

MUTUAL CONFIDENTIAL & NON-DISCLOSURE AGREEMENT

THIS MUTUAL CONFIDENTIAL & NON-DISCLOSURE AGREEMENT (“Agreement”) is entered into this _____ day of _____, _____ (the “Effective Date”), by Supplier GerMed/GerMedUSA, with its principal office at 1188 Willis Ave, Albertson, NY 11507 (“Supplier), and _____, with its principal office at _____ (the “Company”). When Supplier or Company receives Confidential Information (as defined herein) from the other party, it is a “receiving party” hereunder, and when Supplier or Company discloses Confidential Information to the other party, it is a “disclosing party” hereunder.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Confidential Information. “Confidential Information” shall mean confidential and proprietary information (regardless of whether such information is in written, oral, visual or electronic form: (i) which consists of any discoveries, technical, engineering, financial, pricing and/or other business data and documentation, sales information, inventions, know-how, manufacturing techniques and specifications, process technologies, business plans, all disclosed by the disclosing party in furtherance of the purpose set forth in Section 2; (ii) Trade Secrets; (iii) regarding the current and/or prospective business of the disclosing party; and (iv) any information that is disclosed by the disclosing party in furtherance of the purpose set forth in Section 2 (whether or not it is marked as confidential, proprietary or privileged by the disclosing party). “Trade Secrets” shall mean any business or technical information (including but not limited to a formula, pattern, program, device, compilation of information, method, technique, or process) that derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or through reverse engineering by persons who can obtain economic value from its disclosure or use, and that is the subject of efforts reasonable under the circumstances to maintain the secrecy thereof. The existence of a Trade Secret shall not be negated merely because the information comprising the Trade Secret has also been developed and used by or owned independently by more than one person, or that has been licensed to any other persons.
2. Use and Control of Confidential Information.
 - a) The receiving party is entitled to use the Confidential Information of the disclosing party solely for the purpose of to discuss information relating to business programs, products, applications, systems, components, technologies, and business topics concerning _____. This Agreement includes but it not limited to any and all design, manufacturing, sales, pricing information. Confidential Information received from the disclosing party shall not

be used directly or indirectly to compete with the disclosing party or to in any manner obtain a competitive advantage over the disclosing party. No public announcement or disclosure of the purpose set forth in this Agreement is to be made by either party unless such announcement has been approved by both parties.

- b) The receiving party shall (i) implement reasonable controls and procedures to prevent any unnecessary duplication or copying of the Confidential Information, (ii) exercise the same degree of care and protection with respect to the Confidential Information of the disclosing party that it exercises with respect to the protection of its own confidential information of a similar nature but not less than a reasonable degree of care, and (iii) prevent disclosure of the Confidential Information to anyone except (A) to those of its employees that have a need to know such information solely in connection with the permitted use as set forth in this Section 2 and who shall be required to observe the restrictions set forth in this Agreement, (B) its professional advisors (including, without limitation, its attorneys, accountants, consultants, bankers, and financial advisors) when such disclosure is necessary and appropriate under the circumstances and who agree in writing to be bound by the terms of this Agreement, and (C) with the prior written permission of the disclosing party. Except as specifically set forth in this Section 2, the receiving party shall not disclose, disseminate, discuss or communicate any part or all of the Confidential Information to any third party, person or entity. Confidential Information shall be used by the receiving party only for the purpose set forth in this Section 2 and for no other purpose whatsoever.
3. Exceptions to Confidentiality. The obligation of confidentiality set forth in this Agreement shall not apply to any information which: (i) is, at the time of disclosure to the receiving party, generally available to the public or thereafter becomes generally available to the public through no act, omission or fault of the receiving party; (ii) is known by the receiving party at the time of receipt from the disclosing party as evidenced by the receiving party's documentation and not subject to an existing agreement of confidentiality; (iii) was independently developed by the receiving party as evidenced by its records without use of the Confidential Information; or (iv) is lawfully received from a third party without restriction and without breach by such third party of any of its obligations or agreement with the disclosing party.
4. Ownership. All Confidential Information shall be considered confidential and proprietary property of the disclosing party and the Confidential Information shall remain the sole and exclusive property of the disclosing party.
5. Disclaimer of Warranty: Nothing in this Agreement shall require the disclosing party to release or disclose any particular information to the receiving party. THE CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" TO THE RECEIVING PARTY BY THE DISCLOSING PARTY AND THE DISCLOSING PARTY MAKES NO REPRESENTATION OR WARRANTIES, WHETHER EXPRESS OR IMPLIED IN REGARD TO, AND DOES NOT ASSUME ANY LIABILITY FOR, THE ACCURACY, COMPLETENESS OR UTILITY

OF THE CONFIDENTIAL INFORMATION OR FOR THE CONSEQUENCES ARISING OUT OF THE USE THEREOF BY THE RECEIVING PARTY.

6. Compulsory Disclosure. If the receiving party is legally compelled to disclose any of the Confidential Information of the disclosing party (“**Compelled Party**”), the Compelled Party shall promptly provide prior written notice to the disclosing party to enable the disclosing party (at its sole cost and expense) to seek a protective order or other appropriate remedy to avoid public or third party disclosure of its Confidential Information. If such protective order or other remedy is not obtained, the Compelled Party shall furnish only so much of the Confidential Information that it is legally compelled to disclose, and shall exercise its commercially reasonable efforts in collaboration with, and as instructed by, the disclosing Party to obtain reliable assurance that confidential treatment will be accorded to the Confidential Information. The Compelled Party shall cooperate with and assist the disclosing party, at the disclosing party’s expense, in seeking any protective order or other relief requested pursuant to this Section 6.

7. No Commitment to Enter into Business Arrangement. The execution of this Agreement and the exchange of Confidential Information hereunder does not constitute a commitment to enter into any underlying business relationship, including, without limitation, any license, distribution, technology transfer, joint venture, partnership or any other arrangement. Any such relationship is to be entered into only upon the execution of a written agreement between the parties concerning such relationship.

8. Term; Termination; Return of Confidential Information. Unless terminated earlier by mutual agreement of the parties or terminated by the disclosing party in the event of breach by the receiving party of any obligation set forth herein, the term of this Agreement shall continue until the completion of the purpose set forth in Section 2. The receiving party agrees to immediately return and to deliver all originals and copies of any Confidential Information in its possession or subject to its control to the disclosing party at the address first written above upon the first to occur of the following: termination or expiration of this Agreement; or completion of or termination of the purpose set forth in Section 2 of this Agreement. As to Confidential Information that was provided electronically and resides on Participant’s electronic information storage system, it shall be sufficient for Participant to delete all normally accessible copies of Information from its system. Copies residing in Participant’s electronic archive storage media, provided that access to said storage media is normally limited to those who are responsible for maintenance of said archives, or copies required by law to be maintained, shall not be subject to return or deletion. The termination, completion or expiration of this Agreement shall not terminate any provision of this Agreement that expressly survives the termination, completion or expiration of this Agreement, including, without limitation, the receiving party’s obligation to maintain the confidentiality of all Confidential Information of the disclosing party and Sections 1 through 6 and Sections 9 through 14.

9. Governing Law. This Agreement shall be deemed to be executed within and shall be governed by and construed in accordance with the law of the State of Indiana. The parties agree that any suit, action, or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with this Agreement be brought in the State or Federal Courts situated in the Northern District in Indiana, that the parties hereby consent to the jurisdiction of any such court, and that the parties irrevocably waive any objection to the laying of venue of any such suit, action or proceeding in any such court or that any such court is an inconvenient forum.
10. Regulatory Compliance; Export Control. All transfers of any Confidential Information under the terms of this Agreement, including but not limited to data, shall at all times be subject to the export control and other applicable laws and regulations of the United States. The receiving party agrees that it shall not make any disposition, by way of trans-shipment, export, re-export, diversion or otherwise, except as said laws and regulation may expressly permit, of any Confidential Information or data furnished under this Agreement by the disclosing party. The receiving party represents and warrants its familiarity and compliance with the requirements of the U.S. Export Administration Regulations (“EAR”), Executive Order 13324, and other applicable laws and regulations of the U.S. Government concerning trade restrictions, exports and foreign activities, including but not limited to the regulations enforced by the U.S. Department of Commerce, U.S. Department of Homeland Security, and the U.S. Department of the Treasury and agrees to comply with such regulations.
11. Assignment. Except as set forth in this Section 11, neither this Agreement, nor any rights or obligations hereunder, may be assigned or delegated by either party without the prior written consent of the other party. GerMed/GerMedUSA (Supplier) shall have the right to assign this Agreement in the event of any merger or sale of all or substantially all of its stocks or assets, without the prior written consent of the Company. This Agreement shall inure to the benefit of and be binding upon each party together with their respective employees, officers, directors, subsidiaries, branches, divisions, affiliates, successors and assigns.
12. Miscellaneous. This Agreement does not create a relationship of agency, partnership, joint venture, or licensing arrangement between the parties. This Agreement sets forth the entire agreement of the parties as to the subject matter hereof and supersedes all existing agreements and all other communications between them concerning such subject matter, whether written or oral. This Agreement shall not be modified except in writing signed by all parties hereto. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. In the event any term of this Agreement shall be held invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such term nor the validity of any other term of this Agreement shall in any way be affected thereby and the provisions shall be reformed as necessary to carry out the intent of the parties to the fullest extent permitted by law. The section headings throughout this Agreement

are for convenience and reference only, and the words contained in them shall in no way be held to explain, modify, amplify, or aid in the interpretation, constriction, or meaning of the provisions of this Agreement. No consent or waiver by a the disclosing party of any breach or default in the performance by the receiving party of its obligations hereunder shall be deemed to be a consent to or waiver of any other breach or default in the performance by the receiving party of the same or any other obligations hereunder. The receiving party's obligation to maintain the confidentiality of all Confidential Information of the disclosing party and Sections 1 through 6 and 9 through 14 shall survive any termination or expiration of this Agreement.

13. Remedies. The receiving party acknowledges that its failure to comply with its obligation to maintain the confidentiality of the Confidential Information of disclosing party will irreparably harm the disclosing party, and that the disclosing party will not have an adequate remedy at law in the event of such non-compliance. Therefore, receiving party acknowledges that the disclosing party is entitled to seek injunctive relief without the posting of bond or other security, in addition to whatever other remedies it may have, at law or in equity, in any court of competent jurisdiction against any acts of non-compliance by the receiving party under this Agreement.

14. Notice. All notices, requests, demands and other communications contemplated or given pursuant to this Agreement shall be in writing, in the English language and shall be deemed to have been duly given upon personal delivery, five (5) days after being mailed by registered or certified mail, return receipt requested, or one (1) business day after being sent by nationally recognized overnight courier, or on the date of the transmission if sent by facsimile or e-mail (provided that notice shall be effective on the first business day following the date of transmission if transmission is effected on a non-business day). Notices shall be addressed to the signatories of this Agreement at the addresses first set forth above (or such other address as provided by a respective party to the other party pursuant to this provision).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and date first set forth above.

Company: _____ Supplier: GerMed/GerMedUSA

By: _____ By: _____

Name: _____ Name: Imtiaz Mughal

Title: _____ Title: President