

Asset Purchase and License Agreement

This Asset Purchase and License Agreement ("**Agreement**"), dated as of June 5, 2023 (the "**Effective Date**"), is by and between Titan Medical Inc., a corporation incorporated under the laws of the Province of Ontario, Canada with offices located at 76 Berkeley Street, Toronto, Ontario, M5A 2W7, Canada ("**Titan**"), and Covidien LP, a Delaware limited partnership having a place of business at 15 Hampshire Street, Mansfield, Massachusetts 02048 ("**Medtronic**") (collectively, the "**Parties**," or each, individually, a "**Party**").

WHEREAS, Titan wishes to sell to Medtronic, and Medtronic wishes to purchase from Titan, all right, title, and interest in and to certain designated patents and patent applications and related rights that Medtronic has been exclusively licensing from Titan;

WHEREAS, after the designated patent rights are transferred to Medtronic, Titan wishes to continue using them for limited purposes, and Medtronic is willing to grant back to Titan a non-exclusive license on the terms and conditions set forth herein;

WHEREAS, after the designated patent rights are transferred to Medtronic, Titan will still own all right, title, and interest in the remainder of its patent portfolio; and

WHEREAS, Medtronic wishes to purchase a license to the remainder of Titan's patent portfolio, and Titan is willing to grant to Medtronic a non-exclusive license on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. In addition to the terms defined elsewhere in this Agreement, whenever used in this Agreement with an initial capital letter, the terms defined in this Section 1, whether used in the singular or the plural, shall have the meanings specified below.

1.1 "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" for purposes of this definition means direct or indirect ownership of more than fifty percent (50%) of the voting securities of a Person, and "controlled by" and "under common control with" have correlative meanings.

1.2 "**Agreement**" has the meaning set forth in the preamble.

1.3 "**Business Day**" means a day other than a Saturday, Sunday, or other day on which commercial banks in New York, NY or Toronto, Ontario are authorized or required by Law to be closed for business.

1.4 "**Change of Control**" means with respect to a Party, a change of the Person that has control, directly or indirectly, of that Party. For the purpose of this definition, "control" has the meaning given to it in the definition of "Affiliate".

1.5 **"Confidential Information"** means all non-public, confidential, or proprietary information of the Disclosing Party, whether in oral, written, electronic, or other form or media, whether or not such information is marked, designated, or otherwise identified as "confidential" and any information that, due to the nature of its subject matter or circumstances surrounding its disclosure, would reasonably be understood to be confidential or proprietary and includes the terms and existence of this Agreement.

Confidential Information does not include information that the Receiving Party can demonstrate by documentation: (a) was already known to the Receiving Party without restriction on use or disclosure prior to receipt of such information directly or indirectly from or on behalf of the Disclosing Party; (b) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information; (c) was or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Receiving Party; or (d) was received by the Receiving Party from a third party who was not, at the time of receipt, under any obligation to the Disclosing Party or any other Person to maintain the confidentiality of such information.

1.6 **"Governmental Authority"** means any federal, state, national, supranational, local, or other government, whether domestic or foreign, including any subdivision, department, agency, instrumentality, authority (including any regulatory authority), commission, board, or bureau thereof, or any court, tribunal, or arbitrator.

1.7 **"Improvement"** means [Note: Definition redacted]

1.8 **"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

1.9 **"Licensed Processes"** means all processes made, developed, sold, acquired, distributed, by, for, or on behalf of Medtronic.

1.10 **"Licensed Products"** means all products or services made, developed, sold, acquired, distributed, by, for, or on behalf of Medtronic.

1.11 **"Losses"** means all losses, damages, liabilities, costs, and expenses, including reasonable attorneys' fees and other litigation costs.

1.12 "**Person(s)**" means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association, or other entity.

1.13 "**Representatives**" means a Party's and its Affiliates' employees, officers, directors, consultants, and legal advisors.

1.14 "**Synergist Licensed Patents**" means those Titan Patents listed on Exhibit 4 under which Synergist Medical Inc., a predecessor to Titan, granted certain exclusive rights to a certain field.

1.15 "**Titan Patents**" means all patents, and patent applications owned or controlled by Titan in any jurisdiction as of the Effective Date (excluding the Acquired Patents), and all continuations, continuations-in-part, divisions, extensions, substitutions, reissues, re-examinations, and renewals of any of the foregoing, and (b) any patents worldwide issuing from any applications that claim domestic benefit or foreign priority from any of the patents or patent applications identified in subsection (a) or from which any of the patents or patent applications identified in subsection (a) claim domestic benefit or foreign priority, and (c) all inventions disclosed and claimed in any of the foregoing.

1.16 "**Trade Secrets**" means information, including a formula, pattern, compilation, program, device, method, technique, or process that (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

2. Purchase and Sale of Patents. Subject to the terms and conditions set forth herein, Titan hereby irrevocably sells, assigns, transfers, and conveys to Medtronic, and Medtronic hereby accepts, all right, title, and interest in and to the following (collectively, "**Acquired Rights**"):

2.1 the patents, patent applications, and invention disclosures listed in Exhibit 1A and 1B, and all patents that issue from such patent applications, and all continuations, continuations-in-part, divisionals, extensions, substitutions, reissues, re-examinations, and renewals, of any of the foregoing ("**Patents**"), and any other patents or patent applications from which any Patents claim a benefit or priority or that claim a benefit or priority from any Patents, and all inventions disclosed and claimed in any of the foregoing (collectively the "**Acquired Patents**," with the subset associated with Exhibit 1A being the "**Acquired Titan Patents**" and the subset associated with Exhibit 1B being the "**Acquired Developed Patents**");

2.2 all royalties, fees, income, payments, and other proceeds now or hereafter due or payable to Titan with respect to any of the foregoing;

2.3 all claims and causes of action with respect to any of the foregoing, whether accruing before, on, or after the Effective Date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, misappropriation, violation, breach, or default; and

2.4 all other rights, privileges, and protections of any kind whatsoever of Titan accruing under any of the foregoing provided by any applicable law, treaty, or other international convention throughout the world.

For the avoidance of doubt, the Acquired Rights do not include any tangible property (inventory, equipment, machinery, raw materials, prototypes, etc.), employees, employee benefit plans, insurance policies, cash or cash equivalents, accounts receivables, bank accounts, owned or leased real estate, contracts, equity interests, minute books, seals, and other similar corporate records. Likewise, Medtronic will not assume any liabilities or obligations of any kind or nature whatsoever, whether known or unknown, fixed or contingent, or liquidated or unliquidated.

3. Acquisition Deliverables. Within fourteen (14) days of execution of this Agreement, Titan shall deliver to Medtronic the following: **[Note: List of deliverables redacted]**

4. Recordation. Titan shall execute and deliver to Medtronic such assignments and other documents, certificates, and instruments of conveyance in a form suitable for filing with the United States Patent and Trademark Office (“USPTO”) and the registries and other recording governmental authorities in all applicable jurisdictions (including with respect to legalization, notarization, apostille, certification, and other authentication) as reasonably necessary to record and perfect the Assignments, and to vest in Medtronic all right, title, and interest in and to the Acquired Rights in accordance with applicable law. As between Titan and Medtronic, Medtronic shall be responsible for filing the Assignments, and other documents, certificates, and instruments of conveyance with the applicable governmental authorities; provided that, upon Medtronic’s reasonable request, Titan shall take such steps and actions, and provide such cooperation and assistance, to Medtronic and its successors, assigns, and legal representatives, including the

execution and delivery of any affidavits, declarations, oaths, exhibits, assignments, powers of attorney, or other documents, as may be reasonably necessary to effect, evidence, or perfect the assignment of the Acquired Rights to Medtronic, or any of Medtronic's successors or assigns.

5. License Grant-Back to Titan.

5.1 Subject to the terms and conditions of this Agreement, Medtronic, on behalf of itself and its Affiliates, hereby grants to Titan and its Affiliates the following (collectively, the “**Titan License**”):

(a) a worldwide, perpetual, non-exclusive, non-transferable (except as permitted in Section 16.9), royalty-free, fully paid up right and license under the Acquired Titan Patents to develop, make, use, sell, offer for sale, import, and export Titan Single Port Surgical Systems and/or Titan Three-Instrument Single Port Surgical Systems, and their component parts thereof, including any replacement, reposable, and disposable components, and any accessories for any of the foregoing, for use solely with Titan Single Port Surgical Systems and/or Titan Three-Instrument Single Port Surgical Systems for Single Port Surgery that are not designed for performing other types of robotic assisted surgery, and to sublicense such rights to business partners, suppliers, vendors, consultants, distributors, contractors, contract manufacturers, customers, and the like; and

(b) a worldwide, perpetual, non-exclusive, non-transferable (except as permitted in Section 16.9), royalty-free, fully paid up right and license under the Acquired Developed Patents to develop, make, use, offer for sale, and sell Titan Three-Instrument Single Port Surgical Systems and their component parts thereof, including any replacement, reposable, and disposable components, and any accessories for any of the foregoing, for use solely with robotic surgical systems for Single Port Surgery that are not designed for performing other types of robotic assisted surgery, and to sublicense such rights to business partners, distributors, suppliers, vendors, consultants, contractors, contract manufacturers and the like.

5.2 The following definitions apply for the purpose of the Titan License.

(a) “**Single Port Surgery**” **[Note: Certain parts of definition redacted]** means robotic assisted surgery performed through a single incision or natural orifice,

(b) “**Three-Instrument Single Port Solution**” **[Note: Definition redacted]** means

(c) “**Titan Single Port Surgical System**” **[Note: Definition redacted]** means

(d) [Note: Definition redacted]

6. License Grant to Medtronic.

6.1 Scope of Grant. Subject to the terms and conditions of this Agreement, Titan, on behalf of itself and its Affiliates, hereby grants to Medtronic and its Affiliates a worldwide, perpetual, irrevocable, non-exclusive, sublicensable, transferable, royalty-free, fully paid up right and license:

(a) under the Titan Patents excluding the Synergist License Patents to make, have made, use, practice, sell, offer for sale, lease, import, export, or otherwise dispose of Licensed Products and Licensed Processes worldwide, and

(b) under the Synergist License Patents to make, have made, use, practice, sell, offer for sale, lease, import, export, or otherwise dispose of Licensed Products and Licensed Processes worldwide in the field of robotic or automated medical devices, and

(c) to copy, use, practice, improve upon, modify, sell, offer for sale, lease, import, export, or otherwise dispose of or exploit all Improvements (without any license under this clause (c) to the Titan Patents or the Synergist License Patents) existing, conceived or created before the Effective Date and, under all rights in such Improvements, to make, have made, use, import, offer to sell and sell any Licensed Products and Licensed Processes incorporating or derived from such Improvements, and

(d) to copy, use, practice, improve upon, modify, sell, offer for sale, lease, import, export, or otherwise dispose of or exploit all Improvements (without any license under this clause (d) to the Titan Patents or the Synergist License Patents) existing, conceived or created between ” [Note: Dates redacted] ,

and, under all rights in such Improvements, to make, have made, use, import, offer to sell and sell any Licensed Products and Licensed Processes incorporating or derived from such Improvements (collectively, all rights granted under this Section 6.1, the “**Medtronic License**”).

6.2 Sublicensing. Medtronic may grant sublicenses under the Medtronic License [Note: Details regarding sublicensing redacted]

7. Intentionally deleted.

8. Payment.

8.1 The aggregate consideration for the Acquired Rights, the Medtronic License, and the Titan License shall be eight million (US\$8M) US Dollars (the "**Consideration**").

8.2 Medtronic shall pay the Consideration within five (5) Business Days following the parties' full execution of this Agreement. Payment shall be made in US dollars by wire transfer of immediately available funds to Titan's account specified below:

[Note: Account details redacted]

8.3 Taxes.

(a) Medtronic confirms that (i) each of the partners of Covidien LP is a resident of the United States and is a qualifying person, all as interpreted for purposes of the Canada-U.S. Income Tax Treaty, (ii) the partners are not a resident of Canada as that term is interpreted for purposes of Part IX of the *Excise Tax Act* (Canada), and (iii) it is not, and at the time of payment of the fee specified under section 8.1 it will not be, registered for purposes of Part IX of the *Excise Tax Act* (Canada) (the "**GST/HST**") and for purposes of the *Act Respecting the Quebec Sales Tax*.

(b) If Titan provides Medtronic a completed and signed IRS Form W-8BEN-E claiming that Titan does not have a permanent establishment in the United States, and a second IRS Form W-8BEN-E claiming the 0% rate on royalties for patents and scientific information under the US-Canada tax treaty,

(i) the Parties agree that Medtronic is not required to withhold any U.S. federal taxes, and

(ii) Medtronic shall not withhold any US federal taxes,

in respect of the payments being made from Medtronic to Titan under this Agreement. Notwithstanding the foregoing, this Section 8.3(b) shall not apply if a governmental tax authority makes a final “determination” under Section 1313 of the US Internal Revenue Code, as amended, that a withholding rate greater than 0% applies and Medtronic provides Titan with a copy of the determination.

(c) If Medtronic assigns this Agreement or any portion thereof to any Person incorporated or domiciled outside of the United States, and subsequently withholds or deducts taxes pursuant to the Laws of the foreign jurisdiction in respect of any sum payable under Section 8.1 or in respect of any other payment made to Titan under this Agreement, then the respective payments shall be increased as necessary so that after all such withholdings or deductions for taxes have been made then Titan shall receive an amount equal to the sum it would have received had no such tax withholdings or tax deductions been made.

9. Enforcement of Titan Patents.

9.1 Notice of Infringement or Third-Party Claims. [Note: Provision relating to patent enforcement redacted]

9.2 Right to Bring Action or Defend. [Note: Provision relating to patent enforcement redacted]

10. Recordation of License. If recordation of this Agreement or any part of it with a national or supranational Governmental Authority is necessary for Medtronic to fully enjoy the rights, privileges, and benefits of the Medtronic License, Titan shall, at its own expense and within sixty (60) Business Days of the Effective Date, record this Agreement or all such parts of this Agreement

and information concerning the Medtronic License with each such appropriate national or supranational Governmental Authority.

11. Confidentiality.

11.1 Confidentiality Obligations. Each Party (the "**Receiving Party**") acknowledges that in connection with this Agreement it will gain access to Confidential Information of the other Party (the "**Disclosing Party**"). As a condition to being furnished with Confidential Information, the Receiving Party shall, for two (2) years after the Effective Date:

(a) not use the Disclosing Party's Confidential Information other than as strictly necessary to exercise its rights and perform its obligations under this Agreement; and

(b) maintain the Disclosing Party's Confidential Information in strict confidence and, subject to Section 11.2, not disclose the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, provided, however, the Receiving Party may disclose the Confidential Information to its Representatives who:

(i) have a need to know the Confidential Information for purposes of the Receiving Party's performance, or exercise of its rights with respect to such Confidential Information, under this Agreement;

(ii) have been apprised of this restriction; and

(iii) are themselves bound by written nondisclosure agreements at least as restrictive as those set out in this Section 11, provided further that the Receiving Party will be responsible for ensuring its Representatives' compliance with, and will be liable for any breach by its Representatives of, this Section 11.

The Receiving Party shall use reasonable care, at least as protective as the efforts it uses with respect to its own confidential information, to safeguard the Disclosing Party's Confidential Information from use or disclosure other than as permitted hereby.

11.2 Exceptions. If the Receiving Party becomes legally compelled to disclose any Confidential Information, the Receiving Party shall:

(a) provide prompt written notice to the Disclosing Party so the Disclosing Party may seek a protective order or other appropriate remedy or waive its rights under Section 11; and

(b) disclose only the portion of Confidential Information it is legally required to furnish.

If a protective order or other remedy is not obtained, or the Disclosing Party waives compliance under Section 11, the Receiving Party shall, at the Disclosing Party's expense, use

reasonable efforts to obtain assurance that confidential treatment will be afforded the Confidential Information.

11.3 Improvements. This Section 11 shall not limit Medtronic's rights to Improvements and such Improvements shall not constitute Confidential Information of Titan or its Affiliates.

12. Representations and Warranties.

12.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization, or chartering;

(b) it has, and throughout the Term will retain, the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder;

(c) the execution, delivery, and performance of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate, partner, shareholders' and directors' actions (as applicable) and will not result in any violation of, be in conflict with or constitute a default under any constituting or governing documentation by which a Party is bound;

(d) when executed and delivered by such Party, this Agreement will constitute the legal, valid, and binding obligation of that Party, enforceable against that Party in accordance with its terms;

(e) the execution, delivery, and performance of this Agreement will not result in any violation of, be in conflict with or constitute a default under any term or provision of any agreement or document to which such Party is party or by which such Party is bound, nor under any legislation or regulation applicable to such Party.

12.2 Titan's Representations and Warranties. Titan represents and warrants that the statements contained in this Section 12.2 are true and correct as of the Effective Date.

(a) Titan owns all right, title, and interest in and to the Acquired Rights and Titan Patents (excluding the Synergist Licensed Patents only with respect to the limited exclusive license to Unsworth in the field outside robotic or automated medical devices), free and clear of liens, security interests, and other encumbrances. Titan has and will retain the right to grant the Medtronic License.

(b) Exhibit 1 contains a correct, current, and complete list of all patents and patent applications included in the Acquired Rights and Exhibit 3 contains a correct,

current, and complete list of all other patents and patent applications owned or controlled by Titan.

(c) All required filings and fees related to the patents and patent applications listed on Exhibit 1 under Titan's control as of the Effective Date (but excluding those under the control of Medtronic) have been timely filed with and paid to the USPTO and other relevant governmental authorities and authorized registrars, and to Titan's knowledge all such patents and patent applications have at all times been and remain in good standing. Titan has provided Medtronic with true and complete copies of all documents, certificates, office actions, responses, correspondence, and other filings and materials related to all such patents and patent applications.

(d) To the knowledge of Titan, the Acquired Rights and Titan Patents are valid, subsisting, and enforceable in all applicable jurisdictions, and are not subject to any pending or, threatened challenge or claim to the contrary.

(e) There are no actions settled, pending, or, to Titan's knowledge, threatened (including in the form of offers to obtain a license): (i) alleging any infringement, misappropriation, or other violation of the intellectual property rights of any third party based on the use or exploitation of any Acquired Rights or Titan Patents; (ii) challenging the validity, patentability, enforceability, issuance, or ownership of any Acquired Rights or Titan Patents or Titan's rights with respect thereto; or (iii) by Titan alleging any infringement, misappropriation, or other violation by any third party of any Acquired Rights.

(f) There is no existing and continuing default or event of default under any material agreement to which Titan is a party to that could affect in any manner whatsoever the transactions contemplated by this Agreement or Medtronic's rights, titles, and interests in and to the Acquired Rights and Titan Patents, as applicable, from and after the Effective Date.

(g) The transactions contemplated by this Agreement are not intended to defraud, defeat or delay any creditor of Titan. **[Note: Part of representation and warranty redacted]**

(h) **[Note: Representation and warranty redacted]**

(i) [Note: Representation and warranty redacted]

13. Exclusion of Consequential and Other Direct Damages. TO THE FULLEST EXTENT PERMITTED BY LAW, MEDTRONIC WILL NOT BE LIABLE TO TITAN OR ANY OTHER PERSON FOR ANY INJURY TO OR LOSS OF GOODWILL, REPUTATION, BUSINESS PRODUCTION, REVENUES, PROFITS, ANTICIPATED PROFITS, CONTRACTS, OR OPPORTUNITIES (REGARDLESS OF HOW THESE ARE CLASSIFIED AS DAMAGES), OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, OR ENHANCED DAMAGES, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY, OR OTHERWISE (INCLUDING THE ENTRY INTO, PERFORMANCE, OR BREACH OF THIS AGREEMENT), REGARDLESS OF WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE AND THE PARTY AGAINST WHOM LIABILITY IS CLAIMED HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED REMEDY OF ITS ESSENTIAL PURPOSE.

14. Indemnification.

14.1 Indemnification by Titan. Titan shall indemnify, defend, and hold harmless Medtronic and its Affiliates, and each of Medtronic's and its Affiliates' respective officers, directors, employees, agents, successors, and assigns (each, an "**Indemnitee**") against all Losses arising out of or resulting from any third-party claim, suit, action, or proceeding (each an "**Action**") related to, arising out of, or resulting from Titan's breach of any representation, warranty, covenant, or obligation under this Agreement.

14.2 Indemnification Procedure. An Indemnitee shall promptly notify Titan in writing of any Action and cooperate with Titan at Titan's sole cost and expense. Titan shall immediately take control of the defense and investigation of the Action and shall employ counsel reasonably acceptable to Indemnitee to handle and defend the same, at Titan's sole cost and expense. Titan shall not settle any Action in a manner that adversely affects the rights of any Indemnitee without the Indemnitee's prior written consent, which consent may not be unreasonably withheld or delayed. The Indemnitee's failure to perform any obligations under this Section 14.2 shall not relieve Titan of its obligation under this Section 14.2 except to the extent Titan can demonstrate that it has been materially prejudiced as a result of the failure. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

15. Term and Termination.

15.1 Term. This Agreement is effective as of the Effective Date and, unless terminated earlier in accordance with Section 15.2, will continue in full force and effect, on a country-by-country basis until the expiration, abandonment or lapse of the last pending or active Titan Patent and Acquired Patent in such country (the "**Term**").

15.2 Termination.

(a) Either Party may terminate this Agreement if the other Party materially breaches this Agreement and (if such breach is curable) fails to cure such breach within forty (40) Business Days after being notified in writing to do so.

(b) Either Party may terminate this Agreement if the other Party (i) becomes insolvent or admits its inability to pay its debts generally as they become due, other than disclosures regarding Titan's financial condition, liquidity during periods prior to entering into this Agreement and during the period of ninety (90) Business Days commencing on the date of this Agreement, and related information and risk factors set forth in Titan's documents filed or made publicly available in accordance with applicable securities Laws, and excluding Titan's financial position at the time of entering into this Agreement; (ii) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within twenty (20) Business Days or is not dismissed or vacated within forty (40) Business Days after filing; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

15.3 Effect of Termination.

(a) Expiration or termination of this Agreement shall not relieve the Parties of any obligations accruing prior to the effective date of expiration or termination. Any expiration or termination of this Agreement shall not preclude either Party from pursuing all rights and remedies it may have hereunder at Law or in equity with respect to any breach of this Agreement nor prejudice either Party's right to obtain performance of any obligation.

(b) On any expiration or termination of the entirety of this Agreement, the Receiving Party shall (a) return to the Disclosing Party all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on the Disclosing Party's Confidential Information; (b) permanently erase the Disclosing Party's Confidential Information from its computer systems; and (c) certify in writing to the Disclosing Party that it has complied with the requirements of this Section 15.3.

15.4 Survival. The rights and obligations of the Parties set forth in this Section 15.4 Section 1 (Definitions), Section 5 (License Grant-Back to Titan), Section 6 (License Grant to Medtronic), Section 8 (Payment), Section 11 (Confidentiality), Section 12 (Representations and Warranties), Section 14 (Indemnification), Section 15.3 (Effect of Termination), and Section 16 (Miscellaneous), and any right, obligation, or required performance of the Parties in this Agreement which, by its express terms or nature and context is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration.

16. Miscellaneous.

16.1 Bankruptcy.

(a) Bankruptcy Code. All rights and licenses granted by one Party to the other Party under this Agreement are and shall be deemed to be rights and licenses to “intellectual property” as such term is used in and interpreted under, Section 365(n) of the United States Bankruptcy Code (the “**Bankruptcy Code**”), the BIA and the *Companies’ Creditors Arrangement Act* (the “**CCAA**”).

(b) Effect of Bankruptcy. Each Party shall have the right to exercise all rights and elections under the Bankruptcy Code, the BIA and the CCAA, as applicable, with respect to the Acquired Patents and Titan Patents. Without limiting the generality of the foregoing, each Party acknowledges and agrees that, if it becomes subject to any bankruptcy or similar proceeding subject to the other Party’s rights of election, all rights and licenses granted to the other Party under this Agreement shall continue subject to the terms and conditions of this Agreement, and shall not be affected, even by the rejection of this Agreement.

(c) Bankrupt Party’s Continuing Obligations. If a bankruptcy or similar proceeding is commenced during the Term by or against either Party then, unless and until this Agreement is rejected as provided in the Bankruptcy Code, the BIA or the CCAA, the bankrupt Party (in any capacity, including debtor-in-possession) and its successors and assigns (including, without limitation, a trustee) shall perform all of the obligations provided in this Agreement to be performed by that Party. If (a) a bankruptcy case or any other insolvency proceeding is commenced during the Term by or against a Party, and (b) this Agreement is rejected as provided in the Bankruptcy Code, the BIA or the CCAA and (c) the other Party elects to retain its rights hereunder as provided in the Bankruptcy Code, the BIA or the CCAA, then the bankrupt Party, subject to the bankruptcy case (in any capacity, including debtor-in-possession) and its successors and assigns (including, without limitation, a Title 11 trustee), shall provide to the other Party within twenty (20) Business Days of the filing of the petition for bankruptcy protection or any similar proceeding, copies of all Information necessary for that Party to prosecute, maintain, and enjoy its ownership and license rights, as applicable, under the bankrupt Party’s Acquired Patents and Titan Patents under the terms of this Agreement. The other Party shall continue to perform its obligations under this Agreement. All rights, powers, and remedies of the non-bankrupt Party provided herein are in addition to and not in substitution for any and all other rights, powers, and remedies now or hereafter existing at law or in equity (including, without limitation, the Bankruptcy Code) in the event of the commencement of a bankruptcy case.

16.2 Further Assurances. Each Party shall, and shall cause their respective Affiliates to, upon the reasonable request of the other Party, promptly execute such documents and take such further actions as may be necessary to give full effect to the terms of this Agreement.

16.3 Independent Contractors. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement creates any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary

relationship between the parties, and neither Party has authority to contract for nor bind the other Party in any manner whatsoever.

16.4 Disclosure of Terms of Agreement. Except as may be required by Law or regulation, neither Party shall disclose any terms or conditions of this Agreement without the prior written consent of the other, provided that (a) either Party may disclose such terms and conditions in order to comply with Law or the rules of any stock exchange on which its securities are listed; and (b) either Party may disclose such terms and conditions to existing and potential lenders, investors, and acquirers who have agreed in writing to keep such information confidential in accordance with provisions at least as protective of confidentiality as those contained herein.

16.5 No Public Statements. Neither Party may issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association, or sponsorship, in each case, without the prior written consent of the other Party, which shall not be unreasonably withheld, conditioned or delayed.

16.6 Notices. All notices, requests, consents, claims, demands, waivers, and other communications must be in writing and sent to the respective Party at the addresses indicated below (or such other address for a Party as may be specified in a notice given in accordance with this Section):

[Note: Contact details redacted]

If to Medtronic:

If to Titan:

Titan Medical Inc.
76 Berkeley Street
Toronto, Ontario M5A 2W7

with copies to:

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, Ontario M5H 4E3

Notices sent in accordance with this Section 16.6 will be deemed effective: (a) when received or delivered by hand (with written confirmation of receipt); (b) when received, if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or email (in each case, with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third (3rd) Business Day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

16.7 Interpretation. For purposes of this Agreement, (a) the words "include," "includes," and "including" will be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein to: (x) Sections and Exhibits refer to the Sections of and Exhibits attached to this Agreement; (y) an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (z) a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement will be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.

16.8 Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

16.9 Entire Agreement. This Agreement, together with all Exhibits and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any Exhibit or other document, the following order of precedence will govern: (a) first, this Agreement, excluding its Exhibits; and (b) second, the Exhibits to this Agreement as of the Effective Date.

16.10 Assignment. Medtronic may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Titan's consent. Titan may not assign or otherwise transfer any of its rights or obligations under this Agreement without Medtronic's prior written consent, except in connection with a sale of all or substantially all assets of Titan or its permitted successors and assigns, or a Change of Control of Titan or its permitted successors and assigns, in which case Titan and its permitted successors and assigns may assign and transfer all of Titan's, or its permitted successors' and assigns', rights and obligations under this Agreement and the Titan Patents without prior written consent, provided that Medtronic is notified in writing and such buyer agrees to assume all obligations of Titan under this Agreement. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns. No delegation or other transfer will relieve the other Party of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 16.10 is void.

16.11 No Third-Party Beneficiaries. Other than as specified in Section 3.1, this Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer upon any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever, under, or by reason of this Agreement.

16.12 Amendment; Modification; Waiver. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the waiving Party. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

16.13 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

16.14 Governing Law; Submission to Jurisdiction.

(a) This Agreement and all related matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the Laws of the State of New York, United States of America.

(b) Any disputes under this Agreement shall be subject to the exclusive jurisdiction and venue of the New York state courts and the Federal courts located in

New York, and the Parties hereby consent to the personal and exclusive jurisdiction and venue of these courts.

(c) IN THE EVENT OF ANY DISPUTE BETWEEN THE PARTIES, IN ANY COURT IN ANY JURISDICTION, THE PARTIES HEREBY KNOWINGLY AND VOLUNTARILY, AND HAVING HAD AN OPPORTUNITY TO CONSULT WITH COUNSEL, WAIVE ALL RIGHTS TO TRIAL BY JURY, AND AGREE THAT ANY AND ALL MATTERS SHALL BE DECIDED BY A JUDGE WITHOUT A JURY TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW.

16.15 Equitable Relief. Each Party acknowledges that a breach by the other Party of this Agreement may cause the non-breaching Party irreparable harm, for which an award of damages would not be adequate compensation, and agrees that, in the event of such a breach or threatened breach, the non-breaching Party will be entitled to seek equitable relief, including in the form of a restraining order, orders for preliminary or permanent injunction, specific performance, and any other relief that may be available from any court. These remedies are not exclusive but are in addition to all other remedies available under this Agreement at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

16.16 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission (to which a signed PDF copy is attached) will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Further, this Agreement may be executed by DocuSign or similar other electronic-signature service, and the Parties agree that electronic signatures shall be a valid and enforceable method for executing this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

Titan Medical Inc.

By _____

Name:

Title:

Covidien LP

By _____

Name:

Title:

**Exhibit 1A
Acquired Titan Patents**

[Note: Patent details redacted]

Exhibit 2
ASSIGNMENT OF PATENTS

[Note: details of assignment redacted]

**Exhibit 3
Titan Patents**

[Note: details regarding patents redacted]

Exhibit 4
Synergist Medical Inc. Agreement

Synergist Medical Inc., a predecessor to Titan, entered into a patent agreement with John D. Unsworth on May 1, 2008 pursuant to which Synergist Medical Inc. granted to John D. Unsworth certain exclusive rights in and to the following patents in the field that is any field outside robotic or automated medical devices:

[Note: details regarding patents redacted]