

**Spirometry 360® *Spirometry Learning Lab***

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*UW CoMotion Express License*

**License Fee:**

You will find the license fee structure for Spirometry 360™ *Spirometry Learning Lab* in Exhibit B “Fees and Payment” of the attached license agreement.

To complete the license:

- a. **PRINT** the attached license agreement form.
- b. **COMPLETE & SIGN** the agreement.
- c. **MAIL, FAX, or EMAIL** the signed agreement to us.
- d. UW CoMotion will review the agreement, countersign it, or contact you. Once the Agreement below is signed by UW, the agreement will be sent back to you with an invoice.
- e. Payment: Once you receive the invoice, please mail the license fee to:  
Express Licensing Program  
UW CoMotion  
University of Washington  
4545 Roosevelt Way NE, Suite 400  
Seattle, WA 98105-4608  
Phone: (206) 543-3970  
Fax: (206) 616-3322  
Email: [license@uw.edu](mailto:license@uw.edu)
- f. Password-protected access will be sent to you after payment is received by UW.

Please contact our office if you have any questions about this process, [license@uw.edu](mailto:license@uw.edu)

## License Agreement

### Spirometry 360™ *Spirometry Learning Lab*

This Spirometry 360™ *Spirometry Learning Lab* License Agreement ("Agreement") is entered into as of the Effective Date between \_\_\_\_\_, with its office at \_\_\_\_\_ ("ORGANIZATION") and the University of Washington, an institution of higher education and an agency of the State of Washington with its office at UW CoMotion, Technology Licensing, 4545 Roosevelt Way NE, Suite 400, Seattle WA 98105-4608 ("UW"). UW and ORGANIZATION agree as follows, effective as of the latest date upon which this Agreement is fully executed ("Effective Date"):

#### Background

UW's interactive Medical Training Resources ("iMTR") Project under the supervision of Professor James Stout, MD, iMTR Principal and Supervisor has developed a comprehensive web-based spirometry training program ("Program") that includes training resources and access to the Spirometry 360™ *Spirometry Learning Lab* website identified in Exhibit A "Program Services".

Spirometry is a breathing test that involves exhaling forcibly into a mouthpiece attached to a diagnostic spirometer, which then calculates and records several measures of lung function ("Spirometry"). UW desires that the Program be used as soon as possible in the public interest, and to this end desires the Program be used to facilitate delivery of Spirometry-related training and health care services to patients and clients.

The ORGANIZATION desires to make the Program available to employees of the ORGANIZATION at designated Sites that administer spirometry tests and/or provide treatment and other services related to Spirometry as part of the ORGANIZATION internal spirometry training and healthcare services are administered ("Internal Training").

UW and the ORGANIZATION desire to set forth herein the terms governing the ORGANIZATION access to and use of the Program.

**No confidential client or patient protected health information is used or exchanged in the Program Services.**

#### 1. Definitions

- 1.1. "Authorized User" or "User" means employees of the ORGANIZATION and/or those persons authorized by the ORGANIZATION Sites, including at the Organization's affiliate Sites, to participate in the Program for the Internal Training purposes.
- 1.2. "Delivery Date" means the date the Program Contact notifies ORGANIZATION that it may access Server and use the Program by sending login/password(s) to ORGANIZATION.
- 1.3. "Program Contact" means the UW Spirometry 360™ Spirometry Learning Lab technical contact identified below:

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Spirometry 360™ *Spirometry Learning Lab* Program Contact

interactive Medical Training Resources (iMTR)

University of Washington

Box 354920

Seattle, WA 98195-4920

Email: [imtr@uw.edu](mailto:imtr@uw.edu)

Phone: 206-685-9699

Facsimile: 206-616-4623

UW may change the Program Contact information upon written notice to the ORGANIZATION.

- 1.4. “Program Services Period means the one year term when ORGANIZATION may (a) access the Web Service; (b) receive Program Services as defined in Exhibit A “Program Services”.
- 1.5. "Site(s)" means ORGANIZATION-designated Sites, including Sites affiliated with and/or designated by the ORGANIZATION as Sites from which Authorized Users may use the Program Services and shall only include those locations listed in Exhibit C of this Agreement.
- 1.6. “Site User Representative" means the person listed in Exhibit C of this Agreement.
- 1.7. "Spirometry 360™ Spirometry Learning Lab Program Feedback" means comments and/or written communication by the Authorized User and/or the ORGANIZATION on the nature of the ORGANIZATION deployment of the Program Services.
- 1.8. “User-Information” means comments and/or written communication by the Authorized User and/or the ORGANIZATION along with reported hours of participation by the Users as submitted to the Program in full or in partial participation of the Authorized User in the Program Services.
- 1.9. “Web Service” means UW computer server or web cloud-based internet storage services on which the Program Services are remotely accessed by the Internet and through which Program Services are provided.

## **2. Permissions, Ownership and Acceptable and Unacceptable Uses**

- 2.1. Commencing on Delivery Date and continuing until termination of this Agreement and for so long as ORGANIZATION complies with the terms of this Agreement, UW hereby grants to the ORGANIZATION and the ORGANIZATION hereby accepts, a limited, non-transferable, non-exclusive license to use the Program Services solely for Internal Training purposes.
- 2.2. The ORGANIZATION agrees that the foregoing permission shall not be interpreted as granting ORGANIZATION any proprietary ownership, interest or right in the Program Services either during this Agreement or upon its termination for any reason. ORGANIZATION agrees not to remove or obscure rights management markings, such as copyright or trademark notices and patent numbers, from Program Services or printouts from Program Services.
- 2.3. The ORGANIZATION shall not sublicense, sell, display, lend, rent, lease or otherwise transfer all or any of its rights under this Agreement, including the permission to access and use the Program Services, nor shall it copy or duplicate any screens or user interfaces in the Program Services, except as specified for the Sites as per this Agreement.
- 2.4. The ORGANIZATION and Authorized Users shall use the Program Services, and access to the Web Service only for Internal Training under the terms of this Agreement and all such uses shall be in compliance with all applicable laws and only for lawful purposes.
- 2.5. The ORGANIZATION is responsible for obtaining releases, permissions and or any other document that it requires so that Authorized Users of the ORGANIZATION may participate in the Program Services.
- 2.6. The ORGANIZATION Sites further agree not to circumvent any authentication or security

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requirements established by the Program Contact or to engage in any activity that would cause harm to Web Service or the UW's computer network, including without limitation any form of hacking, interference, probing or scanning. The ORGANIZATION understands that any such violation is a material breach of this Agreement and may result in immediate suspension of Web Service access and termination of this Agreement by UW.

- 2.7. This Agreement does not grant permission to use the trade names, identifiers, trademarks, service marks, or product names of the UW, Spirometry 360™ Spirometry Learning Lab, Spirometry Fundamentals to the ORGANIZATION, except as required for reasonable and customary use in describing the origin of the Program and the Program Services. All goodwill associated with the Spirometry 360™ Spirometry Learning Lab Program and the Program Services and UW marks and identifiers shall inure to UW. The ORGANIZATION shall not use the name "University of Washington," its logo, marks, or any abbreviation thereof to without prior written approval from UW except as otherwise expressly provided in this Agreement.

### **3. Delivery and Access; Interruptions and Program Services Resources**

- 3.1. On Delivery Date, UW shall provide to the ORGANIZATION and the Sites, the Program Services as identified in Exhibit A. Authorized Users may gain access to Program Services and Web Service at reasonable times and for reasonable periods for the purpose of using the Program Services as identified in Exhibit A "Program Services".
- 3.2. Access to the Program Services and the Web Service may be interrupted for maintenance and upgrades to the Program Services and/or the Web Service. When possible, the interruptions will be announced in advance. Access to the Program Services, as appropriate, and the Web Service shall be controlled through an individual login and password assigned to each Authorized User.
- 3.3. The ORGANIZATION understands and agree that access to the Web Service and network to which it is attached is subject to interruptions due to factors beyond the control of the Program Department and that, despite the Program's best efforts, the Web Service and network to which it is attached may not be error free or free from viruses, malicious code or other harmful components.

### **4. Conditions and Additional Agreements**

- 4.1. The ORGANIZATION agrees that all computers from which the Web Service is accessed will have installed currently updated security and anti-virus protection software.
- 4.2. Access to the Web Service and Data and use of the Program Services are strictly limited to Authorized Users. In no event shall the ORGANIZATION permit third parties or persons who are not Authorized Users to access the Web Service or to use the Program Services. The ORGANIZATION may substitute or add Authorized Users by prior written agreement with the Program Contact.
- 4.3. The ORGANIZATION shall request and implement a new password to Program Services and or Spirometry Data Storage as necessary, such as in the event of termination of an Authorized User, or if the ORGANIZATION terminates the participation of a ORGANIZATION-designated Site.
- 4.4. The ORGANIZATION shall provide to Program Contact a list of the Authorized Users for Program Services and/or a list of substitute Authorized Users within 30 days of the Delivery Date.

### **5. Debugging and Support; Feedback**

- 5.1. During the term of this Agreement, UW shall endeavor to correct program defects in and provide modifications to the Program Services. UW agrees to provide support by answering electronic or telephonic inquiries from the ORGANIZATION and Authorized Users to the Program Contact on an "as-available" basis. Under this Agreement, the entire scope and extent of the foregoing services shall not exceed the outline of activities in Exhibit A "Program Services". Additional extension of resources, programming time, additional Program Services or Program personnel and resources shall be by prior written mutual agreement ("Additional Technical Services").
- 5.2. The ORGANIZATION hereby agrees that UW may contact the ORGANIZATION employees and

representatives at mutually convenient times to request Spirometry Learning Lab Program Services Feedback to assist UW in its development of Program and Program Services.

## **6. Term, Termination and Suspension**

- 6.1. The term of this Agreement shall be for one year from the Effective Date (“Term”).
- 6.2. The ORGANIZATION may terminate this Agreement at any time upon 30 business days written notice to UW.
- 6.3. UW may terminate this Agreement upon 10 business days written notice if ORGANIZATION or an ORGANIZATION-designated Site(s) materially breaches any provision of this Agreement following failure within 10 business days of a written demand by UW to cure such breach. Program Contact may at any time suspend access to Web Service by ORGANIZATION and Sites or any Authorized User if Program Contact determines such suspension is necessary for reasons of Web Service security or protection of Program Services’ materials.
- 6.4. Termination of this Agreement for any reason shall terminate all rights and permissions granted to Program Services.
- 6.5. The obligation to pay Fees survives Termination of this Agreement and the Activation Fee is non-refundable.
- 6.6. Upon Termination, the ORGANIZATION shall certify in writing to University of Washington within 10 days after termination that passwords and documentation related to the Program Services on the Web Service and all modification thereof have been destroyed.
- 6.7. This Agreement may be extended upon prior written mutual agreement of the ORGANIZATION and UW.

## **7. Disclaimers and Limitations**

- 7.1. The ORGANIZATION is knowledgeable about healthcare assessment and professional development and with independent means of assessing performance evaluation of Authorized Users other than the Program Services. The Program Services are not intended to be used as the sole indicator of individual or group performance for evaluation or determination of professional fitness or advancement. The Program Services are not a substitute for independent assessment of Authorized Users by the ORGANIZATION or its Sites based on the Organization’s independent determination of individual or group professional development plans and training recommendations, or the professional fitness for advancement for Authorized Users.
- 7.2. The ORGANIZATION agrees that the Program Services have been developed as part of and for use in research conducted at UW. The ORGANIZATION acknowledges and understands that Program Services are information tools and that any analyses, reports and other information contained in or produced by the Program Services are intended as a supplement to, and not a substitute for, the knowledge, expertise, skill and judgment of health care professionals. In no event shall the Program Services or any services provided by UW under this Agreement be considered to be any form of medical care, treatment or therapy to the ORGANIZATION or to the Sites’ patients or clients.
- 7.3. THE PROGRAM SERVICES ARE PROVIDED "AS-IS" AND EXCEPT AS EXPRESSLY SET FORTH HEREIN, UW MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND HEREBY DISCLAIMS ALL SUCH WARRANTIES AS TO ANY MATTER WHATSOEVER INCLUDING, WITHOUT LIMITATION, ALL MATTERS WITH RESPECT TO THE PROGRAM SERVICES. UW SHALL NOT BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, LOST PROFITS, OR OTHER DAMAGES SUFFERED BY THE ORGANIZATION OR ANY THIRD PARTIES RESULTING FROM THE USE OF THE PROGRAM SERVICES, INCLUDING ANY LOSS OR CORRUPTION OF DATA. IN NO EVENT SHALL UW BE RESPONSIBLE OR LIABLE FOR ANY CLAIM FOR PUNITIVE OR EXEMPLARY DAMAGES OR LOST PROFITS OR ANY OTHER FORM OF CONSEQUENTIAL DAMAGES ARISING FROM ANY ALLEGED

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BREACH OF THIS AGREEMENT BY UW. ORGANIZATION HEREBY RELEASES UW, ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, FACULTY, AND STUDENTS FROM ALL CLAIMS RELATING TO THE FOREGOING.

7.4. The ORGANIZATION acknowledges that UW is an agency of the State of Washington and has obligations to maintain public records under RCW 42.56 et seq. If UW receives a public disclosure request Authorized User's access to the Web Service or any part thereof, UW shall notify the ORGANIZATION of the request. UW may in good faith, and at its sole discretion, respond to any such request, and in so doing, any release of information by UW that UW reasonably determines is not exempt from public disclosure shall not be deemed a breach of this Agreement.

**8. Notices**

8.1. Notices, requests and other communication required or permitted under this Agreement shall be in writing, shall refer specifically to this Agreement, and shall be deemed delivered upon receipt. If sent by email or facsimile (provided that a transmittal sheet indicates confirmation), or other electronic transmission, a confirmation copy will be forwarded. Any such notices, requests, and other communications shall be addressed as follows:

Official Notices to be sent to the ORGANIZATION:	Attn: _____ Title: _____ Address: _____ _____ Fax: _____ Email: _____
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Official Notices to be sent to UW:	University of Washington UW CoMotion Attn: Director Technology Licensing 4545 Roosevelt Way NE, Suite 400 Seattle, WA 98105 Fax: 206-616-3322 Email: <a href="mailto:license@uw.edu">license@uw.edu</a>
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8.2. UW or the ORGANIZATION, by notice, may change the address to which notice will be sent and unless so notified of a change of address all notices mailed to the ORGANIZATION or UW at the above stated address will be deemed sufficient.

**9. Fees and Additional Technical Services and Customization**

The ORGANIZATION shall pay to UW Fees as set forth in Exhibit B “Fees and Payment”, due and payable upon execution of this Agreement.

**10. Indemnification**

To the extent allowed by law, ORGANIZATION shall indemnify and hold harmless UW, and its officers, Program Services’ developers, employees, students, and agents, against any and all claims, suits, losses, damages, costs, fees, and expenses resulting from Organization’s possession and/or use of the Program Services, including but not limited to any damages, losses, or liabilities whatsoever with respect to death or injury to any person and damage to any property. This indemnification clause shall survive the termination of this Agreement.

**11. General**

11.1. This Agreement shall be construed in accordance with, and its performance shall be governed by, the laws of the State of Washington, United States. Any suit, action, or proceeding arising out of or relating to this Agreement shall be decided in King County, Washington, U.S.A. ORGANIZATION accepts the venue and jurisdiction of the Federal District Court of Western Washington, Seattle, or the

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King County Superior Courts. The application of the United Nations Convention for contracts for the International Sales of Goods is hereby expressly excluded.

- 11.2. No omission or delay of either party hereto in requiring due and punctual fulfillment of the obligations of any other party hereto shall be deemed to constitute a waiver by such party of its rights to require such due and punctual fulfillment, or of any other of its remedies hereunder. Amendments to this Agreement must be in writing, reference this Agreement, and be signed by duly authorized representatives of UW and ORGANIZATION. Headings are provided for convenience only.
- 11.3. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be in any way affected or impaired thereby.
- 11.4. This Agreement and the rights and benefits conferred upon ORGANIZATION hereunder may not be assigned or otherwise transferred by ORGANIZATION without the prior written consent of UW. This Agreement may be assigned by UW.
- 11.5. Failure of UW to perform or delay in the performance of UW's obligations under this Agreement due to any cause or event not reasonably within UW's control, including but not limited to casualty, labor disputes, failure of equipment, compliance with government authority or Act of God, shall not constitute a breach of this Agreement, and UW's performance shall be excused during such delay.
- 11.6. This Agreement embodies the entire understanding of the parties and supersedes all previous communications, representations, or understandings, either oral or written, between the parties relating to the subject matter hereof.

UW and ORGANIZATION have executed this Agreement by their respective duly authorized representatives on the dates given below.

**For University of Washington**

**For ORGANIZATION**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A:**

**Spirometry 360™ *Spirometry Learning Lab Program Services***

A.1 Spirometry 360™ Spirometry Learning Lab Program Services shall include the following services and training resource materials with input and/or information provided by the ORGANIZATION as required to deploy UW Program Services:

<b>Program Services</b>	<b>Description</b>	<b>Format/Notes on Program Services</b>	<b>Information to be Provided by the ORGANIZATION</b>
<i>Spirometry Fundamentals</i>	A basic guide to lung function testing in a computer-based, self-paced instructional program in web-based format	Password-controlled access to Spirometry Fundamentals on the Spirometry 360™ <i>Spirometry Learning Lab</i> Website Access: 6 months from the date Authorized User receives login/password	Number of Authorized Users
<i>Spirometry 360™ Spirometry Learning Lab Case Based Teaching</i>	<ul style="list-style-type: none"> <li>• Case-based teaching of spirometry in four (4) ninety (90) minute sessions via interactive web learning management system.</li> <li>• Discussion of clinical cases and curve quality and common obstacles to correct coaching and interpretation.</li> </ul>	Interactive web learning management system delivered course sessions are available at your convenience.	Contact information for Authorized Users



**EXHIBIT B:**

**FEES AND PAYMENT**

B 1 Licensee shall pay to UW, “Fees” according to the instructions below, in the following amounts:

B 1.1 Table of Fees shall be:

	<b>Number of Users</b>	<b>Per Authorized User</b>	<b>Fees</b>
Learning Lab		\$250	\$

Total Fees	\$
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B 1.2 Fees for any Additional Technical Services and Customization Fees shall be negotiated by prior written mutual agreement.

B 2 Payment shall be made on the following schedule:

B 2.1 All Fees for Program Services are payable in US Dollars full within 30 days of the invoice from UW.

B 2.2 Fees for Additional Technical Services And Customization shall be payable in two equal installments: an initial fee payable prior to the start of the Additional Technical Services or customization; and the remaining fee at the submission of Program’s report of completed Additional Technical Services or customization to the ORGANIZATION.

**NOTE: Sponsored Fees**

If your Organization has been informed that its FEES will be sponsored, please insert the name of the sponsor here: \_\_\_\_\_

**EXHIBIT C:  
ORGANIZATION- Sites and Authorized Users  
List the name of each Site and provide its physical street address**

Site Name	
Site User Representative/Contact for Authorized Users	
Street Address	
Contact for Site	
Name Title Email Phone Mailing Address	
Authorized User	Authorized User
Name Title Email Phone	Name Title Email Phone
Authorized User	Authorized User
Name Title Email Phone	Name Title Email Phone
Authorized User	Authorized User
Name Title Email Phone	Name Title Email Phone
Authorized User	Authorized User
Name Title Email Phone	Name Title Email Phone