

**PAM NEMEC CONSULTING**  
**Terms of Participation**  
**All-In Program**

Welcome to **ALL-IN!** We're pleased to offer this on-demand training program to help leaders like you nurture a workplace culture in which everyone feels connected, valued, and energized to make big things happen. **THESE TERMS OF PARTICIPATION** (the "Terms") govern your use and access of the Services (detailed herein) and provided by **Pam Nemec Consulting, Inc.** a Texas corporation ("PNC").

**WHEREAS**, PNC provides consulting and coaching services that helps companies improve corporate culture and become "Remarkable from the Inside Out"™; *and*

**WHEREAS**, Participant desires to participate in the All-In program to learn how to effectively lead their team through proven communication strategies and systems, and PNC desires to provide such coaching to Participant;

**NOW, THEREFORE**, in consideration of the mutual promises, covenants, warranties, and other good and valuable consideration set forth herein, PNC and Participant agree as follows:

**TERMS**

1. **Services.** Participant hereby engages PNC to provide training and coaching, as well as access to educational resources and practical tools (the "All-In Program" or the "Program") (the "Service(s)"). Services vary depending on the specific program level selected by Participant. Details related to the All-In Program offerings are found on our website.
  - A. **Third Party Platforms and Data Security.** Participant acknowledges and agrees that PNC uses third-party platforms to provide its Services ("Platforms"). Platforms include, but are not limited to, Thinkific. In order to receive the full benefit of Services, Participant is recommended to create and maintain an account. Participant acknowledges that, as with all digital platforms and the internet at large, third-party technology is subject to malfunction. Furthermore, such Platforms may include terms of use and privacy policies, and Participant should review any such policies before using such Platforms. PNC shall not be responsible for any damages which may arise from the use of Platforms.
2. **Program Fee.** As consideration for access to and the benefits of participating in the Program, Participant agrees to pay the program fee as detailed on our website ("Program Fee").
3. **Participants.** Participant acknowledges that the Program is intended for an individual representative of the party listed above. Participant acknowledges, represents, and warrants that Participant is participating in the Program solely for the purposes of developing their own business and for no other commercial purpose. At PNC's discretion, Participant may add authorized users to access the Program. Otherwise, Participant will not share Participant's registration and access information; and that Participant will notify PNC if any other person gains access to the Program or materials using Participant's access information. Participant acknowledges that any and all authorized users shall also accept and be bound by the terms herein, and that Participant may be liable for breaches of any such authorized users.
4. **Participation.** Participant acknowledges and agrees that success outcomes depend on active participation and implementation of strategies taught in the Program. As such, Participant agrees to devote the time and attention required to obtain the benefit of participation and acknowledges PNC makes no guarantees related to the success of Participant's business.
5. **Use Restrictions.** Participant agrees that Participant will not directly or indirectly:
  - A. Use or make any copies of any materials or resources obtained through participation in the Program beyond the scope of the use granted herein;
  - B. Use any part of the Program (including resources and materials) for Participant's own commercial purposes or for the development of a competing product or service or any other purpose that is to PNC's commercial disadvantage;
  - C. Modify, translate, adapt, create derivatives or improvements of, whether or not copyrightable, the Program or any part thereof;

- D. Remove, delete, alter, or obscure any trademarks, copyrights, or other intellectual property notices provided on or within any of PNC's materials provided to Participant; *and*
- E. (i) solicit for work, employ or engage as an independent contractor, or otherwise induce or influence any member to terminate their relationship with PNC without the prior written consent of PNC except pursuant to a general solicitation through the media that is not directed specifically to such person or if such person terminated their relationship beforehand; or (ii) induce or influence any client or other third party that became known to me directly or indirectly pursuant to my Participation (collectively, "Covered Persons") to alter, terminate, or breach its contractual or other business relationship with PNC, or solicit business from any such person or entity. Participant acknowledges and agrees that the duration, scope, and geographical area (which includes any location where PNC is engaged in business) of the restrictions contained in this section are reasonable.

This Section shall survive termination, and any breach by Participant shall be material.

- 6. **Confidential Information and Intellectual Property.** PNC retains sole and exclusive ownership of all proprietary rights and titles in its intellectual property, and any content or developments created or provided in connection with or related to, the All-In Program. Such intellectual property includes copyrights, trademarks, patents, trade secrets and dress, derivative works, Confidential Information, and any other intellectual property rights. **Participant acknowledges that the Program and its associated materials constitute "Confidential Information" and are a valuable trade secret of PNC.** Nothing herein shall be deemed to grant to Participant any ownership interest in or to any content or materials of the Program. These Terms grant Participant access to and use of materials only for the purposes detailed herein. Any materials or content provided, such as presentations, video modules, written materials, templates, and other material ("Creative Works") are "Confidential Information" and the property of PNC. All such Intellectual Property is owned by PNC and protected by copyright, trademark, trade secret, patent or other proprietary rights and these rights are valid and protected in all forms, media, and technologies existing now or hereinafter developed, whether or not registered. **Any use other than as contemplated herein is strictly prohibited.** Participant agrees that unauthorized disclosure, use or copying may cause PNC irreparable injury, which may not be remedied at law. As such, Participant agrees that PNC remedies for breach hereof may be in law or equity by way of injunctive or other equitable relief, and may be in addition to the Liquidated Damages detailed in Section 8 below.
  - A. **Use and Standard of Care.** Participant shall maintain Confidential Information in strict confidence and disclose Confidential Information only to employees, contractors, and representatives with a need to know to fulfill the affairs and transactions contemplated hereunder. Participant shall always remain responsible for breaches hereof arising from the acts of its employees, contractors, and representatives. Participant shall use the same degree of care as it uses with respect to its own similar information, and no less than a reasonable degree of care, to protect Confidential Information from any unauthorized use, disclosure, or dissemination. Participant shall not decompile, disassemble, or reverse engineer any part of the Confidential Information.
  - B. **Required Disclosures.** If Participant is confronted with legal action to disclose Confidential Information, Participant shall, unless prohibited by applicable law, provide written notice to PNC within two (2) business days to allow PNC an opportunity to seek a protective order or other relief. If disclosure is nonetheless required, Participant shall limit its disclosure to only that portion of Confidential Information which it is advised by its legal counsel must be disclosed.
  - C. **Unauthorized Use or Disclosure of Confidential Information; Equitable Relief.** The Parties agree and acknowledge that any breach or threatened breach of Confidential Information may result in irreparable harm to the PNC for which there may be no adequate remedy at law. In such event PNC shall be entitled, in addition to Liquidated Damages detailed below, to seek an injunction, without the necessity of posting a bond, to prevent any further breach, in addition to all other remedies available in law or at equity.
- 7. **Liquidated Damages.** If Participant breaches Sections 5 or 6, Participant shall pay to PNC an amount equal to twenty-five thousand dollars (\$25,000) for each occurrence (the "Liquidated Damages") or the amount of actual damages caused, whichever is greater. The parties intend that Liquidated Damages constitute compensation based on the value of PNC materials provided, and not a penalty. The parties acknowledge and agree that the harm caused by such breach would be impossible or very difficult to accurately estimate, and that the Liquidated Damages are a reasonable estimate of the anticipated or actual harm that might arise from such breach. Nothing herein is intended to limit other remedies available to Company.

8. **Warranties and Representations.** PNC hereby represents, warrants, and covenants it will provide Services in a professional and workmanlike manner. PNC further represents, warrants and covenants that materials and deliverables of the All-In Program are the original work of PNC. In the event Participant or any third party modify or otherwise use deliverables outside the scope hereof, all representations and warranties of PNC shall be void. PNC makes no other warranties whatsoever. PNC explicitly disclaims other warranties of any kind, either express or implied, including but not limited to warranties of merchantability or fitness for a particular purpose or compliance with laws or government rules or applicable regulations.
- A. **Earnings Disclaimer.** Participant acknowledges that results are not guaranteed. Any statement made by PNC whether on its website or in conjunction with any part of the Program are provided as references only and do not guarantee future success, earnings, or income. As with any endeavor, results vary and depend on a wide variety of factors including, but not limited to, Participant's skill, knowledge, ability, dedication, network, and financial situation. Participant agrees that PNC, including its officers, agents, representatives, advertisers, and affiliates, are not responsible for any success or failure Participant may experience in Participant's personal and business life.
9. **Indemnification.** Each party ("Indemnifying Party") agrees to indemnify, defend and hold the other party and its respective affiliates, officers, directors, employees and agents harmless from and against all third-party claims, losses, liabilities, damages, expenses and costs, including attorney's fees and court costs, arising out of the Indemnifying Party's (i) gross negligence or willful misconduct *or* (ii) material breach of any of the terms hereof. The Indemnifying Party's liability under this Section shall be reduced proportionally to the extent that any act or omission of the other Party, or its employees or agents, contributed to such liability. The party seeking indemnification shall provide the Indemnifying Party with prompt written notice of any claim and give complete control of the defense and settlement of the Indemnifying Party and shall cooperate with the Indemnifying Party in its defense of such claim(s). This indemnity shall not cover any claim in which there is a failure to give the Indemnifying Party prompt notice. This Section 11 states the entire obligation and exclusive remedies with respect to the parties' indemnification obligations pursuant hereto.
10. **Term and Termination.** These Terms shall commence upon your purchase of any All-In Program Package and shall remain in effect until completion of the Term or cancelled pursuant to this Section. Your participation in a program may be terminated for cause if either party breaches its material responsibilities, which breach is not cured within five (5) business days from receipt of written notice of such breach. In the event of termination, PNC shall be compensated for the full value of the Program.
11. **Promotion.** Participant grants to PNC a world-wide, non-exclusive, royalty-free license to use any written statement, image, audio or video recording of Participant during participation in the Program, including anything published to social media, the Program's online community and any images or recordings captured about Participant's participation in the Program.
12. **Dispute Resolution.** If any dispute arises out of or relates to these Terms or your participation, or a breach thereof, the disputing Party shall provide written notice regarding the act of such dispute within five (5) business days. The Parties shall make reasonable efforts to resolve such dispute amicably and informally. If the dispute cannot be settled through direct discussions between the parties within seven (7) business days, the Parties agree to first endeavor to settle the dispute in an amicable manner by mediation in accordance with the rules of alternative dispute resolution of the State of Texas for the judicial circuit containing Comal County, Texas.
13. **Attorney's Fees.** If either Party incurs any legal fees associated with the enforcement of these Terms or any rights hereunder, the prevailing Party in such dispute resolution shall be entitled to recover its reasonable attorneys' fees and any court, arbitration, mediation, or other litigation expenses from the nonprevailing Party.
14. **Miscellaneous Provisions.**
- A. **Notice.** All legal notices, demands, requests and replies required or permitted hereby shall be in writing and shall be deemed given when delivered in person or sent first class mail, postage prepaid, or US Registered Mail; or electronic mail; addressed as follows:

For Company: Pam Nemec Consulting, Inc.  
Attn: Pam Nemec  
4669 FM 2673  
Canyon Lake, TX 78133

pnemec@pamnemec.com

With a copy to: Shraybman Law, LLC  
Attn: Jessica Shraybman, Esq.  
475 Brickell Ave., #4113  
Miami, FL 33131  
jessica@shraybmanlaw.com

For Participant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any Party may change its address for purposes of this paragraph by giving the other party written notice of the new address in the manner set forth herein.

- B. Entire Agreement. These Terms constitutes the entire agreement between the Parties and supersedes any prior understanding or representation of any kind. There are no other promises, conditions, or agreements, whether oral or written, relating to the subject matter hereof.
- C. Force Majeure. Neither Party shall be in default by reason of failure or delay of performance, except for Participant's payment obligations, where such failure or delay is due to any cause beyond its reasonable control, including hurricanes, earthquakes, strikes, civil disturbances, riot, invasion, epidemic, hostilities, war, natural disaster, acts of God, flood, fire, or other circumstances beyond such Party's reasonable control.
- D. Severability; Modification; Survival; Waiver. To the extent any provision herein is deemed unenforceable, all remaining provisions shall not be affected thereby and shall remain in full force and effect. These Terms may not be waived, modified, or abandoned, in whole or in part, except by a separate agreement signed by both Parties. The rights and obligations set forth herein, and any right, obligation, or required performance of the Parties which, by its express terms or nature is intended to survive termination or expiration hereof, shall survive for three (3) years after any termination or expiration, with the exception of those provisions which by their nature shall survive indefinitely. Failure to enforce any provision will not be construed as a waiver of any such provision, nor prevent a Party thereafter from enforcing the provision or any other provision hereof. The rights granted are cumulative, and the election of one will not constitute a waiver of such Party's right to assert other legal and equitable remedies available.
- E. Assignment. Except as otherwise provided, this agreement is for the sole benefit of the Parties and their successors and permitted assigns. Nothing herein, express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit, or remedy. Participant shall not assign its rights or obligations hereunder without the express written consent of PNC. Any purported assignment by Participant in contravention of this Section shall be considered null and void ab initio. Notwithstanding the foregoing, PNC reserves the right to assign its right and obligations hereunder.
- F. Interpretation, Choice of Law, Jurisdiction, and Venue. The headings contained herein are for reference only and shall not affect the meaning or interpretation hereof. These Terms shall not be interpreted more strictly against either Party merely because that Party drafted it. These Terms shall be construed in accordance with, and governed by, the laws of the State of Texas, without regard to conflicts of law principles. The Parties voluntarily consent to the jurisdiction of all Federal and State Courts located in Texas. The Parties further agree and consent that venue of any action shall be undertaken in Comal County, Texas.