

Instructions for UW CoMotion Express License

To complete the license, please:

- 1. PRINT**
Print the attached license agreement form.
- 2. COMPLETE & SIGN**
Complete the contact information, including all Exhibits.
- 3. MAIL, FAX, or EMAIL**
You must send ALL OF THE PAGES of the license to CoMotion. Do not only send UW the signature page. We must have ALL of the pages returned. 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
Fax: (206) 616-3322
Email: license@uw.edu

- 4.** 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. An invoice will be sent to you by our CoMotion Finance in a separate email.
- 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
Phone (206) 543-3970

** Remember to indicate the invoice number on your check.* You can also pay via P.O or wire transfer. There is a \$30 fee for wire transfer. After you receive your copy of the executed agreement, contact ipfin@uw.edu to set up a wire transfer or P.O.

- 6.** Access will begin after UW receives payment for the fees.

Spine Lumbar Fusion Outcomes Calculator

End User License Agreement

This Spine Lumbar Fusion Outcomes Calculator End User License Agreement ("Agreement") is made between CoMotion, University of Washington, a public institution of higher education and an agency of the state of Washington, ("UW") and _____ the entity or individual ("End User").

BACKGROUND

The Calculator was developed by the University of Washington, Comparative Effectiveness Research Translation Network ("CERTAIN") by David R. Flum, MD, MPH, Sara Khor, MASc and Danielle Lavallee, PharmD, PhD, via disclosure UW #48258. The Calculator facilitates discussion among physicians and patients regarding potential pain and function improvements after lumbar fusion one year after surgery.

CALCULATOR

The Calculator includes:

- Text version of the logic developed for the Calculator;
- Software code and user interface graphics to display the questions and produce output using the values entered into the Calculator;
- Two hours of technical assistance from CERTAIN related solely to the Calculator's logic;
- Updates to the Calculator at the sole discretion of CERTAIN and on an as available basis Future and ongoing studies may modify and improve the predictive power of the Calculator. Users will gain access to the most current versions of the Calculator as they are released by CERTAIN. (Calculator").

The Calculator is the intellectual property of the University of Washington and is protected by copyright laws and international treaties. The Calculator is licensed to individuals involved in health care, or administrators of health care organizations on behalf of the individuals ("End Users") by UW on the terms and conditions set forth below.

1. License Grant

Provided that End User pays the license fee and conforms to the terms and conditions of this Agreement, UW hereby grants, and End User accepts the following rights:

- a) Non-transferable, non-exclusive license to access, display, perform the Calculator for internal use in End User's healthcare practice and/or agency;
- b) Distribute the Calculator via End User's internal healthcare information services and information platforms;
- c) Modify the user interface software by substituting other user interface software; adding practice/agency name and logo; or by adapting the interface for your medical/web delivery platform.

2. Restrictions

End Users may not make modifications to the underlying algorithm of the Calculator content or format of the Calculator's logic. End Users do not have the right to sub-license the Calculator to other entities or individuals ("Third Parties"). End Users may not use the Calculator to alter the logic to develop a separate Calculator and may not market the Calculator or present themselves as the developer of the Calculator.

End User shall gain no ownership in the Calculator and shall retain in the Calculator the copyright, trademark, or other notices pertaining to the Calculator as provided by UW. The copyright information and citation of the Calculator may not be altered or changed. The following citation must be included in the credits or attribution pages for the Calculator: "The Spine Lumbar Fusion Outcomes Calculator was developed by CERTAIN and is reproduced and is licensed from the University of Washington."

UW reserves the right to modify or make improvements in Calculator at any time without notice.

End User shall not submit confidential client or patient protected health information to UW.

End User agrees 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 End User's patients, and that the End Users 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 services under this Agreement in the form of medical care, treatment or therapy to End User's patients.

3. Fee, Delivery and Format

License fee for rights under this Agreement is an initial fee of \$5000 ("Initial Fee") for 1 year ("Term"). The Initial Fee is due and payable upon execution of this Agreement. Renewal of this Agreement requires payment of \$1000/per year ("Renewal Fee") provided UW sends End User an invoice for renewals and End User's timely payment of the Renewal Fee is received by UW. Fee is due and payable as identified in Schedule A.

Upon execution of this Agreement and receipt of license fee, UW will send instructions on accessing the Calculator to the End User at the email address provided below within 3 business days.

Under this Agreement, the entire scope and extent of the foregoing services shall not exceed the outline of activities in the Calculator.

End User hereby agrees that UW may contact End User at mutually convenient times to request information on deployment of the Calculator by the End User to assist UW in its development of the Calculator.

4. Termination

End User may terminate this Agreement at any time upon written notice to UW. UW may terminate this Agreement if End User is in default of any of its obligations set forth herein and fails within 30 days of a written demand for performance to cure such default.

The provisions under which this Agreement may be terminated will be in addition to any and all other legal remedies which either party may have for the enforcement of any and all terms hereof, and do not in any way limit any other legal remedy such party may have.

Termination of this Agreement will terminate all rights and licenses granted to End User relating to Calculator. End User's obligation to pay the Fee survives the termination of this Agreement.

5. Warranties and Disclaimers

The Calculator is intended only for use by health care providers and staff of health care organizations who are knowledgeable in health sciences ("Audience") and that Calculator is not meant to be a substitute for professional judgement. This tool is designed for general educational purposes only and is not intended in any way to substitute for professional medical advice, consultation, diagnosis, or treatment. **THE CALCULATOR IS PROVIDED AS IS WITH NO WARRANTY AND WITHOUT OBLIGATION BY THE UW TO PROVIDE ACCOMPANYING SERVICES OR SUPPORT. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE CALCULATOR IS WITH THOSE USING THE CALCULATOR.** The Calculator is developed based on population averages in Washington state hospitals and has not been tested in other populations. This Calculator only predicts pain and function outcomes up to one year after surgery and does not address other potential benefits of a spine fusion surgery, such as quality of life improvement. An individual patient may also have other medical problems not included in the model that could affect pain and function improvement (e.g., depression, anxiety, etc.) Therefore, although a prediction score can be used as a tool to facilitate physician and patient discussions when deciding treatment options, it should not be solely relied upon to determine care decisions for any medical conditions. Physicians should exercise their own independent clinical judgment when using the Calculator in conjunction with patient care. In providing access to the Calculator, UW is not acting as a Business Associate as defined under 45 CFR §164.103. By using the Calculator you have acknowledged that: you have read and understand this disclaimer and you agree to be legally bound by this disclaimer. If you do not agree to be legally bound by this disclaimer, you may not use the tool.

6. Indemnification and Liability

End User shall indemnify and hold harmless UW and its officers, faculty, employees, students and agents, against any and all claims, suits, losses, damages, costs, fees and expenses resulting from End User's use of Calculator, 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.

IN NO EVENT SHALL UW BE LIABLE FOR (A) PERSONAL INJURY OR PROPERTY DAMAGES ARISING IN CONNECTION WITH THE ACTIVITIES CONTEMPLATED IN THIS AGREEMENT OR (B) LOST PROFITS, LOST BUSINESS OPPORTUNITY, INVENTORY LOSS, CALCULATOR STOPPAGE, LOST DATA OR ANY OTHER RELIANCE OR EXPECTANCY, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OF ANY KIND.

7. General

Pursuant to U.S. laws, Calculator may not be downloaded, acquired or otherwise exported or re-exported a) into, or to a national or resident of any country to which the U.S. has embargoed goods; or b) to anyone on the U.S. Treasury Department's list of Specially Designated Nations or the U.S. Commerce Department's Table of Denial Orders. By executing this License, End User represent that: a) End User is not located in or under the control of a national or resident of any such country or on any such list; and b) End User will not export or re-export the Calculator to any prohibited county, or to any prohibited person, entity, or end-user as specified by U.S. export controls.

This Agreement does not grant permission to use the trade names, identifiers, trademarks, service marks, or product names of the UW, CERTAIN to the End User except as required for reasonable and customary use in describing the origin of the Calculator. All goodwill associated with the Calculator and UW marks and identifiers shall inure to UW. The End User 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.

This Agreement is made in and shall be governed by the laws of the State of Washington excluding choice of law principles. Any suit, action, or proceeding arising out of or relating to this Agreement shall be decided in King County, Washington, United States of America.

End User accepts the venue and jurisdiction of the Federal District Court of Western Washington, Seattle, or the King County Superior Courts.

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. Any amendment of these terms and conditions must be in writing and signed by both parties.

This Agreement and the rights and benefits conferred upon the parties hereunder may not be assigned or otherwise transferred by End User without the prior written consent of UW.

Contact for additional information about the Calculator and notification of defects:

CERTAIN: UW Box 354808, 1107 NE 45th Street, Suite 502,
Seattle WA 98105 info@becertain.org

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: _____

Schedule A

A1. Fees

A1.1 License Fee. The Initial Fee is Fee is \$5000 US Dollars with a Renewal Fee of \$1000 per year, as per section 3 of this Agreement.

A1.2 All fees are payable in US Dollars full within thirty (30) days of the invoice from UW. Make check payable to: Attention of Contract Manager, UW CoMotion, 4545 Roosevelt Way NE, Suite 400, Seattle, WA 98105-4608, Email: CoMotion Finance ipfin@uw.edu Phone: 206-543-3970, Facsimile: 206-616-3322, Email: license@uw.edu.

Upon request, University shall deliver to Organization written wire transfer instructions. Wire transfer is subject to an additional \$30 fee to be added to the payment.

Invoices for the fees shall be invoiced by University. University will include Organization's Purchase Order (PO) numbers on the invoice for the initial Annual Subscription Fee if Organization enters such PO number here: _____, along with the contact name and email for the payer. Name: _____ email: _____.