1.0 Introduction

1.1 Purpose. The Interventional Spine and Musculoskeletal Medicine ("ISMM") Fellowship Match is a program that utilizes a computer-based algorithm to help match medical residents with fellowship appointments in the interventional spine field. The goal of the ISMM is to relieve the pressure of uncoordinated appointments and forced early choices on Fellowship Candidates. In order to achieve this goal, Participants in the ISMM (both Fellowship Candidates and Fellowship Programs) are obligated to follow the requirements outlined below in this Participation Agreement ("Agreement").

1.2 Oversight and Enforcement. The North American Spine Society ("NASS") is responsible for overseeing the ISMM and the enforcement of the ISMM rules as outlined in this Agreement.

1.3 Definitions. The following terms commonly used in this Agreement shall have the definitions prescribed below:

(a) Applicant: An Applicant is an individual who meets the eligibility requirements set forth in Section 2.1, below.

(b) Fellow: A Fellow is an individual who meets the eligibility requirements set forth in Section 2.2, below.

(c) Fellowship Candidate: Applicants and Fellows are collectively referred to as Fellowship Candidates.

(d) Fellowship Program: A Fellowship Program is an institution offering a position that meets the eligibility requirements of Section 2.3 below, along with the faculty, instructors and Program Director associated with that position.

(e) Affiliated Institution: Hospitals, Outpatient Surgery Centers, Medical School Departments and Divisions, and Medical Practices with which the Fellowship Program participates in the provision of patient care.

(f) Participant: Fellowship Candidates and Fellowship Programs are collectively referred to as the “Participants,” and individually referred to as a “Participant.”

(g) Match: A Match is the result of the computer-based algorithm that is used to pair the Rank Lists of Fellowship Candidates and Fellowship Programs to place, if applicable, interested Fellowship Candidates with interested Fellowship Programs.

(h) Rank List: A Rank List is a confidential list prepared, in accordance with the procedures and deadlines set by the NASS ISMM Committee (as may be modified from time to time), outlining - in order of preference - the Fellowship Candidates or Fellowship Programs a Participant seeks to be matched with as a result of the ISMM process. FELLOWSHIP CANDIDATES AND FELLOWSHIP PROGRAMS UNDERSTAND THAT THEY ARE AGREEING TO ENTER INTO A
BINDING COMMITMENT WITH ANY ONE OF THE FELLOWSHIP CANDIDATES OR
FELLOWSHIP PROGRAMS LISTED ON HIS/HER/ITS RANK LIST, IN THE EVENT OF A
MATCH.

(i) Waiver: A Waiver is a release from the binding commitment of a Match. A Waiver may
only be granted by the Match Committee, pursuant to the procedures set forth in Section 5.0.

(j) Vacant Fellowship Position: A Vacant Fellowship Position is one that is left unfilled after
the Match of Rank Lists between Fellowship Candidates and Fellowship Programs has occurred.

2.0 Eligibility Requirements

2.1 Applicant Eligibility. In order to participate in the ISMM, an Applicant must complete the
registration requirements of the Match, pay all applicable registration and application fees, comply
with any other criteria listed on the ISMM Fellowship Web site each year, and be reasonably
expected to meet the Minimum Fellowship Eligibility Criteria outlined in section 2.2 below by the
scheduled starting date of the Fellowship Program to which they are applying.

2.2 Fellow Eligibility. A Fellow must meet the following criteria prior to the schedule start date of
the his/her training with a Fellowship Program: (1) have completed a resident training program
certified by the Accreditation Council for Graduate Medical Education (“ACGME”) in good
standing, or the equivalent certification for DO candidates and (2) be eligible for Board
Certification in his or her field (collectively “Minimum Fellowship Eligibility Criteria”). Further, each
Fellowship Program may have eligibility requirements in addition to the Minimum Fellowship
Eligibility Criteria (“Specialty Eligibility Criteria”); Applicants must check with particular Fellowship
Programs to determine if there are Specialty Eligibility Criteria which may apply, and are
responsible for meeting any such requirements prior to the start date of the Fellowship Program.

2.3 Fellowship Program Eligibility Requirements. In order to qualify for participation in the ISMM
as a “Fellowship Program,” the subject program must: (1) provide a minimum of one (1) year post-
residency course of training focused in the field of interventional spine care and musculoskeletal
medicine; and (2) have a Program Director that is a member of NASS.

3.0 Fellowship Candidate Responsibilities

In addition to the obligations outlined elsewhere in this Agreement, Fellowship Candidates have
the following responsibilities as Participants in the ISMM program:

3.1 Fellowship Candidates must promptly comply with the deadlines and procedures of ISMM, as
established (and may be modified from time to time) by the NASS ISMM Committee.

3.2 Fellowship Candidates shall be truthful in their communications with Fellowship Programs and
the NASS ISMM Committee, including accurately representing his/her qualifications for a
Fellowship Program.

3.3 Fellowship Candidates agree to cooperate with the Match, the NASS ISMM Committee and/or
Fellowship Programs to carry out the purpose and intent of this Agreement, including but not
limited to, the delivery of information and records and the execution of such documentation
reasonably required.
3.4 Fellowship Candidates shall not expect a Fellowship Program to reveal how he/she will be ranked.

3.5 Fellowship Candidates shall not communicate with Fellowship Programs after the interview but before the release of Match results, other than:

   a. a brief communication (letter or email) providing the Fellowship Candidate with feedback regarding the interview and program, and/or requesting similar feedback from the Fellowship Program;

   b. in order to provide any additional documentary information requested by the Fellowship Program at the time of or after the interview; or

   c. in order to withdraw the Fellowship Candidate’s application to the Fellowship Program.

3.6 Fellowship Candidates shall not disclose their Rank List prior to the release of the Match results.

3.7 **FELLOWSHIP CANDIDATES RECOGNIZE THAT A MATCH IS A BINDING COMMITMENT. FAILURE TO FULFILL A MATCH MAY SUBJECT THE FELLOWSHIP CANDIDATE TO SANCTIONS, PURSUANT TO SECTION 8.0, UNLESS A WAIVER IS OBTAINED, PURSUANT TO SECTION 5.0, BELOW.**

3.8 Fellowship Candidates recognize that if he/she fails to honor a Match, the Fellowship Candidate cannot, for a period of one (1) year after the date on which the Match Fellowship Program was set to begin, accept alternate employment of any kind with any institutions that sponsor Fellowship Programs that participate in the NASS ISMM program, or any Affiliated Institutions unless the Fellowship Candidate first obtains a Waiver, pursuant to Section 5.0.

3.9 Fellowship Candidates agree to conduct themselves in an ethical and professional manner with regards to the ISMM.

**4.0 Fellowship Program Responsibilities**

In addition to the obligations outlined elsewhere in this Agreement, Fellowship Programs have the following responsibilities as Participants in the NASS ISMM Match:

4.1 Fellowship Programs must promptly comply with the deadlines and timelines of the NASS ISMM Match, as set (and may be modified from time to time) by the NASS ISMM Committee.

4.2 Fellowship Programs shall be truthful in their communications with Fellowship Candidates, the Match, and/or the NASS ISMM Committee.

4.3 Fellowship Programs agree to cooperate with Match, the NASS ISMM Committee, and/or Fellowship Candidates to carry out the purpose and intent of this Agreement, including but not limited to the delivery of information and records and the execution of such documentation reasonably required.

4.4 Fellowship Programs shall not ask, or otherwise pressure, a Fellowship Candidate to reveal how the Fellowship Program will be ranked.
4.5 Fellowship Programs shall not communicate with Fellowship Candidates after the interview, but before the release of the results of the Match, other than:

a. a brief communication (letter or email) providing feedback regarding the interview and the Fellowship Candidate’s potential for matching with the Fellowship Program, provided that such communications are unilateral, voluntary and unconditional; or

b. in order to request additional documentary information as part of the Fellowship Candidate’s application.

4.6 Fellowship Programs shall not, prior to the release of the results of the Match, disclose its Rank List or guarantee a Fellowship Candidate that he/she will be provided a position.

4.7 FELLOWSHIP PROGRAMS ACKNOWLEDGE THAT A MATCH IS A BINDING COMMITMENT. FAILURE TO HONOR A MATCH MAY SUBJECT THE FELLOWSHIP PROGRAM TO SANCTIONS, PURSUANT TO SECTION 8.0, UNLESS A WAIVER IS OBTAINED, PURSUANT TO SECTION 5.0, BELOW.

4.8 Fellowship Programs shall not offer employment positions to any Fellowship Candidate prior to the date that Match results are released, and shall not discuss or interview Fellowship Candidates for any such positions prior to the deadlines set by the NASS ISMM Committee for doing so.

4.9 Fellowship Programs shall only offer positions within its Fellowship Program through the NASS ISMM Match.

4.10 Fellowship Programs and their Affiliated Institutions (defined in Section 1.3) shall not discuss or offer any type of Fellowship position or any other employment positions to any Fellowship Candidate who has failed to honor his/her Match to another Fellowship Program without first obtaining a Waiver, pursuant to Section 5.0. This prohibition of employment shall continue for one (1) year after the date on which the subject Fellowship Candidate’s Match was set to begin. It should be noted that sanctions applicable a Fellowship Program by this Section 4.10 also apply to potential employment by Affiliated Institutions, even if those Affiliated Institutions are not specifically part of the NASS ISMM Program.

4.11 Fellowship Programs shall publish any Specialty Eligibility Criteria that Fellowship Candidates are expected to meet on the Match on their web site prior to the date that Fellowship Candidates may begin registering for the Match.

4.12 If requested, Fellowship Programs shall provide Fellowship Candidates with a copy of the current employment contract, similar to one that the Fellowship Candidate will be expected to sign in the event of a Match, on or before the date the Fellowship Candidate interviews with the Fellowship Program. Fellowship Candidates acknowledge that the provision of such contracts is intended to clarify the terms of the fellowship and promote discussion between the Participants, and that such contract may change in substance and nature prior to the actual initiation of fellowship.

4.13 Fellowship Programs and Program Directors shall conduct themselves in an ethical and professional manner with regards to the NASS ISMM Fellowship Program.
4.14 Fellowship Programs shall designate an officer (“Program Director”) who shall be responsible for ensuring the Fellowship Program’s timely compliance with the procedures of the NASS ISMM Fellowship Program and this Agreement. Note that the Program Director and all physicians associated with the Fellowship Program shall be subject to sanctions in the event the Fellowship Program fails to follow the rules outlined in this Agreement.

5.0 Waiver Requests

5.1 Binding Commitment. A MATCH IS A BINDING COMMITMENT ON BOTH THE FELLOWSHIP CANDIDATE AND THE FELLOWSHIP PROGRAM. FELLOWSHIP PROGRAMS AND FELLOWSHIP CANDIDATES ARE NOT AUTHORIZED TO RELEASE EACH OTHER FROM A MATCH; RATHER A RELEASE OF A MATCH MAY ONLY BE MADE BY THE MATCH COMMITTEE, PURSUANT TO THE WAIVER PROVISIONS OUTLINED IN THIS AGREEMENT. PARTICIPANTS UNDERSTAND THAT WAIVERS ARE NOT AUTOMATIC, AND ARE GRANTED IN ONLY RARE CIRCUMSTANCES.

5.2 Waiver Requests by a Fellowship Candidate. A Fellowship Candidate may request a Waiver from the obligations of a Match if fulfilling the commitment would cause undue personal hardship or if there has been a substantial change in the Fellowship Program. A Fellowship Candidate that desires to request a Waiver must follow the procedures and timelines for doing so as set by the NASS ISMM Committee (as may be modified from time to time) and as outlined in this Agreement.

5.3 Waiver Requests by Fellowship Programs. A Fellowship Program may request a Waiver from a Match with a Fellowship Candidate if circumstances beyond its control make it unable to continue to honor their Match commitment. A Fellowship Program that desires to request a Waiver must follow the procedures and timelines for doing so as set by the NASS ISMM Committee (as may be modified from time to time) and as otherwise outlined in this Agreement.

5.4 Waiver Decisions. The NASS ISMM Committee may seek input and information from multiple sources, including from other affected Participants (including the non-requesting Fellowship Candidate or Fellowship Program), in deciding whether a request for a Waiver should be granted. However, the decision on whether a Waiver shall be granted is in the sole discretion of the NASS ISMM Committee, whose decision shall be final, and not subject to review through arbitration or otherwise. The NASS ISMM Committee shall decide whether to accept or reject a request for a Waiver within fourteen (14) days of when all information pertaining to such a request is received. Fellowship Candidates may not discuss, interview for, or accept another employment position (whether with a Fellowship Program or otherwise) with any institutions who have Fellowship Programs within any Match program until a final decision is made by the NASS ISMM Committee on the Waiver. Likewise, Fellowship Programs may not discuss, interview, or offer any other individuals the subject Fellowship Program position until a final decision is made by the NASS ISMM Committee on the request for a Waiver.

5.5 Consequences of Waiver Decisions. If the NASS ISMM Committee decides to grant a request for a Waiver, the Fellowship Candidate is free to accept another position, and the Fellowship Program is free to offer the Fellowship Program as a Vacant Fellowship Position, in accordance with the rules outlined in Section 7.0. The NASS ISMM Committee will not pursue sanctions pursuant to Section 8.0 of this Agreement in the event a Waiver is granted; however, the Match Committee’s granting of a Waiver has no bearing on any contractual penalties the Parties may owe to each other outside of this Agreement.
6.0 Withdrawals

6.1 Voluntary Withdrawals by Fellowship Candidates. A Fellowship Candidate may withdraw from the ISMM Fellowship process at any time before his/her Rank List is submitted.

6.2 Voluntary Withdrawals by Fellowship Programs. A Fellowship Program may withdraw its position(s) from the NASS ISMM program at any time before the date (as set by the NASS ISMM Committee, and may be modified from time to time) that Applicants may begin registering for the NASS ISMM Fellowship program. A Fellowship Program may withdraw its positions from the ISMM Match after Applicants begin registering for the ISMM, only with the permission of the NASS ISMM Committee, which will not be unreasonably withheld. In such event, the Fellowship Program is responsible for informing the NASS ISMM Committee, and all Applicants who have applied to that Fellowship Program. The Fellowship Program is also responsible for handling all requests for refunds from Applicants who have applied to the Fellowship Program.

6.3 Involuntary Withdrawals of Fellowship Candidates. In the event that the NASS ISMM Committee becomes aware that a Fellowship Candidate has violated this Agreement or is not intending to fulfill his/her commitment to a Match, the NASS ISMM Committee has the authority to withdraw the Fellowship Candidate from the ISMM for the remainder of that match cycle, and/or prohibit the Fellowship Candidate from participating in future NASS ISMM Fellowship program cycles. The NASS ISMM Committee shall not withdraw a Fellowship Candidate pursuant to this paragraph, unless — after providing the Fellowship Candidate a reasonable opportunity under the circumstances to explain his/her position — the NASS ISMM Committee determines, in its sole discretion, that the Fellowship Candidate has violated this Agreement or is not intending to fulfill his/her commitment to a Match. In the event of such an involuntary withdrawal by the NASS ISMM Committee, the Fellowship Program (if any) where the subject Fellowship Candidate was matched will automatically be granted a Waiver pursuant to Section 5.0. An involuntary withdrawal is in addition to any authority to sanction Fellowship Candidates pursuant to Section 8.0 below.

6.4 Involuntary Withdrawals of Fellowship Programs. In the event that the NASS ISMM Committee becomes aware that a Fellowship Program has violated this Agreement or is not intending to fulfill its commitment to a Match, the NASS ISMM Committee has the authority to withdraw the Fellowship Program from the NASS ISMM Fellowship program for the remainder of that match cycle, and/or prohibit the Fellowship Program from participating in future ISMM Fellowship cycles. The NASS ISMM Committee shall not withdraw a Fellowship Program pursuant to this paragraph, unless — after providing the Fellowship Program a reasonable opportunity under the circumstances to explain its position — the NASS ISMM Committee determines, in its sole discretion that the Fellowship Program has violated this Agreement or is not intending to fulfill her/hers commitment to a Match. In the event of such an involuntary withdrawal by the Match Committee, the Fellowship Candidate (if any) that was matched with the subject Fellowship Program will automatically be granted a Waiver pursuant to Section 5.0. An involuntary withdrawal is in addition to any authority to sanction Fellowship Programs and/or Program Directors pursuant to Section 8.0, below.

6.5 Automatic Withdrawals of Fellowship Candidates. Fellowship Candidates recognize that in the event he/she is registered for multiple fellowship match programs, the Fellowship Candidate must accept the first Match he/she receives once a Match occurs.

7.0 Vacant Fellowship Positions.
7.1 **Direct Negotiations.** A Vacant Fellowship Position is one that is left unfilled after the Match of Rank Lists between Fellowship Candidates and Fellowship Programs has occurred. This position may be filled by direct negotiations between the Fellowship Program and Fellowship Candidates.

7.2 **Binding Commitment.** Once a Vacant Fellowship Position is offered and accepted, it becomes a binding commitment, subject to the satisfactory completion of the Minimum Fellowship Eligibility Criteria, along with any Specialty Eligibility Criteria set by the Fellowship Program. Once such an offer is made and accepted, a copy or notice of the acceptance or agreement (whether formal or informal) must be sent to the Match Committee within one week of the acceptance or agreement. Failure to honor a commitment made to a Vacant Fellowship Position, unless a Waiver is obtained, may subject the violating Fellowship Program or the Fellowship Candidate to the same sanctions applicable to a Fellowship Program and Fellowship Candidate who Match on the basis of Rank List submission and the subsequent Match algorithm, pursuant to Section 8.0.

8.0 **Sanctions**

8.1 **Power to Sanction.** In the event the NASS ISMM Committee learns of information suggesting a violation of this Agreement, the NASS ISMM Committee is empowered to investigate whether such a violation exists. If the NASS ISMM Committee determines that such a violation exists, the NASS ISMM Committee may, in addition to other actions authorized herein, proceed to recommend sanctions against the violating Fellowship Candidate or Fellowship Program, including all faculty, instructors and Program Directors associated with that Fellowship Program.

8.2 **Sanction Proceedings.** If the Match Committee, pursuant to paragraph 8.1 above, decides that this Agreement has been violated, the Match Committee may file a Complaint against the violating Fellowship Candidate, Fellowship Program, and/or Program Directors with the NASS Professional Conduct and Ethics Committee (“PCEC”), indicating the nature of the violation and any recommended sanctions. The PCEC will be charged with confirming whether a violation of this Agreement occurred and whether the recommended sanctions are appropriate. The procedures and rules of the PCEC, as may be modified from time to time, shall govern any sanctions proceedings for violations of this Agreement. In the event of a conflict between the rules and procedures of the PCEC and this Agreement, the rules of this Agreement shall govern.

8.3 **Consent to Jurisdiction before NASS’ PCEC.** THE PARTICIPANTS AGREE THAT BY ENTERING INTO THIS AGREEMENT AND PARTICIPATING IN THE ISMM THEY ARE AGREEING TO SUBMIT TO THE JURISDICTION AND PROCEDURES OF THE PCEC, WHICH ARE AVAILABLE AND MAY BE VIEWED ON NASS’ WEB SITE, WWW.SPINE.ORG. PARTICIPANTS FURTHER AGREE TO ABIDE BY THE DECISIONS OF THE PCEC, INCLUDING ITS DECISIONS REGARDING SANCTIONS, REGARDLESS OF THE PARTICIPANT’S STATUS AS A MEMBER OF NASS.

8.4 **Available Sanctions.** In the event the PCEC determines, in accordance with the procedures outlined above, that a Participant has violated this Agreement, the PCEC has the authority to impose sanctions against the violating Participant, which may include – but is not limited to – the following:

- Prohibition from membership in NASS;
- Prohibition from presenting or moderating at any meetings sponsored by NASS;
- Prohibition on receiving any research funding from NASS;
ISMM PARTICIPATION AGREEMENT

9.0 The NASS ISMM Committee

9.1 NASS ISMM Committee Responsibilities. The NASS ISMM Committee is responsible for assisting NASS in the administration and enforcement of the ISMM rules and procedures as outlined in this Agreement.

9.2 Terms. The members and chairperson of the NASS ISMM Committee shall serve for a three (3) year term, unless removed or reappointed.

10.0 Disclaimers

10.1 No Guarantee of a Match. Fellowship Candidates acknowledge that participation in the NASS ISMM Fellowship program does not provide any guarantee that they will be matched with any particular Fellowship Program, or any Fellowship Programs at all. Fellowship Programs, likewise, acknowledge that participation in the NASS ISMM fellowship program does not provide any guarantees that they will be matched with any particular Fellowship Candidate or that the Fellowship Program will be matched with any Fellowship Candidate at all.

10.2 Third-Party Processing of Matches. The Fellowship Candidates and Fellowship Programs acknowledge that the NASS ISMM Fellowship program may utilize an outside party to process the matching of Rank Lists. The NASS ISMM Fellowship program makes no representations or warranties as to the accuracy, completeness, security or reliability of this process.

11.0 Miscellaneous

11.1 Choice of Law and Arbitration. This Agreement shall be construed and interpreted in accordance with the Laws of the State of Illinois. The Participants agree that any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The place of arbitration shall be Chicago, Illinois. Except as may be required by law, neither a Participant nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of the NASS ISMM Committee.

11.2 Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity,
illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

11.3 Limitation on Liability. The Participants acknowledge that the liability of the NASS ISMM Fellowship program, NASS, or third party Match administrators (including any of these organizations’ members, employees and/or agents) for any violations of this Agreement or the procedures of the NASS ISMM Fellowship program are limited to the refund of any fees paid to participate in the NASS ISMM Fellowship program.

Program Director Signature ____________________      Date __________