

## CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT

**This Agreement shall begin on the Effective Date of REPLY EMAIL and shall remain in effect for 5 years.**

This Agreement is between Air+ Preservation Corporation, and any future corporate assign, and the EMAIL RECIPIENT to protecting confidential information disclosed by Pressure Dynamics and Email Recipient, each referred to as "Discloser".

**"Confidential Information" (CI)** is any and all information that is not readily available to the public, including but not limited to strategic plans; organization charts; acquisition and divestiture information prior to authorized release; financial reports and information prior to authorized release; research and development information; information regarding proprietary processes, inventions and prototypes; product specifications; cost and price planning data; comprehensive customer and vendor databases; personally identifiable patient healthcare information; and clinical or other scientific test results prior to authorized release; as well as other information that, under the circumstances surrounding the disclosure, in good faith, ought to be treated as proprietary or confidential. CI may be disclosed orally, in writing, by samples, by prototypes, by inspections, or by other tangible media. CI includes all financial disclosures and CI from a third party.

**Confidential Markings:** The obligation to maintain confidentiality shall only extend to information that is identified as confidential by the Discloser. disclosed in writing shall be clearly marked as "proprietary", "confidential", or the like. CI disclosed in any manner other than writing shall be preceded or followed by an oral or written statement that the information is CI falling within the terms of this Agreement, and such disclosure shall be followed within thirty days by a written statement describing, summarizing, or reducing to writing the CI disclosed.

**Exceptions:** The restrictions and obligations imposed by this Agreement shall not apply to information that

- is known to Recipient prior to receipt under this Agreement, as evidenced by written records;
- is disclosed without restriction to Recipient in good faith by a third party who is in lawful possession of the information and who has the right to make such disclosure;
- is or becomes public knowledge, by publication or otherwise, through no fault of Recipient;
- is independently developed by Recipient without reference to any CI received hereunder;
- is transmitted by Discloser after notification in writing by Recipient that Recipient does not wish to receive any additional CI from Discloser; and
- is required to be disclosed by law, court order, or subpoena, provided, however, that the party faced with such compulsion shall provide reasonable notice before making such disclosure to enable the other party to challenge the basis of the disclosure.

**Use and Care of Confidential Information:** Recipient agrees only to use CI to investigate a business relationship. Recipient will treat Discloser's CI with the same care it uses to protect its own, but not less than a reasonable care under the circumstances. Recipient may only disclose CI to employees and consultants to fulfill the purpose of this Agreement under appropriate written agreements compliant with this Agreement. Recipient shall notify Discloser immediately upon discovery of any unauthorized use or disclosure of CI or any other breach of this Agreement by Recipient, its employees and consultants, and will cooperate with Discloser in every reasonable way to help Discloser regain possession of the CI and prevent its further unauthorized use or disclosure.

**Return of Confidential Information:** Upon request, Recipient shall promptly return to Discloser all of Discloser's CI and all copies thereof, or, at Recipient's election, shall destroy all such CI (in which instance an authorized officer of Recipient shall certify that such destruction has been completed). That portion of Discloser's CI that consists of reviews, analyses, compilations, notes, or other documents prepared by Recipient, its employees or advisers, may be held by Recipient, provided Recipient keeps it confidential pursuant to the terms of this Agreement. Material samples, device samples, and prototypes shall be returned rather than destroyed. Recipient may retain one copy of Discloser's CI in a secure location with appropriately restricted access for the limited purpose of enforcing Recipient's rights under this Agreement before a governing court or pursuant to the requirements of a governmental agency or by operation of law

**Non-Circumvention:** Recipient expressly agrees that Recipient shall not circumvent, decompile, reverse engineer, or disassemble any sample, device, prototype, hardware, software, or other material, or any portion thereof, identified as CI by Discloser. Nothing in this Agreement grants either party any license to the other party's intellectual property

**Miscellaneous:** This Agreement is governed by Massachusetts law. Each Discloser warrants that s/he has the right to make the disclosures under this Agreement, or to guarantee any future business relationship. Information exchanged is provided "as is." **NEITHER PARTY MAKES ANY OTHER WARRANTIES UNDER THIS AGREEMENT.**

The parties will adhere to all applicable laws, regulations, and rules relating to the export of technical data, and shall not export or re-export any technical data, samples, or prototypes received hereunder, or the direct product of such technical data to any proscribed country listed in such applicable laws, regulations and rules unless properly authorized. The parties further agree to comply with applicable federal and state health information confidentiality laws and regulations as to any personally identifiable patient healthcare information included as part of CI hereunder.

**This is the entire Agreement:** There are no representations, warranties, promises or undertakings other than those stated herein. This Agreement does not supersede any other written agreements between the parties concerning the subject matter of such other agreements. This Agreement may not be amended except in writing signed by both parties.

