

Testing Agreement

This Testing Agreement (“**Agreement**”) dated Twenty Ninth day of May Two Thousand Seventeen (2017) (“**Effective Date**”)

by and between **Indian Institute of Technology, Madras** (“**Institute**”) c/o the Center for Industrial Consultancy and Sponsored Research, Delhi Avenue, IIT Madras, Chennai 600 036 represented by its authorized signatory Dean, IC & SR.

AND

MGM Institute of Health Sciences, Navi Mumbai through the MGM Institute’s University Department 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 developed certain Assistive Devices (the “**Products**”) which could be used for enabling mobility in persons with locomotor impairments (the “**Purpose**”)
2. Professor Sujatha Srinivasan, TTK Center for R2D2, Department of Mechanical Engineering at the Institute together with certain research scholars at the Institute have developed the Products, the intellectual property which is owned exclusively by the Institute.
3. The Institute contemplates that after the development and manufacture of the product, it will be necessary to test the said Product in certain controlled conditions (the “**Testing**”).
4. The Organization has the required infrastructure and facilities to conduct the test is willing to participate in the Testing of the Products 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 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 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;
- c) allocate sufficient staff time (with suitable qualification/experience) for the testing;
- d) obtain the Informed Consent of the concerned patients;
- e) keep the records of the patients and the Institute confidential;

1.3 Principal Investigator.

Dr. Sujatha Srinivasan, Associate Professor, Department of Mechanical Engineering 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 Products to conduct the Testing as well as other materials as required, and also information for the purpose of the Testing. At the end of the Testing, the Institute will remove the Products unless otherwise agreed with the Organization in writing. The Organization is responsible for proper conduct of the test under the supervision of its domain expert.
- 1.5 The Organization shall provide a list of patients who have provided their written consent for participating in the testing of the Product after being informed by the organization of the product, its purposes, the probable inherent risks involved in the use of the product etc. (the "**Informed Consent**") to the Testing of the Products. The Organization acknowledges that it has been and shall ensure that it will fully inform the patients about the Product, the Testing Protocol and the Purpose of the Product before obtaining the patient's Informed Written Consent. The Testing Protocol will contain the details of the number of Products 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.
- 1.6 **Testing Report.**

All the reports (including the Testing Report), data, materials and Product 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 as the case may be use the Testing Report for any purpose as deemed necessary by the Institute or the Principal Investigator including internal research, teaching, archival purposes, publication or transfer to third parties. The Organization will keep, maintain and regularly update the testing report and shall upon demand in writing by the Institute, or their authorized representatives provide copies as requested. The final testing report will be submitted to the Institute as and when 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 but



not limited to the 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.

Institute will meet the costs and expenses of the organization (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.

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 Inventions.

"**Inventions**" shall mean all inventions, discoveries and developments conceived, first reduced to practice or otherwise discovered or developed by the Institute. Institute shall be the sole owner of all Inventions that are conceived, first reduced to practice or otherwise discovered or developed by the Institute or any of its employees or research scholars.

3.3 Intellectual Property Agreements.

Intellectual Property (IP) generated as part of or as a consequence of the Testing shall solely and exclusively belong to the Institute. The Organization shall inform the Institute if any IP is created and will co-operate and provide its consent for transfer of all rights to the IP to the Institute. The Organization will procure all consents and assignments from its employees to enable the transfer of exclusive ownership of IP to the Institute.

4. TESTING DATA

4.1 Testing Data.

Institute shall exclusively own and maintain all the Testing results and data (the "**Data**") and may use it for any purpose including for research, teaching, educational, archival or auditing purposes and may share this Data with any third party at its discretion. The Organisation shall with the prior approval of the Institute have the access, right, title or interest over such Data.

4.2 Product for Testing.

Institute shall provide the Product at the premises of the Organization to enable the Institute and 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 Product will at all times remain with the Institute. Subject to the provisions of Clause 1.4, the Organisation will return the Product to the Institute at the conclusion of the Testing, less normal wear and tear.

5. CONFIDENTIAL INFORMATION

5.1 Institute and Organisation 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 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 patient 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 and any Data shall be deemed to be the Confidential Information of the Institute.

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.



Organisation 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.

7. TERMINATION

The Testing will continue until the Testing is completed by the Organisation. 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. Similarly the termination can be done by the organization, and it becomes effective upon e-mail communication from the person who had signed this agreement or equivalent or above authorized person. 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:

Indian Institute of Technology Madras:
Dean (IC & SR)
Centre for Industrial Consultancy and Sponsored Research
IIT Madras, Chennai 600036

MGM Institute's University Department of Physiotherapy
MGM Institute of Health Sciences
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 Organization will indemnify and hold harmless the Institute, its employees, Investigator, staff and students from any loss, damage, claim (including legal costs) that may arise due the negligence or default of the Organization.



11. NO WARRANTIES

The Institute makes no warranties, express or implied, as to any matter whatsoever, including, without limitation, on the product 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 Institute shall not be liable for any indirect, consequential or other damages suffered by organisation or any of the testing patients including, but not limited to, 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 product.

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 Institute'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.

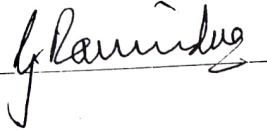
14.8 Counterparts.

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.

INDIAN INSTITUTE OF
TECHNOLOGY, MADRAS

MGM Institute of Health Sciences,
Navi Mumbai


Registrar
29th May 2017

Name :

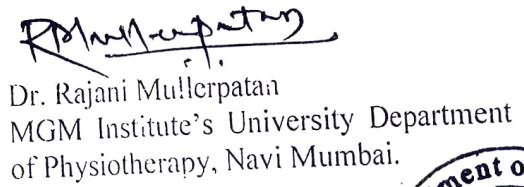
डीन (आई.सी. एवं एस.आर.)
Designation : Dean (CSIR SR)
Date : 29th May 2017
आई.आई.टी. मद्रास
I.I.T. MADRAS
चेन्नै/CHENNAI - 600 036

Organization:

Principal Investigator



Name : Dr. Sujatha Srinivasan
Department : Mechanical Engineering
IIT-Madras


Dr. Rajani Mullerpatan
MGM Institute's University Department
of Physiotherapy, Navi Mumbai.

Date : 29th May 2017

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