

MONITOR AGREEMENT

THIS AGREEMENT is made on **September 12, 2017**

BETWEEN:

Integra LifeSciences Holdings Corporation, a Delaware corporation (“Integra”)

- and -

Johnson & Johnson, a New Jersey corporation (“Johnson & Johnson”)

- and -

Berkeley Research Group, LLC, a corporation governed by the laws of Nevada (“BRG”)

RECITALS:

- A.** Integra and DePuy Synthes, Inc.—a Delaware corporation controlled by Johnson & Johnson—have entered into an Asset Purchase Agreement, dated as of February 14, 2017, pursuant to which Integra agrees to buy certain products for use in connection with neurosurgery procedures;
- B.** Integra and Johnson & Johnson (collectively, “Respondents”) have entered—or will shortly enter—into an Agreement Containing Consent Order with the Commission (the “Consent Agreement”);
- C.** The Consent Agreement requires Respondents to divest certain assets to Natus Medical Incorporated pursuant to, and in accordance with, certain divestiture agreements, and provides that Edward J. Buthusiem shall serve as a Monitor, to ensure that Respondents comply with their obligations under the Consent Agreement;
- D.** BRG has consented to the appointment of Edward Buthusiem, a managing director of BRG’s Healthcare Analytics Practice, to act as the Monitor; and
- E.** Respondents seek to transfer to BRG, and BRG agrees to assume, all rights and powers necessary to permit BRG to monitor Respondents’ compliance with the terms of the Consent Agreement.

THEREFORE the Parties agree as follows:

I. DEFINITIONS

[1] Whenever used in this Monitor Agreement, the following words and terms have the meanings set out below:

- (a) **“BRG”** means Berkeley Research Group, LLC, its directors, officers, agents, employees, representatives, successors and assigns;
- (b) **“Commission”** means the Federal Trade Commission;
- (c) **“Consent Agreement”** means Consent Agreement as defined in the recitals to this Monitor Agreement;
- (d) **“Respondents”** means Integra and Johnson & Johnson;
- (e) **“Monitor Agreement”** means this Monitor Agreement, including Schedule I hereto, and references to any “Section”, “Part” or “Paragraph” shall, unless otherwise indicated, mean a section, part or paragraph of this Monitor Agreement;
- (f) **“Integra”** means Integra LifeSciences Holdings Corporation; its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups, and affiliates, in each case controlled by Integra LifeSciences Holdings Corporation, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each;
- (g) **“Johnson & Johnson”** means Johnson & Johnson’s directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups, and affiliates, in each case controlled by Johnson & Johnson (including, without limitation, Johnson & Johnson’s Codman Neuro division and DePuy Synthes, Inc.), and the respective directors, officers, employees, agents, representatives, successors, and assigns of each; and
- (h) **“Natus”** means Natus Medical Incorporated, a Delaware corporation
- (i) **“Parties”** means Integra, Johnson & Johnson, and BRG collectively, and **“Party”** means any one of them.

[2] Capitalized terms used and not specifically defined herein shall have the definitions given to them in the Consent Agreement.

II. RIGHTS AND OBLIGATIONS OF THE PARTIES

- [3] This Monitor Agreement is entered into pursuant to the terms of the Consent Agreement. BRG shall have all of the rights, powers, duties, obligations, responsibilities and protections that are possessed by or apply to the Monitor under the Consent Agreement. In the event of any discrepancy between the rights, powers, duties, obligations, responsibilities and protections that are possessed by or apply to the Monitor as set out in the Monitor Agreement and the Consent Agreement, the Consent Agreement shall prevail. Without limiting the generality of the foregoing, Respondents hereby grant to BRG all rights and powers necessary to permit BRG to monitor Respondents' compliance with the Consent Agreement including Respondents' compliance with the Consent Agreement's requirement that Respondents preserve and maintain the Divestiture Products and Divestiture Product Businesses.
- [4] A reference in this Monitor Agreement to specific monitoring functions or tasks that are to be undertaken by BRG shall in no way detract from BRG's general right, power and duty to monitor all aspects of Respondents' compliance with the Consent Agreement.
- [5] Respondents and BRG consent to the following terms and conditions regarding BRG's rights, powers and duties:
- (a) BRG shall have the power and authority to monitor each Respondent's compliance with the divestiture and asset maintenance obligations and related requirements of the Consent Agreement, and any Remedial Agreement, including any Divestiture Agreement(s), and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of the Consent Agreement and in consultation with the Commission.
 - (b) BRG shall act in a fiduciary capacity for the benefit of the Commission, maintain all confidences and avoid any conflict of interest.
 - (c) BRG shall have the authority to employ, at the expense of Integra, such consultants, accountants, attorneys, and other representatives and assistants as BRG believes are reasonably necessary to carry out its duties and responsibilities.
 - (d) BRG shall have no obligation or authority to operate or maintain the Divestiture Products.
 - (e) BRG shall have no duties of good faith, of a fiduciary nature, or otherwise, to Respondents.
 - (f) Respondents shall report to BRG in accordance with the requirements of the Consent Agreement and as otherwise provided in any agreement

approved by the Commission. BRG shall evaluate the reports submitted to BRG by a Respondent, and any reports submitted by the Acquirer with respect to the performance of a Respondent's obligations under the Consent Agreement or the Remedial Agreement(s). Within thirty (30) days after the date BRG receives these reports, BRG shall report in writing to the Commission concerning performance by Respondents of their obligations under the Consent Agreement; *provided, however*, beginning ninety (90) days after Respondents have filed their final report pursuant to Paragraph VII.C. of the Decision and Order, which is part of the Consent Agreement, and ninety (90) days thereafter, BRG shall report in writing to the Commission concerning progress by the Acquirer or the Acquirer's Manufacturing Designee toward obtaining FDA approval to manufacture each Divestiture Product and obtaining the ability to manufacture each Divestiture Product in commercial quantities, in a manner consistent with cGMP, independently of Respondents. BRG shall, within 3 Business Days, respond to any request by the Commission for additional information regarding any Respondent's compliance.

- [6] Subject to any demonstrated legally recognized privilege, BRG shall have full and complete access to Respondents' personnel, books, documents, records kept in the ordinary course of business, facilities, and technical information, and such other relevant information as BRG may reasonably request, related to that Respondent's compliance with its obligations under the Orders, including, but not limited to, its obligations related to the relevant assets. Respondents shall cooperate with any reasonable request of BRG and shall take no action to interfere with or impede BRG's ability to monitor that Respondent's compliance with the Orders.
- [7] Respondents shall fully and promptly respond to all requests from BRG and shall provide all information BRG may request that is relevant to monitoring Respondents' compliance with the Consent Agreement. Each Respondent shall identify an individual who shall have primary responsibility for responding fully and promptly to such requests from BRG on behalf of that Respondent.
- [8] Respondents shall provide to BRG electronic or hard copies, as appropriate, of all reports submitted by Respondents to the Commission pursuant to the Consent Agreement, simultaneously with the submission of such reports to the Commission, for the duration of BRG's term under this Monitor Agreement.
- [9] Respondents and BRG shall be reasonably available to one another to discuss any questions or issues either Party may have concerning compliance with the Consent Agreement.
- [10] BRG shall report to the Commission in accordance with the terms of the Consent Agreement. Respondents acknowledge that BRG will not provide to Respondents copies of its reports to the Commission, nor will BRG provide to Respondents any information respecting BRG's dealings with the Commission.

III. COMPENSATION

[11] Integra shall be responsible for all reasonable fees and expenses properly charged or incurred by BRG in the course of carrying out BRG's duties under the Consent Agreement. BRG shall serve, without bond or security, on the terms set out in Schedule I to this Monitor Agreement, and shall account for all fees and expenses incurred. Integra shall pay all reasonable invoices submitted by BRG within 60 days after receipt and, without limiting this obligation, Integra shall comply with any agreement it reaches with BRG regarding interest on late payments. In the event of any dispute: (i) such invoice shall be subject to the approval of the Commission; and (ii) Integra shall promptly pay any invoice approved by the Commission. Any outstanding monies owed to BRG by Integra shall be paid out of the proceeds of the Divestiture.

IV. CONFIDENTIALITY

[12] Respondents may require BRG and each of BRG's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement; *provided, however*, that such agreement shall not restrict BRG from providing any information to the Commission.

[13] The Commission may, among other things, require BRG and each of BRG's consultants, accountants, attorneys, and other representatives and assistants to sign an appropriate confidentiality agreement related to Commission materials and information received in connection with the performance of BRG's duties.

[14] BRG shall maintain the confidentiality of all Confidential Business Information provided to BRG by Respondents or any Purchaser approved by the Commission pursuant to the Consent Agreement. Such information shall be used by BRG only in connection with the performance of BRG's duties pursuant to this Monitor Agreement. Such Confidential Business Information shall not be disclosed by BRG to any Third Party other than:

- (a) employees of BRG who have signed a confidentiality acknowledgement requiring them to abide by the confidentiality terms of this Monitor Agreement;
- (b) consultants, attorneys or other representatives or assistants employed by BRG who have signed a confidentiality agreement requiring them to abide by the terms of this Monitor Agreement;
- (c) the Commission and any Commission staff or counsel;
- (d) the Divestiture Trustee; or
- (e) other persons if consented to by Respondents and the Commission.

- [15] BRG shall maintain a record of and inform the Commission of all Persons (other than representatives of the Commission) to whom Confidential Business Information related to this Monitor Agreement has been disclosed.
- [16] Upon termination of BRG's duties under this Monitor Agreement, BRG shall promptly (i) return to Respondents all Records provided to BRG by Respondents; and (ii) destroy any Records prepared by Respondents that contain or reflect any Confidential Business Information of Respondents. BRG shall make no use of any Confidential Business Information of Respondents, or any information derived directly or indirectly from any Confidential Business Information of Respondents, following termination of its duties. Nothing herein shall abrogate BRG's duty of confidentiality, including the obligation to keep any Confidential Business Information of Respondents confidential in perpetuity after the termination of this Monitor Agreement.
- [17] BRG shall keep confidential in perpetuity its reports to, and any other correspondence with, the Commission. BRG shall maintain the confidentiality, for a period of ten (10) years after the termination of this Monitor Agreement, of all other aspects of the performance of BRG's responsibilities under this Monitor Agreement and not disclose any Confidential Business Information relating thereto except as required by law. In the event that BRG is requested pursuant to subpoena or other legal process to produce any documents or to provide testimony relating to this matter in judicial or administrative proceedings to which BRG is not a party, Integra shall reimburse BRG at standard billing rates for all professional time and expenses, including reasonable attorney's fees, incurred in preparing for and responding to requests for documents and providing testimony.

V. INDEMNITIES AND RIGHTS OF ACTION

- [18] Respondents shall indemnify BRG and hold BRG harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of BRG's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defence of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from gross negligence, willful or wanton acts, or bad faith by BRG. In addition, except to extent arising from BRG's gross negligence, willful or wanton acts, or bad faith, BRG shall not be liable to Respondents for any consequential, incidental, special or punitive damages and BRG shall not be liable to Respondents for direct compensatory damages in excess of the fees actually received by BRG for the performance of services hereunder.
- [19] BRG shall have no claim against the Commission arising out of the performance of BRG's duties under this Monitor Agreement or the Consent Agreement.

VI. TERM AND TERMINATION

[20] BRG shall serve until the latter of:

- (i) the date the Respondents complete the transfer of all Divestiture Product Assets, and the transfer and delivery of the related Manufacturing Technology, Product Intellectual Property, and Product Licensed Intellectual Property;
- (ii) the date that each respective Acquirer has obtained all Product Approvals necessary to manufacture and market each Divestiture Product acquired by that Acquirer in the United States of America independently of the Respondents; or
- (iii) the date of written notification from staff of the Commission that BRG, in consultation with staff of the Commission, has determined that the Acquirer has abandoned its efforts to manufacture a Divestiture Product that is being monitored by BRG;

provided, however, that BRG's service shall not extend more than four (4) years after the Order Date *unless* the Commission decides to extend or modify this period as may be necessary or appropriate to accomplish the purposes of the Orders or otherwise terminate the monitor's service.

[21] BRG may terminate this Agreement without penalty upon 30 days' notice to Respondents and to the Commission. In such instance, BRG shall provide reasonable support to the Commission, Respondents and to any substitute Monitor appointed in accordance with the Consent Agreement (the "Substitute Monitor") to facilitate the transition of BRG's monitoring role to the Substitute Monitor.

[22] Parts IV and V of this Monitor Agreement shall survive its termination.

[23] If, during the term of this Monitor Agreement, BRG becomes aware that BRG has or may have a conflict of interest that may affect or could have the appearance of affecting the performance by BRG of any of its duties under this Monitor Agreement, BRG shall immediately inform both Respondents and the Commission of such conflict or potential conflict.

[24] If the Commission determines that BRG has ceased to act or has failed to act diligently, the Commission may remove BRG and appoint a Substitute Monitor. The provisions of the Consent Agreement respecting the Monitor shall apply in the same manner to any Substitute Monitor.

[25] If the Commission advises BRG and Respondents that he has determined, in its sole discretion, that there is cause for removal of BRG and appointment of a Substitute Monitor, whether due to an actual or perceived conflict of interest or otherwise in accordance with the Consent Agreement, this Monitor Agreement

shall immediately terminate without notice or penalty. Notwithstanding such termination, BRG shall provide reasonable support to the Commission, Respondents, and to any Substitute Monitor to facilitate the transition of BRG's monitoring role to the Substitute Monitor.

VII. GENERAL

- [26] In the event that there is a disagreement or dispute between Respondents and BRG concerning Respondents' obligations under the Consent Agreement, and such disagreement or dispute cannot be resolved by the Parties, either Party may seek the assistance of the Commission to resolve the dispute.
- [27] This Monitor Agreement shall be governed by and interpreted in accordance with the law of the state of New York without applying any otherwise applicable conflict of law rules.
- [28] It is understood that BRG will serve under this Monitor Agreement as an independent contractor and that the relationship of employer and employee shall not exist between BRG and Respondents.
- [29] This Agreement may be executed in two or more counterparts, each of which shall be an original instrument, but all of which shall constitute one and the same Agreement.
- [30] The Commission may on its own initiative, or at the request of BRG, issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of the Consent Agreement.
- [31] The Monitor appointed pursuant to the Consent Agreement may be the same Person appointed as a Divestiture Trustee pursuant to the relevant provisions of the Consent Agreement.

VIII. NOTICES

- [32] The Parties shall rely on the procedures and addresses for giving notice contained in the Consent Agreement. Communications addressed to BRG shall be addressed to:

**Edward Buthusiem
Berkeley Research Group, LLC
1800 M St. NW, Second Floor
Washington, DC 20036**

IN WITNESS OF WHICH the Parties have executed this Agreement.

DATED this 12th day of September, 2017

**INTEGRA LIFESCIENCES HOLDINGS
CORPORATION**

Name:

R. O. Appelle

Title:

Corporate Vice President, General Counsel,
Administration & Secretary

JOHNSON & JOHNSON

Name:

James A. Smith

Title:

Asst. Secretary

**BERKELEY RESEARCH
GROUP, LLC**

Name:

[Signature]

Title:

Managing Director