**UNILATERAL CONFIDENTIALITY AGREEMENT**

**THIS AGREEMENT** (hereinafter “Agreement”) effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2021, **BY AND BETWEEN \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,** a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ company, whose address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereinafter referred to as “Recipient”; **AND Confluent Medical Technologies, Inc.** having offices 6263 N Scottsdale Road, Suite 224, Scottsdale, AZ 85250, United States of America, together with its affiliates and subsidiaries hereinafter referred to as “Confluent Medical”;

**WHEREAS** Confluent Medical has consented to make available to Recipient, on a confidential basis, certain confidential and proprietary know-how, trade secrets, data, designs, formulas, materials, parts, prototypes, technical, financial, business and commercial information relating to Confluent Medical’s business, nitinol processing, balloon manufacturing, extrusions, medical textiles, precision plastics, and/or the research, development, design, manufacturing, and marketing of medical devices (“Confidential Information”);

**WHEREAS** Recipient and Confluent Medical wish to confirm in the present agreement (hereafter the “Agreement”) the conditions under which Recipient agrees to receive Confidential Information on a confidential basis for the purposes of evaluating their interest in entering into a possible business relationship and for no other purpose.

**THEREFORE**, **IT HAS BEEN AGREED AS FOLLOWS**:

# Article 1. Nondisclosure of Confidential Information

1. Recipient agrees to keep confidential and not to disclose (or allow any members of its evaluation team to disclose) any Confidential Information received from Confluent Medical, other than to members of Recipient’s evaluation team, which may include employees, agents, consultants, legal and financial representatives, under written obligations of confidentiality no less restrictive than those contained herein, who need to know such Confidential Information in connection with the purpose hereof and only after informing each member of their evaluation team of the terms and conditions of this Agreement. Recipient shall be responsible for any disclosures of Confluent Medical’s Confidential Information by any party to whom it has disclosed such Confidential Information. Unless otherwise agreed in writing by both parties, Recipient agrees that any information disclosed to Confluent Medical by Recipient is not Confidential Information and Confluent Medical shall not be responsible for maintaining the confidentiality of any information disclosed by Recipient.
2. Recipient agrees that it will not use any Confidential Information provided by Confluent Medical for any purpose other than evaluating or undertaking a possible business relationship with Confluent Medical without Confluent Medical’s prior written consent.
3. This Agreement and all obligations of Recipient herein not to use, disclose or disseminate any of Confluent Medical’s Confidential Information will continue indefinitely.
4. Notwithstanding the foregoing, the obligations specified herein shall not apply to any information that is clearly demonstrated to fall within the following categories:
	1. information that is or hereinafter becomes publicly known or available other than through unauthorized disclosure by Recipient; or
	2. information that Recipient can demonstrate was in its possession at the time of disclosure and was not acquired, directly or indirectly, from Confluent Medical, unless previously disclosed on a non-confidential basis; or
	3. information Recipient received in good faith from a third party who is not under a similar restriction of confidentiality and has a right to disclose the information; or
	4. information that can be proven, as evidenced by Recipient’s written records, to have been independently developed, after a disclosure hereunder, by employees of Recipient without access to Confidential Information, and without the aid, application or use in any way of Confidential Information received from Confluent Medical under this Agreement.
5. Nothing herein shall obligate Confluent Medical to disclose any particular Confidential Information. The parties understand and agree that the disclosure of Confidential Information shall not result in any obligation on the part of either party to enter into any future agreement or business relationship.

**Article 2. Compliance with Laws**

If Recipient becomes compelled by law, rule, or regulation to disclose any of the Confidential Information received from Confluent Medical, Recipient shall provide Confluent Medical with prompt notice of such requirement prior to disclosure so that Confluent Medical may seek a protective order or other appropriate remedy. If such protective order or other remedy is not obtained, Recipient agrees to furnish only that portion of the Confidential Information that it is legally required to so furnish and, at the request of Confluent Medical, to use reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information. Disclosure in accordance with the foregoing shall not be a breach of this Agreement.

# Article 3. Return or Destruction of Confidential Information

At any time, at Confluent Medical’s request, Recipient shall return or destroy all Confidential Information provided by Confluent Medical pursuant to this Agreement, as well as all portions of copies, notes, abstracts and records made that contain Confidential Information, except that one set of materials may be retained by the Recipient’s legal department for legal archival purposes only. The return or destruction of this material shall not, however, affect Recipient’s confidentiality obligations with respect to any retained Confidential Information for so long as any such materials are retained.

# Article 4. Publicity

The parties agree that, without the other party’s prior written consent, neither party shall refer to the other party or attribute any information to the other party in any external communication for any purpose, including without limitation press releases, websites, offering memoranda, and conversations with analysts.

# Article 5. Non-Exclusivity

1. Nothing herein requires either party to proceed with any proposed transaction or relationship.
2. Each party may terminate the discussions hereunder at any time; provided that the restrictions stated herein shall survive indefinitely.
3. Each of the parties acknowledges and agrees that the other party may have entered into and may continue to enter into discussions with third parties concerning the subject matter of the discussions hereunder, provided that nothing in this sentence shall limit the obligations of the parties under this Agreement.

# Article 6. General Clauses

1. Nothing in this Agreement shall be deemed to constitute any party a partner, joint venture, employer, employee, master, servant, principal, or agent of any other party or of any other person.
2. The parties agree that their obligations set out herein may not be changed, modified, released, discharged, abandoned or otherwise terminated in whole or in part except by an instrument in writing signed by each party.
3. The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any one or more of the provisions shall not affect the validity and enforceability of the other provisions hereof.
4. The parties hereby understand and agree that no right, license, proprietary right or interest in any of Confluent Medical’s Confidential Information or any of the products embodying the same shall be granted or construed to be granted to Recipient by the terms and conditions of this Agreement.
5. The Recipient agrees that any violation or threatened violation of this Agreement will cause irreparable injury to Confluent Medical, entitling Confluent Medical to obtain injunctive relief in addition to all legal remedies without showing or proving any actual damage and without any bond being required to be posted.
6. This Agreement states the entire agreement and understanding of the parties on the subject matter of this Agreement and supersedes all previous agreements, arrangements, communications, and understandings relating to the subject matter hereof.
7. The validity and construction of this Agreement shall be governed by the State of Delaware. Confluent Medical shall be entitled to recover its legal fees and costs, including but not limited to attorneys’ fees, incurred in the enforcement of the terms hereof, and Recipient shall pay any such fees and costs within thirty (30) days of entry of a final judgment.

**IN WITNESS WHEREOF**, Confluent Medical and Recipient have duly executed this Agreement as of the date first written above.

**Confluent Medical Technologies, Inc. Recipient**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_