



Testing Agreement

This Testing Agreement (“**Agreement**”) dated 13th day of September Two Thousand Eighteen (“**Effective Date**”)

by and between Sancheti Institute College Of Physiotherapy, Sancheti Healthcare Academy, 12, Thube Park, Shivajinagar, Pune – 411005 represented by its authorized signatory Dr Nilima Bedekar (**Hereinafter referred to as the Institute**)

AND

MGM Institute of Health Sciences, Navi Mumbai through the MGM School of Physiotherapy having its office at MGM Educational Campus, Sector 1, Kamothe, Navi Mumbai, 410209 (**Hereinafter referred to as the Organization**).

WHEREAS

1. The Institute has submitted an exercise protocol which involves three types of Suryanamaskar namely traditional, chair and wall Suryanamaskar (the “**Exercise protocol**”) which could be used for enabling mobility in persons with impairments (the “**Purpose**”)
2. Dr Apurv Shimpi(PT), Professor, from Sancheti Institute College Of Physiotherapy, Sancheti Healthcare Academy, Pune at the Institute together with certain research scholars at the Institute have developed the Exercise Protocol, the intellectual property which is owned exclusively by the Institute.
3. The Institute contemplates that after the development of the **Exercise protocol**, it will be necessary to test the said **Exercise protocol** in certain controlled conditions (the “**Testing**”).
4. The Organization has the facilities to conduct the test and is willing to participate in the Testing of the **Exercise protocol** with the Institute upon terms and conditions as set out herein. The Institute has inspected the said available infrastructure, facilities, interacted with the staff and employees, is satisfied with and has approved the same.

The Parties hereto have therefore mutually agreed as follows:

1. SCOPE OF WORK

1.1 Conduct of the Testing.

The parties agree to conduct the Testing in a controlled environment based upon the

terms and conditions contained in this Agreement and in terms of the protocol to be mutually agreed between the Institute and the Organization prior to the time of the Testing. The organization shall get clearance from the Institutional Review Board and Ethics committee and communicate the same to the Institute, which will be final and binding on both the parties.

1.2 Care and Skill:

The Organization, its employees and staff will:-

- a) exercise all due care, diligence and skill necessary for carrying out testing activities;
- b) use reasonable endeavours to complete the agreed work within the time specified or extended time as agreed by the parties in writing;
- c) allocate sufficient staff time during one year between January 2018 to December 2018 (amounting to 360 hrs/ 50 working days) (with suitable qualification/experience) for the testing;
- d) obtain the Informed Consent of the concerned participants ;
- e) keep the records of the participants and the Institute confidential;

1.3 Principal Investigator.

Dr. Apurv Shimpi, Professor, Sancheti Institute College Of Physiotherapy, of the Institute will serve as the principal investigator ("**Principal Investigator**") for the Testing. The Principal Investigator is not a party to this Agreement and acts solely as an employee of Institute.

- 1.4 The Institute will supply the necessary materials to conduct the Testing, and also information for the purpose of the Testing. The Organization is responsible for proper conduct of the Testing under the supervision of its domain expert. The parties agree that their respective authorized representative shall remain present at the time of testing, participate therein and sign the daily report/daily work done report as a mark of approval of the quality and procedure of testing done by the Organization. The said daily report/daily work done report shall be evidence of the fact that the testing has been done as per the approved procedure, methods and standards operating procedures of MGM Center of Human Movement Science, Navi Mumbai.

- 1.5 The Organization shall provide a list of participants who have provided their written consent for participating in the testing of the Exercise Protocol after being informed by the organization of the Exercise Protocol , its purposes, the probable inherent risks involved in the use of the Exercise Protocol etc (the "**Informed Consent**") to the Testing of the Exercise Protocol. The Organization acknowledges that it has been and shall ensure that it will fully inform the participants about the Exercise Protocol, the Testing Protocol and the Purpose of the Exercise Protocol before obtaining the participants Informed Written Consent. The Testing Protocol will contain the details of the number of Exercise Protocols to be used during the Testing. The written consent format as approved by the parties hereto and generally accepted by the Ethical Committee for Research on Human Subjects, MGMIHS is enclosed herewith. A short write up of the information (as approved by the parties) to be provided to the participants is annexed hereto as Annexure 1.

1.6 Testing Report.

All the reports (including the Testing Report) testing data and materials used for the purpose of this Agreement shall be owned by the Institute and the Organization. With the prior mutual consent, the Institute or the Organization may use the Testing Report for any purpose as deemed necessary including internal research, teaching, archival purposes and publication. The Organization will keep, maintain and regularly update the testing report and shall upon demand in writing by the Institute, through their authorized representatives provide copies as requested. The final testing report will be submitted to the Institute as required by the Institute. The Organization will create a testing report at the beginning of the Testing and will include in the report the details in terms of the Testing Protocol including outputs of the Testing, financial reports, the originals of the Informed Consent obtained, comments from the participants etc (the "**Testing Report**").

2. MEETING OF THE EXPENSES

Costs and Expenses.

The Institute will pay an amount of INR 86,000 (50% of the cost of testing which is INR 1,72,000) at the time of signing the agreement. Further, the Institute will meet the costs of testing (to the extent of the approved budget), within a period of 30 -45 days from date of receipt of the bills from the Organization. The payments shall be made in the name of MGM Centre of Human Movement Science. The Institute agrees and undertakes to pay interest @ of 18% for the delay in payment of the bills beyond the period of 45 days from the date of receipt of the bills from the Organization.

3. INTELLECTUAL PROPERTY

3.1 Pre-existing Intellectual Property.

Ownership of inventions, discoveries, works of authorship, and other developments existing as of the Effective Date and all patents, ("**Pre-existing Intellectual Property**") is not affected by this Agreement. Neither party shall have any claims to or rights in any Pre-existing Intellectual Property of the other party, except as may be expressly provided in any other written agreement between the parties.

3.2 Intellectual Property Agreements.

Intellectual Property (IP) generated as part of or as a consequence of the Testing shall be jointly owned by the parties. The Organization and the Institute will inform each other if any IP is created and will co-operate and provide consent for sharing of IP rights, making applications for registration including provisional registration etc.

4. TESTING DATA

4.1 Testing Data.

Organization shall own and maintain all the Testing results and may use it for any purpose including for research, teaching, educational, archival or auditing purposes. Original Testing data in entirety remains the sole property of the organization. The Institute cannot share these results with any third party without prior written consent of the Organization.

4.2 Exercise Protocol for Testing.

Institute shall provide the Exercise Protocol to enable the Organization to conduct the Testing. The Organization is responsible for proper conduct of the test under the supervision of domain expert. Title and ownership of the **Exercise Protocol** will at all times remain with the Institute.

5. CONFIDENTIAL INFORMATION

5.1 Institute and Organization recognize that conducting the Testing may require the transfer of confidential or proprietary information between the parties. All documents, information, materials and data provided to Organization by the Institute will be considered confidential information of the Institute only if marked as "confidential" ("**Confidential Information**"). The Organization shall ensure that the information is shared only with those employees, staff or parties who have a need to know the Confidential Information and shall procure confirmation that all such parties agree to be bound by this Confidentiality Clause and terms of this Agreement. In consideration of the disclosure of any Confidential Information to the other, the Institute and the Organization agree that, for a period of this Agreement, which is one year from January 2018 to December 2018, and for a further period of three (3) years from the date of expiry of this Agreement, they will:

- (a) Not use the Confidential Information except as allowed in this Agreement;
- (b) Not use the Institute's Confidential Information without an appropriate participant authorization and/or consent and as allowed in this Agreement.
- (c) Not disclose to third parties any of the Confidential Information belonging to the other party without the express written consent of the disclosing party except in accordance with this Agreement; and
- (d) Take precautions as normally taken with the receiving party's own confidential and proprietary information to prevent disclosure to third parties.

5.2 The obligation of confidentiality does not apply to Confidential Information that is:

- (a) publicly available through no fault of recipient;
- (b) disclosed to the recipient by a third party;
- (c) already known to the recipient at the time of disclosure;
- (d) developed by the recipient without reference to the Confidential

- Information; or
(e) required to be disclosed by law, regulation, or court order.

For the purposes of this Agreement, the Testing Report shall be deemed to be the Confidential Information of the Institute, however original data in entirety shall be deemed to be Confidential Information of the Organization.

6. PUBLICATION

- 6.1** The basic objective of research activities at Institute is the generation of new knowledge and its expeditious dissemination for the public's benefit. Organization will provide all reasonable cooperation with Institute in meeting this objective.
- 6.2** Notwithstanding any terms to the contrary in this Agreement, Institute and Organization retain the right at their discretion to publish/present results of the Testing with mutual consent. The parties agree that the publication is a joint publication.

7. TERMINATION

The Testing will continue until the Testing is completed by the Organization or to the maximum limit of one year extending from January 2018 to December 2018. Similarly the termination can be done by the Organization, if the Institute fails to make payment of bills within the specified period of 30—45 days after testing, from the date of receipt of the bill by the Institute, or if the Institute fails to provide appropriate and proper information for carrying out the testing, or for any breach of the terms of this testing agreement and it becomes effective upon e-mail communication from the person who had signed this agreement or equivalent or above authorized person. The Institute may terminate this Agreement if the Organization breaches this Agreement or does anything to delay or hinder the Testing process; termination will be immediately effective upon the receipt of written notice from the Institute to the Organization. It is further provided that such notice will not be served unless there is serious breach by the Institute.

8. NOTICES

Any notices given under this Agreement will be in writing and delivered by e-mail or speed post or by hand addressed to the parties as follows:

Sancheti Institute College of Physiotherapy,
Sancheti Healthcare Academy,
12, Thube Park, Shivajinagar, Pune – 411005

MGM School of Physiotherapy
MGM Institute of Health Sciences
Sector 1, Plot No 1&2, Kamothe, Navi Mumbai, India

9. PUBLICITY

- 9.1 Neither party will identify the other in any promotional advertising or other promotional materials to be disseminated to the public or use the name of any faculty member, employee, or student or any trademark, service mark, trade name, or symbol of the other, including without the other party's prior written consent.
- 9.2 Notwithstanding anything to the contrary, Organisation agrees to allow publicly registered information about the Testing to appear on Institute Directory website.

10. INDEMNITY

The Institute will indemnify and hold harmless the Organization, its employees, Investigator, staff and students from any loss, damage, claim (including legal costs) that may arise due to the negligence or default of the Organization.

11. NO WARRANTIES

The Institute/Organization make no warranties, express or implied, as to any matter whatsoever, including, without limitation, on the Exercise Protocol or the results of the testing or any invention, process or product, whether tangible or intangible, conceived, discovered, or developed by it.

12. LIMITATION OF LIABILITY

The Organization shall not be liable for any indirect, consequential or other damages suffered by Institute or any of the testing participants including, damages arising from loss of data or delay or termination of the testing, or from the use of the results of the testing, or any such invention or exercise protocol.

13. FORCE MAJEURE

The parties will not be liable for any failure to perform as required by this Agreement, if the failure to perform is caused by circumstances reasonably beyond Organization's control, such as accidents, failure of any governmental approval required for full performance, civil disorders or commotions, acts of aggression, acts of God, energy or other conservation measures, explosions, failure of utilities, mechanical breakdowns, material shortages, disease, thefts, or other such occurrences.

14. MISCELLANEOUS

- 14.1 **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party.
- 14.2 **Survival.**

Any of the sections that include any other rights and obligations under this Agreement which by their nature should survive, shall survive the expiration or termination of this Agreement.

14.3 Divisibility.

If any provision of this Agreement becomes or is declared illegal, invalid, or unenforceable, such provision will be divisible from this Agreement and will be deemed to be deleted from this Agreement. If such deletion substantially alters the basis of this Agreement, the parties will negotiate in good faith to amend the provisions of this Agreement to give effect to the original intent of the parties.

14.4 Independent Contractors.

Institute and Organisation are independent contractors and neither is an agent, joint venture partners, or partner of the other.

14.5 Order of Precedence.

In the event of any inconsistency between the terms of this Agreement and the documents referenced or incorporated herein or any other agreement concerning this Testing between the Parties and their employees, the terms of this Agreement will prevail.

14.6 Entirety.

This Agreement represents the entire agreement and understanding between the parties and their employees with respect to its subject matter and supersedes any prior and/or contemporaneous discussions, representations, or agreements, whether written or oral, of the parties regarding this subject matter.

14.7 Amendments.

The Amendments or changes to this Agreement must be in writing and signed by duly authorized representatives of the parties.

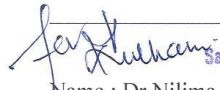
14.8 Counterparts.

This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which will constitute one and the same Agreement, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully executed counterparts.

IN WITNESS WHEREOF, these duly authorized representatives of the parties hereby execute this Agreement, including all the terms and conditions which follow.

Sancheti Institute College Of Physiotherapy
Sancheti Healthcare Academy,
12, Thube Park, Shivajinagar,
Pune – 411005

MGM Institute of Health Sciences,
Navi Mumbai

 **Mrs. Nilima Bedekar**
Sancheti Institute College of Physiotherapy
18, Shivajinagar, Pune - 5.

Name : Dr Nilima Bedekar

Designation : Principal

Date : 15/10/2018



 **Dr. Rajesh B. Goel**

Registrar

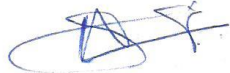
Date : 28/9/2018

Dr. Rajesh B. Goel
Registrar
MGM Institute of Health Sciences
(Deemed University u/s 3 of UGC Act, 1956)
Navi Mumbai- 410 209



Principal Investigator

Institute:

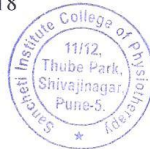


Name : Dr. Apurv Shimpi

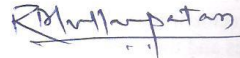
Department :

Sancheti Institute College Of
Physiotherapy , Pune

Date : 15/10/2018



Organization:



Dr. Rajani Mullerpatan

MGM School of Physiotherapy, Navi
Mumbai.

Date : 28-9-2018 **Professor - Director**
MGM School of Physiotherapy
MGMIHS, Navi Mumbai

