

## **SIGMA's Fax-in Scoring Terms of Use Agreement for the SSPO, SSSO, and PAF**

SIGMA has been committed to providing quality assessment solutions since 1967. As part of this commitment, we have learned that the most effective way to minimize issues inherent with fax-in scoring is to educate and inform clients of potential sources of problems, and to ensure that the parties' responsibilities are as clear as possible. That is the purpose of this Agreement.

This Fax-in Scoring Agreement (the "Agreement") is a contract between your organization, (hereinafter "you", "your organization" or "client"), and SIGMA Assessment Systems, Inc., a Delaware corporation, (hereinafter "SIGMA", "us", "our" or "we") and sets forth the legally binding terms for your use of the scoring service provided by SIGMA (collectively the "Fax-in Scoring Service"). This Agreement governs your use of the Fax-in Scoring Service.

### **Definitions**

- SIGMA owns the rights to publish and distribute certain psychological tests and related materials (the "Tests") and such rights are protected by intellectual property right laws, international treaty provisions, and applicable national laws;

### **Terms**

Each time that you use Fax-in Scoring Service you signify that you have read, understand, and agree to be bound by the terms of this Agreement. If you do not agree to any of these Terms, you must not use, and discontinue using the Fax-in Scoring Service immediately.

It is hereby agreed that your responsibilities are as follows:

- 1) To read and follow the instructions contained in the document titled "SIGMA's Fax-in Scoring Guide for Cognitive Ability Assessments". There are potential sources of errors and problems that are unique to fax-in scoring. These include problems with the outgoing fax machine, such as track marks and settings that make transmission overly light or dark - SIGMA's Fax-in Scoring Guide details many of these problems, provides information on how to avoid them as well as general instruction regarding the proper use of the Fax-in Scoring Service. Failure to follow the instructions contained in that document is likely to result in a variety of possible scoring problems, including but not limited to incorrect results and delayed processing.
  - a. "SIGMA's Fax-in Scoring Guide for Cognitive Ability Assessments" can be downloaded from [www.sigmafax.com](http://www.sigmafax.com) or requested by contacting customer service.

- 2) Each scored report that is faxed back to you includes a page, called the Detection summary, which indicates how the test takers' responses were read by the Fax-in Scoring Service. You agree to review each scored report and answer sheet to confirm that there are no errors.
- 3) Governing Law
  - a. This Agreement shall be construed according to the laws of the State of Nevada.
- 4) Indemnification
  - a. SIGMA hereby represents, warrants, and covenants that it owns any and all intellectual property rights in the Tests and has the unrestricted right to enter into this Agreement. SIGMA agrees to indemnify, defend, and hold you harmless from and against any and all loss, liability, claims, suits, legal fees, demands, and judgments to which you may be subject or suffer by reason of any breach by SIGMA of the foregoing representation, warranty, and covenant.
  - b. You agree to indemnify, defend, and hold SIGMA harmless from and against any and all loss, liability, claims, suits, legal fees, demands, and judgments to which SIGMA may be subject or suffer as a result of your breach of any of the terms of this Agreement by not reading and following the instructions contained within the document titled "SIGMA's Fax-in Scoring Guide for Cognitive Ability Assessments", or by reason of negligence, errors, omissions, or the untruth of any representation or warranty made by you or your organization.
- 5) Severability

If any provision of this Agreement shall, to any extent, be declared invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed not to be part of this Agreement, and the parties agree to remain bound by all of the remaining provisions.
- 6) Paragraph Headings

The paragraph headings contained in this Agreement are for reference only and shall not be considered in the interpretation hereof.
- 7) Entire Agreement

This Agreement constitutes the entire and exclusive agreement between the parties and supersedes all prior oral or written proposals, agreements, or understandings concerning the same. No waiver, amendment, or modification of any of the terms or conditions hereof shall be valid or binding unless in writing and signed by both parties. No waiver of any breach thereof, or of any terms or conditions hereof, or of any default hereunder, shall be

deemed a waiver of any repetition of such breach or such default in or in any way affect any other terms or conditions hereof.

8) Authorization and Representation

Each party represents to the other that it has been authorized to execute and deliver this Agreement through the persons signing on its behalf.

9) Termination

Either party may terminate this Agreement at any time by providing written notice. If SIGMA initiates the termination of this Agreement, you will be entitled to a refund of any unused Tests. If you terminate this Agreement, you must cease using the Scoring Service immediately.