establish new benchmarks. Consultant will evaluate the wellness program on an on-going basis and provide reports to the client as described below.
- Reporting
Overview of generated reports provided by Kapnick Strive Program team member to ensure understanding and provide recommendations to target identified risk areas moving forward. Generated reports detail the correlation between risk factors and diseases, participation rates, year-to-year comparisons, changes in risks profiles, and medical and indirect costs associated with the risks prevalent in the population.
 - Aggregate Summary Report: displays the overall raw numbers and percentages.
 - Executive Summary Report: contains an overview of health risks in the assessed population.
 - Risk Migration Report: Beginning in Year 2, a Risk Migration Report will be provided and demonstrate change in risk factors for Participating Eligible Persons from year to year.



EXHIBIT B ADDITIONAL SERVICES

- **Comprehensive Individual Health Coaching**

The comprehensive Health Coaching Model, provided on a participant by participant basis, includes scheduling and completing a review of finding call for each individual Participating Eligible Person. Coaching is provided in three (3) month increments. Each Participating Eligible Person will receive bi-weekly outbound calls from a health coach, unlimited inbound calls and a customized health plan.

EXHIBIT C FEES

Kapnick Strive Program Services

- Package as described in Exhibit A.....\$225 per Participating Eligible Person

Provided, however, that the \$225 per Participating Eligible Person fee shall in no event be based on less than 50% of Eligible Persons reported in the Biometric Screening Eligibility Census (the 50% Minimum Participation Requirement).

- Wellness Platform-only participants (Portal only participants).....\$10 per Participating Eligible Person

Small Location Arrangement

Fee to perform wellness screenings at a work site with:

- 5-9 Participating Eligible Persons.....additional \$100 per Participating Eligible Person plus travel costs
- 1-4 Participating Eligible Persons.....additional \$150 per Participating Eligible Person plus travel costs

At home Screening

Home Biometric Screening Option (within MI).....additional \$75 per Participating Eligible Person

Home Biometric Screening Option (outside of MI).....additional \$90 per Participating Eligible Person

Additional Testing

- Thyroid-Stimulating Hormone (TSH).....additional \$7.70 per Participating Eligible Person test
- Complete Blood Count (CBC).....additional \$6.45 per Participating Eligible Person test
- Prostate-Specific Antigen (PSA).....additional \$12.10 per Participating Eligible Person test
Male Participating Eligible Persons over age 40

Comprehensive Individual Health Coaching

- 3-month program.....\$75.00 per Participating Eligible Person

Additional Education Classes and/or Challenge Programs.....\$300.00

Notwithstanding anything to the contrary herein, services, other than the biometric screening services are subject to Section 4.10 regarding minimum participation requirements.



EXHIBIT D BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between the **Society of Manufacturing Engineers** (“Covered Entity”) and **Kapnick Insurance Group** (“Business Associate”), effective as of **January 1, 2024** (“Effective Date”).

WHEREAS, Covered Entity is a group health plan as defined in the administrative simplification provisions within the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191 (“HIPAA Privacy Rule and Security Rule”), as amended by the Health Information Technology for Economic and Clinical Health Act (“HITECH”), and regulations adopted thereunder (including the Omnibus Final Rule published on January 25, 2013) (all collectively referred to as the “HIPAA Rules”);

WHEREAS, Business Associate is an insurance broker that provides consulting services to plan sponsors and group health plans on matters related to employee benefits;

WHEREAS, Covered Entity possesses individually identifiable Protected Health Information (“PHI”), as that term is defined under the HIPAA Rules, and is permitted to use or disclose such information only in accordance with the HIPAA Rules;

WHEREAS, Covered Entity has retained Business Associate to perform a function or activity on behalf of Covered Entity that may require Business Associate to have access to PHI;

WHEREAS, Covered Entity desires to receive satisfactory assurances from Business Associate that it will comply with the obligations required of business associates under the HIPAA Rules, including without limitation, 45 C.F.R. §164.502(e) and §164.504(e), and the provisions of HITECH; and

WHEREAS, the parties wish to set forth, in writing, the manner in which Business Associate may use and disclose PHI in performance of its obligations, as well as the obligations of Covered Entity, in compliance with the HIPAA Rules.

NOW, THEREFORE, in consideration of the mutual promises set forth below, the parties hereby agree as follows:

A. USE AND DISCLOSURE OF PHI

Covered Entity hereby grants Business Associate permission to use, disclose, and request from third parties PHI on behalf of Covered Entity or an organized health care arrangement in which the Covered Entity is a member in order to:

1. Perform or assist in performing a function or activity regulated by the HIPAA Rules, including, but not limited to, claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, practice management, repricing, renewal or replacement of a contract, conducting planning-related analysis related to managing the employee benefit plans, and customer service.
2. Assist the Covered Entity's other business associates retained to provide legal advice, accounting, actuarial, consulting, data aggregation, management, administration, accreditation, or financial services to the Covered Entity or to an organized health care arrangement in which the Covered Entity participates.
3. Allow Business Associate to properly manage and administer the Business Associate’s organization or to carry out the legal responsibilities of the Business Associate.



4. Perform functions, activities, or services for, or on behalf of, Covered Entity as specified above, except as otherwise limited by this Agreement, or if such use or disclosure would violate the HIPAA Rules if done by the Covered Entity.

B. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

1. Use and Disclosure of PHI. Business Associate shall not use or further disclose PHI other than as permitted by this Agreement, or as required by law, or if such use or disclosure does not otherwise cause a Breach of Unsecured PHI.
2. Safeguards. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Agreement, including establishing procedures that limit access to PHI within its organization to those employees with a need to know the information.

In addition, Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of the Covered Entity, as required by the HIPAA Rules.

The requirements of 45 C.F.R. Sections §§164.308, 164.310 and 164.312 applicable to such administrative, physical and technical safeguards shall apply to Business Associate in the same manner that such sections apply to Covered Entity. Further, Business Associate shall implement, and maintain in written form, reasonable and appropriate policies and procedures to comply with the standards, implementation specifications or other requirements of the HIPAA Security Rule, in accordance with 45 C.F.R. §164.316, which shall apply to Business Associate in the same manner that such sections apply to Covered Entity.

3. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate as a result of a use or disclosure of PHI by Business Associate in violation of this Agreement or that would otherwise cause a Breach of Unsecured PHI.
4. Unauthorized Disclosures of PHI. Business Associate shall report to Covered Entity, any use or disclosure of PHI in violation of this Agreement by Business Associate, its officers, directors, employees, contractors, agents or by a third party to which Business Associate disclosed PHI, within ten (10) business days of becoming aware of it.

This section shall also apply to any Breach of Unsecured PHI, as defined in §164.402, within ten (10) business days of "discovery" within the meaning of HITECH and in accordance with the requirements of 45 C.F.R. §164.410. Notice of any such breach shall include the identification of any individual whose unsecured PHI has been, or is reasonably believed by Business Associate, to have been accessed, acquired or disclosed during such Breach. In addition, Business Associate shall provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach and any other available information that Covered Entity is required to include to the individual under 45 C.F.R. §164.404(c) at the time of notification or promptly thereafter as information becomes delayed. Business Associate's notification of a Breach of Unsecured PHI under this Section shall comply in all respects with the HIPAA Rules, related guidance issued by the Secretary or the delegate of the Secretary from time to time, and any other applicable regulations.

5. Security Incidents. Business Associate shall promptly report to Covered Entity any Security Incident, as defined in 45 C.F.R. §164.304, affecting Electronic PHI of Covered Entity of which it becomes aware, in accordance with the HIPAA Security Rule.
6. Agreements With Third Parties. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement and the HIPAA Rules to Business Associate with respect to such information.



7. Access to Information. Within ten (10) business days of a request by the Covered Entity for access to PHI about an individual contained in a Designated Record Set, Business Associate shall make available to the Covered Entity such PHI maintained in a Designated Record Set to the extent required under 45 C.F.R. §164.524 and permitted by the HIPAA Privacy Rule. In the event any individual requests access to PHI directly from the Business Associate, Business Associate shall respond to the request for PHI within ten (10) business days. Any denials of access to the PHI requested shall be the responsibility of the Business Associate. To the extent permitted by the HIPAA Privacy Rule, the obligations of Business Associate in this section apply only to a Designated Record Set in Business Associate's possession or control. To the extent required under HITECH, if the Business Association, on behalf of the Covered Entity, uses or maintains an electronic health records of an individual's HI, Business Association shall provide such information in an electronic format to the individual or Covered Entity upon request (or transmit such copy to an entity or person designated by the individual or Covered Entity), provide that any such choice is clear, conspicuous and specific.
8. Availability of PHI for Amendment. Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of the Covered Entity or an individual, and in the time and manner designated by Covered Entity. To the extent permitted by the HIPAA Privacy Rule, the obligations of Business Associate in this section apply only to a Designated Record Set in Business Associate's possession or control.
9. Inspection of Books and Records. Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Covered Entity, or at the request of the Covered Entity, to the Secretary of the U.S. Department of Health and Human Services or its designee (the "Secretary"), in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with HIPAA.
10. Accounting of Disclosures. To the extent Business Associate has PHI or Electronic PHI in its possession, Business Associate agrees to maintain and make available to the Covered Entity an accounting of disclosures of PHI as would be required for Covered Entity to respond to a request by an individual made in accordance with 45 CFR §164.528, as amended by HITECH and any regulations adopted thereunder, which describes the requirements applicable to an individual's request for an accounting of disclosures of PHI relating to the individual. Business Associate shall provide an accounting of disclosures made during the six (6) years prior to the date on which the accounting is requested (or during the three (3) years prior to the date the accounting is requested for PHI maintained in an electronic health record, beginning on the applicable effective date pursuant to the American Recovery and Reinvestment Act of 2009). At a minimum, the accounting of disclosures shall include the following information:
 - a. Date of disclosure,
 - b. The name of the person or entity who received the PHI, and if known, the address of such entity or person,
 - c. A brief description of the PHI disclosed, and
 - d. A brief statement of the purpose of such disclosure which includes an explanation of the basis of such disclosure.

In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall respond to the request within ten (10) business days. Any denials of a request for an accounting shall be the responsibility of the Business Associate. Business Associate agrees to implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section to the extent it is required to do so under HITECH.

11. Minimum Necessary. Business Associate agrees not to disclose PHI, except as described under this Agreement and to the extent permitted under the HIPAA Privacy Rule or HITECH, and will limit disclosure to the minimum necessary for purposes of the services provided by Business Associate.



12. Prohibition on Sale of PHI. Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI without a valid authorization permitting such remuneration, except where remuneration is otherwise permitted by law.
13. Standard Transactions (EDI). If Business Associate conducts standard transactions under the Electronic Data Interchange rules on behalf of Covered Entity, Business Associate will comply with the administrative simplification rules applicable to those transactions.

C. OBLIGATIONS OF COVERED ENTITY

1. Covered Entity shall comply with each applicable requirement of the HIPAA Rules.
2. Covered Entity shall provide Business Associate with the Notice of Privacy Practices that Covered Entity produces in accordance with 45 CFR §164.520, as well as any changes or limitations to such notice under 45 C.F.R. §164.520, to the extent that such changes or limitations may affect Business Associate's use or disclosure of PHI.
3. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures of PHI under this Agreement.
4. Covered Entity shall provide Business Associate notice of any restriction to the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by in accordance with 45 CFR §164.522 and HITECH, to the extent such restriction may affect Business Associate's use or disclosure of PHI under this Agreement.
5. Covered Entity shall provide Business Associate notice of any confidential communication request which the Covered Entity has agreed to in accordance with 45 CFR §164.522(b).

D. PERMISSIBLE REQUESTS BY COVERED ENTITY

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by the Covered Entity, except that Business Associate shall be permitted to use PHI as set forth in this Agreement.

E. TERMINATION

1. Term. The term of this Agreement shall begin on the Effective Date and shall remain in effect until terminated under Section E(2) of this Agreement.
2. Termination. This Agreement shall be terminated only as follows:
 - a. Termination For Cause by Covered Entity

This Agreement may be terminated by the Covered Entity upon fifteen (15) business days written notice to the Business Associate in the event that the Business Associate breaches any provision contained in Paragraphs A or B of this Agreement and such breach is not cured within such fifteen (15) day period; provided, however, that in the event that termination of this Agreement is not feasible in the Covered Entity's sole discretion, Business Associate hereby acknowledges that the Covered Entity shall have the right to report the breach to the Secretary, notwithstanding any other provision of this Agreement to the contrary.



b. Termination for Cause by Business Associate

This Agreement may be terminated by the Business Associate upon fifteen (15) business days written notice to the Covered Entity in the event that the Covered Entity breaches any provision contained in Paragraphs C or D of this Agreement and such breach is not cured within such fifteen (15) day period; provided, however, that in the event that termination of this Agreement is not feasible in the Business Associate's sole discretion, Covered Entity hereby acknowledges that the Business Associate shall have the right to report the breach to the Secretary, notwithstanding any other provision of this Agreement to the contrary.

c. Termination Due to Change in Law

Either party may terminate this Agreement effective upon thirty (30) days advance written notice to the other party in the event that the terminating party has sought amendment of this Agreement pursuant to Paragraph G(1) and no amendment has been agreed upon.

d. Termination Without Cause

Either may terminate this Agreement effective upon ninety (90) days advance written notice to the other party given with or without any reason.

3. Return or Destruction of PHI

Upon termination of this Agreement, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

Notwithstanding the above, to the extent that the Business Associate determines that it is not feasible to return or destroy such PHI, the terms and provisions of Paragraphs A, B and C shall survive termination of this Agreement and such PHI shall be used or disclosed solely for such purpose or purposes which prevented the return or destruction of such PHI.

F. DEFINITIONS

Catch-all Definition: Capitalized terms within this Agreement are intended to comply with the requirements for business associate agreements under the HIPAA Rules (*i.e.*, the Privacy, Security, Breach Notification and Enforcement rules at 45 C.F.R. Parts 160 and 164). Unless the context clearly indicates otherwise, the following terms in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information (Unsecured PHI) and Use.

Specific Definitions:

The following capitalized terms in this Agreement are defined in the text or as follows:

1. Business Associate, as defined at 45 CFR §160.103, and in reference to the party in this Agreement, shall mean **Kapnick Insurance Group**.
2. Covered Entity, as defined at 45 CFR §160.103, and in reference to the party in this Agreement, shall mean **Society of Manufacturing Engineers**.



3. Designated Record Set means a group of records maintained by or for the Covered Entity that is (a) medical records and billing records about individuals maintained by or for the Covered Entity, (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan, or (c) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. As used herein the term "record" means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for the Covered Entity.
4. Protected Health Information (PHI) has the same meaning as that term is defined in 45 CFR §160.103 and generally means individually identifiable health information that Business Associate receives from Covered Entity, or Business Associate creates or receives on behalf of Covered Entity for the purposes of performing consulting services as described herein, whether oral, written, or electronic, including electronic PHI, that:
 - a. is created or received by a health care provider, health plan, employer, or health care clearinghouse, and
 - b. relates to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual; and (1) identifies the individual or (2) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

G. GENERAL PROVISIONS

1. Amendment. This Agreement may be amended only by the mutual written agreement of the parties. The parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Covered Entity or Business Associate to comply with the requirements of HIPAA.

The parties acknowledge that HITECH includes significant changes to the HIPAA Privacy Rule and Security Rule. The Privacy Subtitle of HITECH sets forth provisions that significantly change the requirements for business associates and the agreements between business associates and covered entities under the HIPAA Privacy Rule and the Security Rule, and many of these changes were addressed in the HIPAA Omnibus Final Rule, and may be further clarified in future regulations and guidance. Each party agrees to comply with the applicable provisions of HITECH and any implementing regulations issued thereunder. Also, the parties agree to negotiate in good faith to modify this Agreement as reasonably necessary to comply with HITECH and its implementing regulations; provided, however, that if the parties are unable to reach agreement on such a modification, either party shall have the right to terminate this Agreement upon thirty (30) days prior written notice to the other party.

3. Remedies. The parties acknowledge that breach of Paragraphs A or B of this Agreement may cause irreparable harm for which there is no adequate remedy at law. In the event of a breach, or if either party has actual notice of an intended breach, such party shall be entitled to a remedy of specific performance and/or injunction enjoining the other party from violating or further violating this Agreement. The parties agree the election of the party to seek injunctive relief and or specific performance of this Agreement does not foreclose or have any effect on any right such party may have to recover damages.
4. Survival. Business Associate's obligation to limit its use and disclosure of PHI as set out in Paragraphs A and B survive the termination of this Agreement so long as Business Associate has PHI received during the performance of its services as described in this Agreement.
5. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan.
6. Assigns. Neither this Agreement nor any of the rights, benefits, duties, or obligations provided herein may be assigned by any party to this Agreement without the prior written consent of the other party.



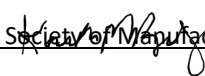
7. Third Party Beneficiaries. Nothing in this Agreement shall be deemed to create any rights or remedies in any third party.
8. Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the Covered Entity and/or Business Associate, as applicable, to comply with HIPAA.
9. Notices. Any notice given under this Agreement must be in writing and delivered via first class mail, via reputable overnight courier service, or in person to the parties' respective addresses as written below or to such other address as the parties may from time to time designate in writing.
10. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.
11. Headings. The headings used throughout this Agreement have no special significance.
12. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

The parties hereby acknowledge and agree to the terms of this Agreement consisting of a total of seven (7) pages, including this signature page, which together represent an Agreement between the parties concerning use and disclosure of Protected Health Information.

IN WITNESS WHEREOF, the undersigned have executed this Agreement.

COVERED ENTITY

BUSINESS ASSOCIATE

Society of Manufacturing Engineers

 Signed: _____
 Date: 12/22/2023
 Name: Katie Borgula
 Title: _____

 Acting on behalf of the Covered Entity
 in its capacity as Plan Administrator
 1000 Town Center Suite 1910
 Address: Southfield, MI

Kapnick Insurance Group

 Signed: _____
 Date: 12/22/2023
 Name: Angela Dean
 Title: President, Benefits Division
 Address: 333 Industrial Drive
Adrian, MI 49221

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Summary

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