

MUTUAL CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

The Mutual Confidentiality and Nondisclosure Agreement (Agreement) with the Effective Date as defined on page 3, is entered by and between ARTIMED Medical Consulting GmbH located at Wilhelmsstraße 10, 34117 Kassel/Germany, and

RECITATIONS

WHEREAS, the above parties contemplate discussions concerning technical and business matters related to products and processes of the parties;

WHEREAS, to facilitate such discussions, certain Confidential Information, which was developed at great cost and with substantial employee effort by each of the parties, may be disclosed by each party to the other so that the parties can freely discuss mutually beneficial arrangements;

NOW, THEREFORE, in consideration of these premises, and of the mutual promises and covenants contained herein, the parties agree to the following terms and conditions under which each party shall disclose certain of its Confidential Information:

TERMS AND CONDITIONS

1. **Definitions:** Each party shall be the “DISCLOSING PARTY” with respect to its own Confidential Information and “RECEIVING PARTY” with respect to Confidential Information received. Confidential Information (INFORMATION) includes, but is not limited to, the information memorandum, and other information regarding any fact or information concerning secret, proprietary or confidential methods or plans of operation, research, development, processes, trade secrets, suppliers, financial information, know-how, other business information, and confidential information obtained by observation or inspection of each party’s records, plans, machinery, processes, procedures, facilities, inventions, experimental technology (whether or not in the development stage) or designs or confidential information that is not generally available to the public that the Disclosing Party desires to protect against unrestricted disclosure and competitive use.
2. **Nondisclosure Obligations:** Unless otherwise agreed to in writing, the RECEIVING PARTY will not use, disclose or reveal any INFORMATION for any purpose other than in connection with the Transaction to any persons or entities other than to those directors, officers, employees, agents or advisors (collectively “representatives”) of the RECEIVING PARTY who clearly need such access to actively and directly participate in the evaluation of the INFORMATION. Furthermore, the RECEIVING PARTY will not use the INFORMATION in any way detrimental to the DISCLOSING PARTY or any of its employees or customers. RECEIVING PARTY will not disclose any INFORMATION to any third party, including its advisors, who has not executed and delivered the DISCLOSING PARTIES’s Confidentiality Agreement.
3. **Restrictions:** Obligations imposed upon RECEIVING PARTY shall not apply to any INFORMATION:
 - (a) that the RECEIVING PARTY can demonstrate by prior existing records of RECEIVING PARTY was within its legitimate possession prior to the time of disclosure;
 - (b) which was in the public domain prior to its disclosure to the RECEIVING PARTY as evidenced by documents, which were published prior to such disclosures;
 - (c) which, after disclosure by the DISCLOSING PARTY comes into the public domain as

evidenced by documents, which are generally published, through no fault of the RECEIVING PARTY;

(d) which a third party, legitimately in possession of such information and having the right to make such disclosures, discloses to the RECEIVING PARTY; or

(e) any confidential information not constituting a trade secret after two (2) years from the last day on which discussion of the potential transaction or business relationship between the parties occurs.

Provided, however, the INFORMATION which is specific as to materials, composition, techniques, structure, methods, or the like shall not be deemed to be in the public domain merely because such information is embraced by more general disclosures in the public domain and any combination of features shall not be deemed to be within the foregoing exceptions merely because individual features are in the public domain if the combination itself and its principals of operations are not in the public domain.

4. **Rights and Ownership:** Disclosure of INFORMATION shall not obligate either party to enter any further agreement or negotiation with the other or to refrain from entering into an agreement or negotiation with any other party. All INFORMATION provided hereunder shall remain the property of the DISCLOSING PARTY. If either party elects not to pursue any further business relationship, RECEIVING PARTY shall promptly destroy, or upon written request return, all INFORMATION.
5. **Publicity:** Without the written permission of the other party, each party agrees not to disclose its participation in this Agreement, the terms and conditions of this Agreement, and that discussions are being held between the parties.
6. **Remedies:** RECEIVING PARTY understands that unauthorized disclosure of INFORMATION will be deemed a material breach and shall cause DISCLOSING PARTY irreparable damage for which monetary compensation would be inadequate compensation. Therefore, RECEIVING PARTY agrees that DISCLOSING PARTY may obtain an injunction to enforce its rights hereunder and consents to entry of such an injunction.
7. **Governing Law:** The validity and effect of this Agreement shall be governed, construed and enforced in accordance with the laws of Germany. The parties agree that any legal action under this Agreement shall be instituted in the country of Germany, and each party hereby irrevocably consents to the jurisdiction of the courts of Germany, including the federal courts located therein, in any such action. Each party hereby agrees conclusively that by entering into this Agreement it is transacting business in Germany for the purpose of being subject to the jurisdiction of the aforesaid courts and irrevocably appoints the legal courts in Germany as its agent for service of process in any action commenced against it under this agreement. Each party agrees that service on such agent shall constitute service on the other party for all purposes.
8. **Entire Agreement:** This Agreement constitutes the entire agreement between the parties about this subject matter and supersedes any prior or contemporaneous oral or written representation. It may not be amended or modified except by a writing signed by both parties.
9. **Strict Compliance:** No failure of a party to exercise any right or insist upon strict compliance by the other party regarding any obligation, and no custom or practice of the parties at variance with this Agreement, shall constitute a waiver of the right of a party to demand exact compliance. Waiver by one party of any particular default by the other party shall not affect or impair a party's rights in respect to any subsequent default of the same or different nature.
10. **Severability and Independent Covenants:** If any covenant or provision of this Agreement is deemed invalid, all other covenants and provisions shall remain in full force and effect.

11. **Jointly Drafted:** This Agreement shall be deemed to have been drafted by both parties, and in the event of a dispute, it shall not be construed against either party.
12. **Further Assurance:** If requested by one party, the other party shall execute and deliver such other documents and take such other action as may be necessary to effect the terms of this Agreement.
13. **Authority to Execute:** The undersigned individuals represent and warrant that they are expressly and duly authorized by their respective entities or agencies to execute this Agreement and to legally bind their respective entities or agencies as set forth in this Agreement.
14. **No Third Party Beneficiary:** This Agreement shall not, and is not intended to, benefit or grant any right or remedy to any third person or entity that is not a party to this Agreement.
15. **No Warranty:** RECEIVING PARTY acknowledges and agrees that the INFORMATION is provided on an AS IS basis. Disclosing party makes no warranties express or implied with respect to the information.

To show their acceptance of the terms and conditions of this Agreement, the parties have signed below:

ARTIMED Medical Consulting GmbH
Wilhelmsstraße 10
34117 Kassel, Germany

Place, date

Dr. Markus Hahn, Managing Director

Place, date

Name, Position