



# LIMITED COMMERCIAL LICENSE TERMS AND CONDITIONS

## NON-EXCLUSIVE, LIMITED COMMERCIAL COPYRIGHT LICENSE

License Fee. In consideration of the limited license granted herein, you agree to pay to Insignia Health, LLC ("Insignia") the selected fee for use of the PAM Materials with up to your maximum number of Participants (the "License Fee"). You shall be responsible for any overage fees or other charges if you exceed your selected maximum number of Participants.

## DEFINITIONS

"PAM Materials" means the Patient Activation Measure® (PAM®) survey and related assessments; online survey administration and scoring system; Coaching for Activation® ("CFA"), the PAM-based coaching guidelines; and eLearning training tools on use of the PAM survey and CFA.

A "Participant" is any individual consumer or potential consumer of health care services who is provided access to the PAM Materials by you, up to your maximum number of Participants.

## TERMS AND CONDITIONS

### 1. Rights Granted.

Subject to the terms and restrictions set forth herein (the "Agreement"), Insignia hereby grants to you a non-exclusive, non-transferable right to reproduce, distribute, and display the PAM Materials solely for the purpose of administering the PAM survey and collecting information related thereto to no more than your maximum number of Participants. Use of the PAM Materials for any purposes other than those described herein is a violation of this Agreement.

For clarity, the rights granted herein DO NOT include the right to:

- copy, reproduce, publish, disseminate, or otherwise publicly display the PAM Materials or any part thereof outside of the scope of this Agreement;
- create derivative works or make alterations to the PAM Materials or any part thereof;
- use the PAM Materials or any part thereof, including but not limited to the PAM survey, to develop, validate or optimize a new or existing assessment or predictive model of consumer health engagement, motivation, activation, self-management, or similar assessment or predictive modeling tool;
- sublicense the PAM Materials;
- reference or use the PAM Materials to advertise, promote, publicize, or validate a proprietary measurement tool or intervention; or
- reverse engineer, reverse translate, decompile, disassemble or in any manner decode the PAM Materials or any part thereof, or any of the algorithms contained therein.

### 2. Your Obligations.

2.1. You agree not to alter, add, change, or remove any identification marks, including copyright or trademark notices, from the PAM Materials. You further agree that if you reference the PAM Materials in written materials, publish any studies or findings relating to your use of the PAM Materials, or in any other way publicize your use of the PAM Materials, you shall at all times refer to the PAM survey as the "Patient Activation Measure<sup>®</sup>" or "the PAM<sup>®</sup> survey." You further agree to obtain any consents from Participants that may be necessary to provide the PAM Materials to them.

2.2. Data. Subject to the confidentiality requirements of Section 3 and any applicable business associate agreement, you agree to share with Insignia non-personally identifiable, individual data captured through

Participants' use of the PAM Materials, including answers to each of the PAM questions, demographic variables, health status and functioning, experience with care/support, self-management behaviors, and health outcomes ("Data") as entered into the online survey administration and scoring system. You hereby grant Insignia a royalty free, worldwide, irrevocable license to use such Data for its product improvement and validation efforts.

3. Confidentiality. Both you and Insignia each acknowledge that either party may receive confidential and proprietary information of the other party including, without limitation, (i) technical information, including functional and technical specifications, analysis, research, processes, computer programs, job control language, communications scripts, methods, ideas, "know how" and the like; (ii) business information, including sales and marketing research, materials, plans, provider and beneficiary demographics, provider-specific information and the like; (iii) electronic media claims data in accordance with the Federal Privacy Act of 1974, as amended; (iv) the PAM Materials and all algorithms utilized by Insignia in the provision of the services set forth in this Agreement; (v) Data; and (vi) other information designated in writing by the owner as confidential at the time of delivery of such information to the recipient (collectively, "Confidential Information").

Except for Protected Health Information (as defined by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA)), Confidential Information of a party hereto shall not include information that: (a) becomes generally available to the public other than as the result of unauthorized disclosure by the recipient; (b) is independently derived by the recipient without the aid, application or use of the disclosing party's Confidential Information; or (c) was received by the recipient on a non-confidential basis prior to receipt from the disclosing party from a third-party lawfully possessing and lawfully entitled to disclose such information.

4. Covenant Not to Disclose. Except as provided in Section 2.2, each party receiving Confidential Information from the other party hereby agrees that it shall not use, commercialize, or disclose such Confidential Information to any person or entity, without prior written permission of the non-disclosing party. Each party shall use at least the same degree of care in safeguarding the other party's Confidential Information as it uses in safeguarding its own Confidential Information.

5. Ownership of the PAM Materials. The State of Oregon, acting by and through the State Board of Higher Education on behalf of the University of Oregon, owns the copyright, title, and other related rights in and to the Patient Activation Measure® developed by Dr. Judith Hibbard and others. Insignia is the exclusive licensee of certain rights related to this technology and is the owner of all associated trademark rights. All rights not otherwise granted to you in this Agreement are reserved by Insignia and/or the University of Oregon.

6. Indemnification and Limitation of Liability.

6.1. You agree to indemnify and hold harmless both Insignia and the University of Oregon and their respective members, directors, officers, governing board members, agents, employees, students, volunteers, and assigns against any and all claims, demands, damages, liability, losses, causes of action, costs and expenses arising out of or in any way related to the use, reproduction, distribution or public display of the PAM Materials by you or any of your Participants, or your failure to comply with applicable privacy laws.

6.2. INSIGNIA AND THE UNIVERSITY OF OREGON PROVIDE ACCESS TO THE PAM MATERIALS ON AN "AS IS, WITH ALL DEFECTS" BASIS. NEITHER INSIGNIA NOR THE UNIVERSITY OF OREGON MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED. BY WAY OF EXAMPLE, BUT NOT LIMITATION, INSIGNIA AND THE UNIVERSITY OF OREGON MAKE NO REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE (EVEN IF INSIGNIA OR THE UNIVERSITY OF OREGON KNOW OF SUCH PURPOSE), OR THAT THE USE OF THE PAM MATERIALS WILL NOT INFRINGE ANY PATENTS, COPYRIGHTS, TRADEMARKS OR OTHER RIGHTS OF THIRD PARTIES. YOU HEREBY AGREE TO SAVE, HOLD HARMLESS, DISCHARGE AND RELEASE INSIGNIA AND THE UNIVERSITY OF OREGON AND ALL OF THEIR RESPECTIVE AGENTS, SERVANTS, EMPLOYEES AND VOLUNTEERS, FROM ANY AND ALL LIABILITY, CLAIMS, CAUSES OF ACTIONS, DAMAGES OR DEMANDS

OF ANY KIND AND NATURE WHATSOEVER WHICH MAY ARISE FROM OR IN CONNECTION WITH YOUR USE OF THE PAM MATERIALS.

## 7. Term and Termination.

7.1. The term of this Agreement shall commence on the date of your online license purchase ("Effective Date") and end twelve (12) months thereafter ("End Date"), or until terminated in accordance with this Section 7, whichever is earlier ("Term").

7.2. Insignia may terminate this Agreement and the license granted herein for Insignia's convenience, by providing not less than ten (10) days' advance written notice to you by electronic communication or otherwise.

7.3. Upon termination or expiration of this Agreement you shall cease using, reproducing, distributing, or publicly displaying any portion of the PAM Materials.

7.4. You acknowledge and agree that termination of Insignia's agreement with the State of Oregon for the right to use and sublicense the PAM survey shall terminate this Agreement; provided however that you may request continuation of this Agreement by making written request to the State of Oregon within sixty (60) days of your receipt of written notice of such termination. Such written request for license continuation shall include your agreement to assume with respect to the State of Oregon all obligations (including obligations for payment) contained in this Agreement with Insignia. In such case, the State of Oregon may in its sole discretion agree to accept or decline such request for assignment of this Agreement. Such written request shall be made to Director, Office of Technology Transfer, 1238 University of Oregon, Eugene, Oregon, 97403-1238.

8. Return or Destruction of Confidential Information. Except for the Data provided by you pursuant to Section 2.2, upon the expiration or termination of this Agreement, within twenty (20) days you shall return to Insignia or destroy all Confidential Information. Upon Insignia's written request, you shall provide a written certification that all Confidential Information has been returned or destroyed, as the case may be. Despite such a return or destruction, your obligations under this Section shall survive indefinitely.

9. Remedies for Breach of Confidentiality. Each party hereby acknowledges that the violation by it of the restrictions imposed hereunder would cause irreparable harm to the owner of such Confidential Information and that remedies at law would be inadequate to redress any actual or threatened violation of this agreement. Each party agrees that, in addition to other relief that may be available, the foregoing restrictions may be enforced by temporary and permanent injunctive relief. Any award of relief to the owner of such Confidential Information in an action in which the owner substantially prevails shall include recovery of such owner's costs and expenses of enforcement (including attorneys' fees, including attorneys' fees and any costs associated with appeal).

## 10. General Provisions.

10.1. Authorization. You represent and warrant that you are duly authorized to execute and deliver this Agreement on behalf of your organization in accordance with duly adopted organizational documents or agreements, and acknowledge and agree that this Agreement is binding upon your organization in accordance with its terms.

10.2. Assignment. The rights granted hereunder and this Agreement may not be assigned, transferred, or sublicensed directly or indirectly, by operation of law, contract or otherwise, by you except with the express written consent of Insignia, which may be withheld at Insignia's sole discretion.

10.3. Entire Agreement, Modification, and Waiver. This Agreement replaces and supersedes any prior agreements between the parties and sets forth the entire agreement between the parties with respect to the subject matter hereof, and may not be modified or amended except by written agreement executed by the parties hereto.

10.4. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon, without giving effect to the conflict of law principles thereof, and applicable federal law. Any action or suit brought by the parties relating to this Agreement shall be brought and conducted solely and exclusively in the state and federal courts in Multnomah County in the State of Oregon in Portland, Oregon. You hereby waive any objection to venue in such courts, and waive any claim that such forum is an inconvenient forum. BY EXECUTION OF THIS AGREEMENT, YOU HEREBY CONSENT TO THE PERSONAL JURISDICTION OF SUCH COURT.

10.5. Notice. Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier service (including U.S. Postal Service Express Mail) or by certified mail with return receipt requested or by electronic mail. Notice to you shall be addressed to the contact information you provided above, notice to Insignia shall be addressed to the following address or at such other address as Insignia may from time to time direct in writing:

For Insignia:

Insignia Health, LLC  
Attn: License Department  
600 Highway 169 S  
Suite 720  
St. Louis Park, MN 55426  
Email: [info@insigniahealth.com](mailto:info@insigniahealth.com)

Any notice shall be deemed to have been given on the earlier of: (i) actual delivery or refusal to accept delivery, (ii) the date of mailing by certified mail, (iii) the day facsimile delivery is verified or (iv) if by email the date sent unless an out of office-type reply is received in which case the notice shall be deemed given when the notice indicates the recipient will return to the office. Actual notice, however and from whoever received, shall always be effective.

10.6. Severability. If any one or more provisions of this Agreement shall be adjudicated to be illegal, invalid, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties hereby agree to attempt to substitute for any illegal, invalid, or unenforceable provision a valid or enforceable one, which achieves the economic, legal and commercial objectives of the invalid or unenforceable provision to the greatest extent possible.

10.7. No Third Party Beneficiaries. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to any other third persons.

10.8. Audits. You shall create and maintain records as required by this Agreement and you shall grant Insignia reasonable access during normal business hours to examine and take copies of, on no less than ten (10) business days' advance written notice and at Insignia's cost, the records relating to this Agreement, to verify your compliance with the terms and conditions of this Agreement.

10.9. Survival. All terms of this Agreement with the exception of Section 1 shall survive the expiration or termination of this Agreement.