



## CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the "Agreement") is entered into as of \_\_\_\_\_ by and between Hatch Medical, L.L.C. ("Hatch") and \_\_\_\_\_ ("Physician").

WHEREAS, Hatch and Physician each possess certain information which they deem confidential and proprietary,

WHEREAS, Hatch and Physician agree that to facilitate possible future business arrangements between them it may be necessary for the parties to disclose to the other Confidential Information (defined below),

WHEREAS, Hatch and Physician agree to limit the use and further disclosure of the Confidential Information disclosed pursuant to this Agreement.

NOW THEREFORE, in consideration of the mutual benefits to be derived from the exchange of Confidential Information, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **DEFINITION OF CONFIDENTIAL INFORMATION.** "Confidential Information" means all written and oral information (so long as oral disclosure is confirmed in writing) of a confidential or proprietary nature which is disclosed under this Agreement, including but not limited to: (a) information disclosed by Physician regarding specific device development concepts, and (b) information disclosed by Hatch or its employees, agents or through inspection of Hatch property, that relates to products, designs, intellectual property, research, development, know-how, technical data, engineering information, business plans, business opportunities, finances, personnel, sales or marketing plans, or any third-party confidential information disclosed to Physician by Hatch. Further, Physician agrees that it will treat as Confidential Information the terms and conditions of this Agreement.

2. **NONDISCLOSURE AND NONUSE OF CONFIDENTIAL INFORMATION.** The parties agree that for a period of three (3) years from the date of initial disclosure they will not disclose, publish, or disseminate the disclosing party's Confidential Information to anyone other than those of its employees and agents with a need to know, and the parties agree to take reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of Confidential Information. The parties agree to accept Confidential Information for the sole purpose of evaluation in connection with their business discussions. The parties agree not to use the disclosing party's Confidential Information for their own or any third party's benefit without the prior written approval of an authorized representative of the disclosing party in each instance. Further, to the extent the Confidential Information constitutes trade secret information as defined by Fla. Stat. §688.002(4), the parties agree that they will not disclose or use such trade secret information at any time. This Agreement is intended to be in addition to and not in lieu of any common law or statutory protections given to trade secret and confidential information.

3. **EXCEPTIONS TO CONFIDENTIAL INFORMATION.** The following information will not be considered Confidential Information under this Agreement upon a showing of competent evidence: (i) information that at the time of disclosure is in the public domain, through no fault of the receiving party, its employees or agents, and without the breach of this Agreement; (ii) information that is already in the



possession of the receiving party, its employees or agents without restriction and prior to any disclosure hereunder; or (iii) information which is developed independently by employees, agents or customers of the receiving party without access to the Confidential Information.

4. OWNERSHIP OF CONFIDENTIAL INFORMATION. All Confidential Information, and any derivatives thereof, remains the property of the disclosing party, and no license or other rights to Confidential Information is granted or implied hereby.

5. RETURN OF CONFIDENTIAL INFORMATION. Within ten business days of receipt of written request, a party will return to the disclosing party all documents, records or other sources, and copies thereof, containing Confidential Information, except that Hatch or Physician may retain one copy of the Confidential Information in its confidential files for record keeping purposes. As it pertains to this section, the term "documents" includes all information fixed in any tangible medium of expression, in whatever form or format.

6. NO WARRANTY. All information is provided "as is," and without any warranty, whether express or implied, as to its accuracy or completeness.

7. EQUITABLE RELIEF. The parties acknowledge that unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury that may be difficult to ascertain. Accordingly, the parties agree that they have the right to seek and obtain immediate injunctive relief to enforce obligations under this Agreement in addition to any other rights and remedies they may have. The prevailing party in any action brought to enforce this Agreement shall be entitled to recover its reasonable attorney's fees and costs.

8. ENTIRE AGREEMENT AND GOVERNING LAW. This Agreement constitutes the entire agreement with respect to the Confidential Information disclosed hereunder and supersedes all prior or contemporaneous oral or written agreements concerning such Confidential Information. This Agreement may not be amended except by a written agreement signed by authorized representatives of both parties. This Agreement will be governed by and construed in accordance with the laws of the State of Florida.

Understood and Agreed to by the duly authorized representatives of the parties:

**Physician**

**Hatch Medical, L.L.C.**

\_\_\_\_\_ (Seal)

By \_\_\_\_\_ (Seal)

Paul R. Gianneschi, Managing Principal

Printed Name \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_