

Instructions for Spirometry 360®- License Agreement

UW CoMotion Express License

To complete the license, please:

1. PRINT

Print the attached license agreement form.

2. COMPLETE & SIGN

Complete the contact information, Exhibits B and C and sign the agreement.

3. MAIL, FAX, or EMAIL

Fax, email, or send the signed agreement to:

Express Licensing Program
UW CoMotion
University of Washington
4545 Roosevelt Way NE, Suite 400
Seattle, WA 98105-4608
Fax: (206) 616-3322
Email: license@uw.edu

4. 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.

5. 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

** Remember to indicate the invoice number on your check.*

6. Access to Spirometry 360 Program Services will begin after UW receives payment for the fees.

License Agreement

Spirometry 360®

This Spirometry 360® 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, MPH, is actively conducting research into methods that advance health care professionals' knowledge of procedures in order to improve the quality of patient care ("Program"). Program has developed comprehensive web-based spirometry training tools that include training resources and access to the Spirometry 360 website as identified in Exhibit A "Program Services". Credits from UW for continuing medical/nursing education credits are available upon successful completion of the Program.

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 Program Services available solely to its employees of the as part of the ORGANIZATION's internal spirometry training and healthcare services efforts ("Internal Training").

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

NOTE: 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 or employees of the Sites authorized by the ORGANIZATION identified in Exhibit C.
- 1.2. "Data" means de-identified examples of spirometry-related tests with information as identified in Exhibit D provided by the ORGANIZATION or its Sites to UW for the purpose of participating in the Program Services. No confidential client or patient protected health information shall be submitted to UW by the ORGANIZATION in the course of the Program Services. The de-identified "Data" may be electronically uploaded and temporarily stored on Web Service during the Term of the Agreement and accessed through the Program Services.
- 1.3. "Delivery Date" means the first business day of the month after the License Fee indicated in Exhibit B "Fees and Payment" is received and will continue from that date for the Program Services Period.
- 1.4. "Program Contact" means the UW technical contact identified below

Spirometry 360™ Program Contact:

interactive Medical Training Resources (iMTR)
University of Washington

Box 354920
Seattle, WA 98195-4920
Email: imtr@uw.edu
Phone: 206-685-9699 Facsimile: 206-616-4623

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

- 1.5. "Program Services Period" means 6 Months from the Delivery Date when ORGANIZATION may (a) access the Server; (b) store Data on Server; and (c) receive Program Services.
- 1.6. "Site(s)" means street addresses, listed in Exhibit C "ORGANIZATION Sites and Authorized Users" of this Agreement, of ORGANIZATION and ORGANIZATION affiliate facilities from which Authorized Users are allowed to access the Program Services.
- 1.7. "Site User Representative" means the person listed in Exhibit C "ORGANIZATION Sites and Authorized Users" of this Agreement, or such other person or persons subsequently authorized by ORGANIZATION in writing to deploy the Program Services at the Site designated to be the primary contact for the Program Services Contact.
- 1.8. "Spirometry 360 Program Feedback" means comments and/or written communication by the Authorized User and/or the ORGANIZATION regarding the Program Services.
- 1.9. "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 and in awarding continuing medical education credits.
- 1.10. "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 for Authorized Users to access the Program via the internet, upload Data to website or send it to the iMTR Program Contact, and copy output from Program Services at the Sites 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, lend, rent, lease or otherwise transfer all or any of its rights under this Agreement, including the right 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 in 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. ORGANIZATION acknowledges that the purpose and objective of the Agreement is for UW to provide Program Services to the ORGANIZATION for its Internal Training, and not for the UW to

provide, either directly or indirectly, any form of treatment or care to or second opinion for any patient or person receiving care. The parties agree that nothing in this Agreement shall be deemed to create any form of professional relationship, including, without limitation, that of physician- patient or therapist-client, between UW and the ORGANIZATION's patients, and that the ORGANIZATION shall retain sole and exclusive responsibility and make all decisions for the care of its patients and clients. In no event shall the UW, its employees, agents, or officers provide any Program Services under this Agreement in the form of medical care, treatment or therapy to ORGANIZATION's patients or clients.

- 2.6. The ORGANIZATION is solely responsible for obtaining clearance from its internal administration for any Data submitted in the course of the Program Services. UW will not hold designated record sets as defined under the U.S. Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder ("HIPAA"), nor medical records as defined under state law. The ORGANIZATION is responsible for compliance with all laws, rules, and regulations applicable to its spirometry-related services. UW is not a Business Associate as defined under 45 CFR §164.105(b)(1). See reference at: <http://www.hhs.gov/ocr/privacy/hipaa/understanding/summary/index.htm>
- 2.7. The ORGANIZATION is responsible for obtaining releases, permissions and or any other document that in the sole discretion of the ORGANIZATION it may require so that its Authorized Users may participate in the Program Services.
- 2.8. The ORGANIZATION further agree not to circumvent any authentication or security requirements established by UW or to engage in any activity that would cause harm to Server 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.
- 2.9. This Agreement does not grant permission to use the trade names, identifiers, trademarks, service marks, or product names of the UW, Spirometry 360, or 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 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 Program Services to the ORGANIZATION. 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. 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.
- 3.2. 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. ORGANIZATION understands and agrees 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 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 Data 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 as necessary, such as in the event of termination of an Authorized User, or if the ORGANIZATION terminates the participation of a Site.
- 4.4. The ORGANIZATION shall provide to Program Contact a list of the Authorized Users for Program Services or, if necessary, an updated 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 services or access to 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 information on deployment of the Spirometry 360 Program Services by the ORGANIZATION to assist UW in its development of the UW iMTR Program and Program Services.

6. Term, Termination and Suspension

- 6.1. The term of this Agreement shall be the Program Services Period ("Term").
- 6.2. The ORGANIZATION may terminate this Agreement at any time upon 30 business day's written notice to UW.
- 6.3. UW may terminate this Agreement upon 10 business days written notice if ORGANIZATION or 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 immediately terminate all rights and permissions granted to Program Services.
- 6.5. The obligation to pay Fees survives Termination of this Agreement.
- 6.6. 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 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 for Data or 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: _____

 Phone: _____ Fax: _____
 Email: _____

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: license@uw.edu

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 defend, indemnify, defend 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 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

By: _____

Name: _____

Title: _____

Date: _____

For ORGANIZATION

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A:

Spirometry 360™ Program Services

A.1 Spirometry 360 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 that will start on the Delivery Date and continue through the Program Services Period of 6 months.

Program Services	Description	Format/Notes on Program Services	Service available to:	Information to be Provided by the ORGANIZATION
<i>Spirometry Fundamentals</i>	A basic guide to lung function testing in a computer-based, self-paced instructional program in a web-based format	Password-controlled access to Spirometry Fundamentals on the Spirometry 360™ Website	Authorized Users Access: 6 months from Delivery Date	Contact information for Authorized Users
<i>Spirometry 360™: Learning Lab</i>	<ul style="list-style-type: none"> • Case-based teaching of spirometry in 4 (four) 90 minute sessions via interactive web learning management system • Discussion of clinical cases and curve quality and common obstacles to correct coaching and interpretation. 	Interactive web learning management system delivered course sessions are available at your convenience	Unlimited ORGANIZATION Authorized Users access to the interactive web learning management system delivered course sessions. Access: 6 months from Delivery Date	Contact information for Authorized Users
<i>Spirometry Feedback</i>	<p>UW-provided analysis of Spirometry curve data from Authorized Users;</p> <ul style="list-style-type: none"> • Monthly reports on the analysis of spirometry curve data by ORGANIZATION; • Comparative reports on Spirometry tests performed by all of the Authorized Users from ORGANIZATION • Spirometry Data Storage Services 	<ul style="list-style-type: none"> • Remote over reading of Spirometry curves by Program • Personalized reports for each Spirometry administrator designated by the ORGANIZATION • Monthly reports per Site for 5 months during Program Services Period 	Two (2) Authorized Users per Site who administer Spirometry tests Access: Authorized Users may submit Spirometry Curve data over 5 of the months of the Program Services Period	<ul style="list-style-type: none"> • Contact information for Authorized Users; • Technical and/or the substitute- Authorized Users; • Specifications for the Spirometry medical devices used by the ORGANIZATION; • UW Program Services password controlled access to the ORGANIZATION's Microsoft™ Access™ database of Data • De-identified spirometry curves from the ORGANIZATION sent to the iMTR Program Services Manager during the 5 months of the program.
Continuing Medical Education Credits	Maximum of 7.5 AMA PRA Category 1 Credits™	UW School of Medicine designates Spirometry 360 for AMA PRA Category 1 Credits™	Individual Authorized User	Upon completion of the Program Services, the UW Program Contact will contact the ORGANIZATION to send the appropriate forms to the Authorized User
Continuing Nursing Education Credits	Maximum of 7.5 contact hours for completion of	UW CME School of Nursing is accredited as a provider of continuing	Individual Authorized User	Upon completion of the Program Services, the UW Program Contact will contact

	Spirometry 360	education by the American Nurses Credentialing Center's Commission on Accreditation.		the ORGANIZATION to send the appropriate forms to the Authorized User
Maintenance of Certification Part 4 (MOC)		Through Seattle Children's Hospital, participation in Spirometry 360 Program Services is an approved project for MOC Part 4 requirements for the American Board of Pediatrics and Family Medicine	Individual Authorized User \$50 administrative fee to Seattle Children's at the end of the course for qualifying participants.	Upon completion, Authorized Users may apply to Seattle Children's Hospital for Certificate. Information on the process and address for submitting the request for MOC Part 4 certification will be provided during the Program Services

EXHIBIT B:

FEES AND PAYMENT

For your information, these are the 2015 Fees for Program Services. Future Fees for Program Services may change. Consult the posted Spirometry 360 License posted at: http://c4c.uwc4c.com/express_license_technologies/spirometry-360 for updated schedule of Fees. Please contact license@uw.edu to arrange subsequent licenses for Program Services.

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

B1.2 Table of Fees shall be:

Type of Spirometer	Fee Schedule	Total # of Users	Fee for 1-3 users	Additional User Fees (if applicable)	Total License Fee
ndd-EasyOne® Spirometer	1-3 users - \$2,000 +\$250.00 for each additional user.		\$2,000	\$	\$
Other Type of Spirometer	1-3 users - \$2,500 + \$250.00 for each additional user.		\$2,500	\$	\$

B.1.3 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.

EXHIBIT C:

ORGANIZATION- Sites and Authorized Users & Information on Spirometer

Copy and complete this form for each Site.

List the name of each Site and provide its physical street address.

Site Name		
Site Street Address		
Information on Diagnostic Spirometer	If an EasyOne®, please include your serial number here _____ (The serial number is located on the bottom of the device)	If not an EasyOne®, list other brand of spirometer? _____ _____
Site User Representative Name Title Email Phone Mailing Address		
Authorized User: Name Title Email Phone		
Authorized User: Name Title Email Phone		
Authorized User: Name Title Email Phone		
Authorized User: Name Title Email Phone		

EXHIBIT D:

Example of Data provided by the ORGANIZATION that shall include:

