

AGREEMENT FOR PROTECTION OF CONFIDENTIAL INFORMATION & INTELLECTUAL PROPERTY

This Agreement is made as of _____, 2011 between _____, and PROMEDICA INTERNATIONAL, a California Corporation.

RECITALS

Whereas, the parties contemplate entering into a business relationship;

Whereas, in connection with said proposed business relationship, each party anticipates the necessity of furnishing certain Confidential Information (as hereinafter defined) to the other party both before such relationship is formally commenced and thereafter;

Whereas, the parties wish to furnish such Confidential Information to each other without conveying any interest or right therein to the other and without making any Confidential Information public or common knowledge;

AGREEMENT

Now, therefore, it is hereby agreed as follows:

1. **Confidential Information.** For purposes of this Agreement, the term "Confidential Information" shall mean any of the following:
 - a. Any information, idea, concept, know-how, data, process, technique, algorithm, program, design, drawing, formula or test development, engineering, manufacturing, marketing, business plan, servicing, financial or personnel matter relating to either party, or its suppliers, customers, employees, investors, or business, whether in oral, written, graphic, or electronic form; and
 - b. Any information disclosed to either party by a third party which the recipient is obligated to treat as confidential or proprietary; provided, however, that nothing shall be considered as Confidential Information under this Section 1b. unless it is specifically and conspicuously marked or stated to be confidential as such by the disclosing party prior to its disclosure to the receiving party.
2. **Use of Confidential Information.** The disclosure of Confidential Information hereunder is solely for the purpose of enabling the respective parties to develop, manufacture, and/or produce certain products, processes or services, for incorporation in or use in connection with those of the other party, as recited above.
3. **Nondisclosure of Confidential Information.** Each of the parties hereto agree that while they are contemplating entering into a business relationship with one another, and during the periods of each party's business relationship with the other (if any such relationship should arise) and continuing indefinitely after the termination of such relationship, it will not at any time disclose to any person or use for its own benefit or the benefit of anyone other than the other party any Confidential Information, without the prior express written consent of the other party, except as contemplated hereunder; provided, however, that the foregoing obligation shall not apply if and to the extent that:
 - a. The information is disclosed to persons employed by, or under contract with the receiving party, who have previously agreed in writing not to use such information for any unauthorized purpose;
 - b. The receiving party establishes that the information was already known to it, without obligation to keep it confidential, at the time of its receipt from the disclosing party, as supported by documents in the possession of the receiving party which were prepared or received prior to the disclosure by the disclosing party;
 - c. The receiving party establishes that the information was received by it in good faith from a third party lawfully in possession thereof and having no obligation to keep such information confidential;
 - d. The receiving party establishes that the information was publicly known at the time of its receipt from the disclosing party or has become publicly known other than by a breach of this Agreement or other action by the receiving party; or

- e. Either party receives any Confidential Information from a third party in lawful possession thereof, who is under an obligation to keep it confidential, and the receiving party only uses such Confidential Information as and to the extent lawfully permitted by such third party.
 - f. Information is disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental body; provided, however, that the receiving party shall provide prompt notice of such court order or requirement to the disclosing party to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure.
4. **Disclosure of Confidential Information to Employees.** Each party agrees to obtain an appropriate agreement to maintain confidentiality prior to disclosure and to comply with the provisions of Section 5 below from those employees or contractors to whom such information is disclosed or who otherwise gain access to such information.
 5. **Return of Documents and Property.** Upon request, each party shall promptly deliver to the other any documents or other materials containing or reflecting any Confidential Information ("Confidential Document") and any copies thereof which the receiving party may have made, have access to and control of, or may receive or possess during the period of the discussions and/or business relationship between the parties. Upon termination of the discussions and/or business relationship between the parties, each shall promptly deliver to the other any Confidential Documents and any other property of the other which such party may have in its possession or under its control, including without limitation any Confidential Documents delivered by such party to any third party, except such Confidential Documents and property as the disclosing party shall, by prior express written permission allow the receiving party to retain. If the return of Confidential Documents is impracticable, unduly burdensome or unduly expensive, or if such return cannot be made without disclosing Confidential Information or trade secrets not required to be returned hereunder, then the party obligated to return such Confidential Documents shall, in lieu of returning the same, be entitled to destroy, obliterate or render unusable the Confidential Documents which otherwise have to be returned and certify in writing to the other party that it has done so.
 6. **No Conveyance or License.** Nothing in this Agreement shall be construed to convey to the receiving party any right, title or interest in any Confidential Information obtained from the other party, or any license to use, sell, exploit, copy or further develop in any way any of such Confidential Information, except as contemplated hereunder. No license is hereby granted or implied under any patent, copyright or trademark, any application for any of the foregoing, or any trade name or trade secret, in which either party has any right, title or interest.
 7. **Applicable Law.** This Agreement shall be governed for all purposes by the laws of the State of California.
 8. **Severability.** If any provision of this agreement is declared void or unenforceable, such provision shall be severed from this agreement, which shall otherwise remain in full force and effect.
 9. **Specific Performance.** Each party hereby acknowledges and agrees that, in the event of any breach of this Agreement, including without limitation, the actual or threatened disclosure of any Confidential Information without the prior express consent of the disclosing party, the disclosing party will suffer irreparable injury, such that no remedy at law will afford it adequate protection against, or appropriate compensation for, such injury. Accordingly, each party hereby agrees that the other shall be entitled to specific performance under this Agreement, as well as such further injunctive or other relief as may be granted by a court of competent jurisdiction.
 10. **Entire Agreement; Amendments.** This Agreement constitutes the complete, final and exclusive agreement between the parties with respect to the subject matters addressed herein. This Agreement may not be amended or modified except by writing signed by both parties hereto.

In witness whereof, the undersigned, being duly authorized officers of the parties hereto, have executed this Agreement as of the date first above written.

Promedica International, a California Corporation

Company/Consultant: _____

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____