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## **“Profit and Loss Transfer Agreement**

*between*

### **CompuGroup Medical SE & Co. KGaA**

*(Controlling Entity)*

### **CGM Clinical Europe GmbH**

*(Controlled Entity)*

The following **Profit and Loss Transfer Agreement (“Agreement”)** is entered into on March 29, 2021 between the following parties:

- (1) **CompuGroup Medical SE & Co. KGaA**, a partnership limited by shares under German law, with its registered office in Koblenz and its business address at Maria Trost 21, 56070 Koblenz, registered with the commercial register of Koblenz Local Court under number HRB 27430 (**“Controlling Entity”**);
- (2) **CGM Clinical Europe GmbH**, a limited liability company under German law, with its registered office in Koblenz and business address at Maria Trost 21, 56070 Koblenz, registered with the commercial register of Koblenz Local Court under number HRB 27136 (**“Controlled Entity”**);

Controlling Entity and Controlled Entity together hereinafter referred to as the **“Parties”**.

#### **Preliminary remarks:**

- (A) The shares in the Controlled Entity are held in full (100 %) by CompuGroup Medical CEE GmbH, a limited liability company under the laws of the Republic of Austria, with its registered office in Vienna and its business address at Neulinggasse 29, 1030 Vienna, Republic of Austria, registered in the commercial register under number FN 283546 f (**“Shareholder”**).
- (B) The shares in the Shareholder are in turn held in full (100 %) by the Controlling Entity. This is therefore a case of what is known as parent company/sub-subsidiary company relationship.
- (C) The Parties declare that they wish to conclude a profit and loss transfer agreement, starting with the transfer of profits for the current fiscal year. The Shareholder has given an assurance that it will pass a corresponding resolution of approval at the shareholders’ meeting of the Controlled Entity.

#### **1. Profit transfer**

- 1.1 Subject to section 1.2, the Controlled Entity is obliged to transfer to the Controlling Entity during the term of the Agreement its entire profit, but at most, in accordance with the currently applicable version of Section 301 sentence 1 German Stock Corporation Act (AktG), the net income for the year arising without the profit transfer, less any loss carried forward from the previous year, less any amount to be allocated to the statutory reserve in accordance with Section 300 German Stock Corporation Act (AktG) and less the amount blocked from distribution in accordance with Section 268 (8) German Commercial Code (HGB).
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1.2 *The Controlled Entity may, with the consent of the Controlling Entity, allocate amounts from the net income for the year – with the exception of statutory reserves, if any – to revenue reserves (Section 272 (3) German Commercial Code (HGB)) only to the extent that this is permissible under commercial law and economically justified on the basis of prudent business judgment. At the request of the Controlling Entity, amounts allocated to other revenue reserves during the term of this agreement may be withdrawn from other revenue reserves and transferred as profit in accordance with the currently applicable version of Section 301 sentence 2 German Stock Corporation Act (AktG). This shall apply mutatis mutandis in the event of the dissolution of any amounts allocated to the statutory reserves or reserves under the Articles of Association during the term of this Agreement.*

1.3 *Should Section 301 German Stock Corporation Act (AktG) be amended in the future, the currently valid version applies accordingly.*

1.4 *The transfer of amounts from the release of retained earnings and of profit carryforwards is excluded to the extent that they were allocated to retained earnings or arose in fiscal years prior to the application of this Agreement. The transfer of amounts from the reversal of capital reserves in accordance with Section 272 (2) German Commercial Code (HGB) is generally excluded.*

*This does not affect the permissibility of dissolving, distributing or withdrawing capital reserves in accordance with the general statutory provisions.*

1.5 *The obligation of the Controlled Entity to transfer its entire profit also includes – to the extent legally permissible – the profit from the disposal of all its assets as well as a transfer profit from conversions. The above provision does not apply to profits accruing after the dissolution of the Controlled Entity.*

1.6 *The claim to profit transfer arises at the end of the fiscal year of the Controlled Entity and becomes due for payment upon adoption of the annual financial statements of the Controlled Entity for the same fiscal year.*

1.7 *The Controlling Entity may demand an advance transfer of profits if and to the extent that the payment of an advance dividend would be permissible. To the extent that the amount of the advance transfer exceeds the final amount of the profit transfer, the excess amount is deemed to have been granted to the Controlling Entity by the Controlled Entity.*

## **2. Loss transfer**

2.1 *The provisions of Section 302 German Stock Corporation Act (AktG), as amended, apply mutatis mutandis to the transfer of losses by the Controlling Entity.*

2.2 *The claim for loss compensation arises at the end of the fiscal year of the Controlled Entity and becomes due for payment at the same time.*

## **3. Preparation of the annual financial statements**

3.1 *The annual financial statements of the Controlled Entity must be submitted to the Controlling Entity for information, review and approval prior to their adoption.*

3.2 *The annual financial statements of the Controlled Entity must be prepared and approved before the annual financial statements of the Controlling Entity.*

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3.3 *If the fiscal year of the Controlled Entity ends at the same time as the fiscal year of the Controlling Entity, the profit or loss of the Controlled Entity to be adopted must be taken into account in the annual financial statements of the Controlling Entity for the same fiscal year.*

#### **4. Rights to obtain information**

4.1 *The Controlling Entity may at any time request information from the management of the Controlled Entity regarding the legal, business and administrative affairs of the Controlled Entity. The Controlling Entity may also inspect the books and business records of the Controlled Entity at any time.*

4.2 *Notwithstanding the rights agreed above, the Controlled Entity shall report to the Controlling Entity on its business development on an ongoing basis, in particular on significant business transactions.*

#### **5. Entry into force, term of agreement, termination**

5.1 *This Agreement is concluded subject to the approval of the shareholders' meeting of the Controlling Entity and the shareholders' meeting of the Controlled Entity and becomes effective upon its entry in the commercial register of the Controlled Entity. The Agreement applies for the first time to the fiscal year of the Controlled Entity starting on August 1, 2020, but at the earliest to the fiscal year of the Controlled Entity in which the Agreement takes effect.*

5.2 *The Agreement is concluded for an indefinite period. It may be terminated at the end of a fiscal year of the Controlled Entity by giving three months' notice, but not before the expiry of a five-year period, i.e., 60 months (minimum term), from the beginning of the fiscal year of the Controlled Entity to which the Agreement applies for the first time in accordance with Section 5.1, that is, at the earliest at the end of July 31, 2025, if it takes effect by July 31, 2021.*

5.3 *The right to terminate this Agreement for cause or by mutual consent remains unaffected. Causes for such termination include in particular:*

5.3.1 *the sale, contribution or other transfer of shares in the Controlled Entity,*

5.3.2 *the merger, demerger or liquidation of the Controlling Entity or the Controlled Entity,*

5.3.3 *the change of legal form of the Controlled Entity, unless the Controlled Entity is converted into a corporation of a different legal form,*

5.3.4 *the transfer of the registered office or administrative headquarters of the Controlled Entity or the Controlling Entity abroad, if this results in the loss of the fiscal unity.*

#### **6. Costs**

*The costs incurred in connection with the conclusion of this Agreement will be borne by the Controlling Entity.*

#### **7. Final provisions**

7.1 *If any provision of this Agreement is or becomes void, invalid or unenforceable in whole or in part, this will not affect the validity of the remaining provisions of the Agreement. In place of the void, invalid or unenforceable provision, a provision is to come into force which comes clos-*

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*est to what the Parties would have intended in accordance with the meaning and purpose of this Agreement had they considered this in light of the voidness, invalidity or unenforceability.*

*7.2 This also applies in the event of the voidness, invalidity or unenforceability of a performance or time provision contained in this Agreement. In this case, the legally permissible performance or time provision that comes closest to the agreed one is deemed to be agreed. Sentences 1 and 2 shall apply mutatis mutandis to gaps in this Agreement.”*

The general partner of CompuGroup Medical SE & Co. KGaA has prepared a detailed joint report with the management of CGM Clinical Europe GmbH pursuant to Section 293a German Stock Corporation Act (AktG), in which the conclusion of the profit and loss transfer agreement and the agreement are explained and justified in detail from a legal and economic point of view. This report, together with the profit and loss transfer agreement and the other documents to be made available pursuant to Section 293f German Stock Corporation Act (AktG), will be published on the Company’s website at [www.cgm.com/agm](http://www.cgm.com/agm) from the day of convening. All documents to be made available will also be made available during the Company’s Annual General Meeting.

The agreement will only become effective with the consent of the Annual General Meeting of CompuGroup Medical SE & Co. KGaA and the shareholders’ meeting of CGM Clinical Europe GmbH and only becomes effective once its existence has been entered in the commercial register of CGM Clinical Europe GmbH.

The general partner and the Supervisory Board propose that the Annual General Meeting approve the profit and loss transfer agreement between CompuGroup Medical SE & Co. KGaA and CGM Clinical Europe GmbH dated 29 March 2021.

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