

NYMBL SERVICES ORDER FORM

Customer:	Contact:
Address:	Phone:
	E-Mail:
Services: NymbL Balance System, consisting of: balance evaluation software, balance training software for both classes and individuals, web portal access for reporting and monitoring, and implementation tools and equipment (the “ <i>Service(s)</i> ”).	
Services Fees:	Initial Service Term:
Implementation Services:	
Discounts:	
Additional Terms:	

SAAS SERVICES AGREEMENT

This SaaS Services Agreement (“*Agreement*”) is entered into on this _____ day of _____, ____ (the “*Effective Date*”) between NymbL Science, Inc with a place of business at 3513 N Brighton Blvd, Ste 478, Denver, CO 80216 (“*Company*”), and the Customer listed above (“*Customer*”). This Agreement includes and incorporates the above SaaS Services Order Form (the “*Order Form*”), as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

NymbL Science, Inc.

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

TERMS AND CONDITIONS

1. SAAS SERVICES AND SUPPORT

1.1 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services. As part of the registration process, Customer will identify an administrative contact (email and telephone) for Customer's Company account.

1.2 Subject to the terms hereof, Company will provide Customer with reasonable technical support services in accordance with Company's standard practice.

2. GRANT OF LICENSE; RESTRICTIONS AND RESPONSIBILITIES

2.1 With respect to any Software that is distributed or provided to Customer for use on Customer premises or devices, Company hereby grants Customer a non-exclusive, non-transferable, license to use such Software during the Term only in connection with the Services. Customer may sublicense such Software to its clients or patients, as the case may be, provided that Customer advises such clients or patients in advance that the Services are for informational purposes only and are not intended to be a substitute for professional medical advice, diagnosis, or treatment, as set forth in Section 8 below.

2.2 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove any proprietary notices or labels.

2.3 Further, Customer may not remove or export from the United States or allow the export or re-export of the Services, Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Software and documentation are "commercial items" and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement

2.4 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Company's these Terms and Conditions and with the Company's website Terms and Conditions of Use and Privacy Policy then in effect (together, the "**Policy**") and all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's or Customer's clients use of the Services. Although Company has no obligation to monitor Customer's use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

2.5 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "**Equipment**"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the "**Receiving Party**") understands that the other party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of

Customer includes non-public data provided by Customer to Company to enable the provision of the Services (“*Customer Data*”). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

3.2 Company shall own all right, title and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Services. Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with support, and (c) all intellectual property rights related to any of the foregoing.

3.3 Notwithstanding anything to the contrary, Company shall have the right collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Company offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

4. PAYMENT OF FEES

4.1 Customer will pay Company the then applicable fees described in the Order Form for the Services in accordance with the terms therein (the “*Fees*”). If Customer’s use of the Services exceeds the Service Capacity set forth on the Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). If Customer believes that Company has billed Customer incorrectly, Customer must contact Company no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Company’s customer support department.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Company thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service. Customer shall be responsible for all taxes associated with Services other than U.S. taxes based on Company’s net income.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the “*Term*”), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days’ notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

6. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

7. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO COMPANY FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL COMPANY, ITS LICENSORS, ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES BE LIABLE FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, INCIDENTAL AND CONSEQUENTIAL DAMAGES, PERSONAL INJURY/WRONGFUL DEATH, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT COMPANY, ITS LICENSORS, ITS SUPPLIERS, OR ANY THIRD PARTIES MENTIONED ON THE SITE OR APP ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. COMPANY, ITS LICENSORS, ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES ARE NOT LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, CAUSED BY YOUR USE OR MISUSE OF THE SERVICES REGARDLESS OF WHETHER SUCH PERSONAL INJURY, INCLUDING DEATH, OCCURS DURING USE OF THE SERVICES OR DURING IN-PERSON WELLNESS TRAINING.

8. NO MEDICAL ADVICE

The Services, including text, graphics, images, information obtained from Company's licensors, and other material contained in the Services or available for download or use from the Services (collectively the "**Content**") are for informational purposes only. The Content is not intended to be a substitute for professional medical advice, diagnosis, or treatment. Always seek the advice of a physician or other qualified health provider with any questions regarding a medical condition. Never disregard professional medical advice or delay in seeking it because of something you have read in the Services.

If there is a medical emergency, call a doctor or emergency medical phone number immediately. Company does not recommend or endorse any specific tests, physicians, products, procedures, opinions, or other information that may be mentioned on the Services. Reliance on any information provided by Company, Company's employees, others

appearing in the Services at the invitation of Company, or other visitors to the Services is solely at your own risk.

The Services may provide sports training, wellness, physical training, fitness, nutrition and other related information, applications, and content, all of which is intended only to assist users in their personal training, wellness, physical fitness, nutrition and sports efforts. Nothing contained in the Services should be construed as medical advice or a medical diagnosis. Any information and reports generated by Company should not be interpreted as a substitute for physician consultation, evaluation, treatment, or good sense and personal judgment about someone's condition.

The risk of injury from participation in a fitness regimen and/or from the performance of any exercise is significant, including the potential for catastrophic injury or death. Anyone participating in the Services should and must consult a medical professional before undertaking any fitness regimen or exercise program, including any exercises or techniques set forth or described in the Services. Any text, pictures, video and description set forth in the Services is for educational purposes only (e.g., the information illustrates and explains various fitness-related and exercise techniques) and does NOT advise that you or anyone else undertake or perform any particular technique or exercise. No one will undertake or perform any exercise or technique described in the Services until and unless they consult with and are cleared by a medical doctor in relation to such participation.

The Services are not intended for use by minors, pregnant women, or individuals with any type of health condition and/or health problem. As are all users, such individuals are specifically warned to seek professional medical advice prior to initiating any form of sports training, physical training, testing or exercise regimen.

9. MISCELLANEOUS

If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Company's prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of Colorado without regard to its conflict of laws or provisions. The parties shall work together in good faith to issue at least one mutually agreed upon press release within 90 days of the Effective Date, and Customer otherwise agrees to reasonably cooperate with Company to serve as a reference account upon request. In the event of any conflict between these Terms and Conditions and the Company's website terms and conditions regarding the Services, these Terms and Conditions shall control.

