

TRUST AGREEMENT

This Trust Agreement (the "Trust Agreement") entered into this _____ day of _____ between _____ and Medtronic, Inc. ("Medtronic"), provides as follows:

WHEREAS, the United States Federal Trade Commission (the "Commission") has accepted or will shortly accept for Public Comment an Agreement containing Consent Order with Medtronic (the "Order"), which provides, among other things, for the appointment of an Interim Trustee to ensure that Medtronic and any acquirer of certain defined assets perform their respective obligations with respect to those assets under the Order, and

WHEREAS, the Commission may appoint _____ as such trustee (the "Interim Trustee") in connection with the divestiture of certain defined assets (the "Assets") used in the business of producing and selling certain products formerly produced and sold by Avecor Cardiovascular, Inc. ("Avecor") as part of its Blood Pump System Business (the "Business") as defined in the Agreement between Avecor, Medtronic and Baxter Healthcare Corporation ("Baxter") dated February ____, 1999, (the "Divestiture Agreement"), and also including the supply of associated reservoirs with a 5/8 inch outlet and a reservoir holder for use with those products (collectively the "Products") and _____ has consented to that appointment;

WHEREAS, the Order further provides or will provide that Medtronic shall execute a trust agreement, subject to prior approval of the Commission, conferring all the rights and powers necessary to permit the Interim Trustee to monitor Medtronic's compliance with the terms of the Order and with the Divestiture Agreement referenced in the Order and to monitor the compliance of the Acquirer as defined in the Order;

WHEREAS, this Trust Agreement, although executed by the Interim Trustee and Medtronic is not effective for any purpose, including but not limited to imposing rights and responsibilities on Medtronic or the Interim Trustee under the Order, until it has been approved by the Commission;

WHEREAS, the parties to this Trust Agreement intend to be legally bound;

NOW, THEREFORE, the parties agree as follows:

1. Capitalized terms used herein and not specifically defined herein shall have the respective definitions given to them in the Order. The term Medtronic as used herein

shall mean and include all of the parties included within the definition of Respondent in subparagraph A of Paragraph I of the Order. The term "Assets to be Divested" means the Assets to be transferred relating to the Business as provided for in the Divestiture Agreement.

2. The Interim Trustee shall have all of the powers and responsibilities conferred upon the Interim Trustee by the Order.

3. Medtronic hereby agrees that it will fully and promptly comply with all of the terms of the Order conferring any rights, powers or privileges upon the Interim Trustee, or imposing any duties or obligations upon itself with respect to the Interim Trustee or the performance by the Interim Trustee of its responsibilities thereunder. In particular, but without limiting the generality of the foregoing Medtronic agrees that:

(a) it will use its best efforts to ensure that any Acquirer enters into an agreement in the form set out in Attachment 1 with the Interim Trustee prior to the divestiture by Medtronic to the Acquirer of the Assets to be Divested;

(b) it will promptly provide the Interim Trustee with:

(1) a complete inventory of the Assets to be Divested identifying in particular those Assets which require actions to maintain their viability and marketability and who is responsible for taking those actions;

(2) a complete inventory of all existing FDA approvals and pending FDA approvals for the Products identifying actions required to maintain or complete such approvals and identifying who is responsible for taking such actions;

(3) a complete inventory of all activities or operations world-wide which relate to the manufacture of any of the Assets to be Divested and which relate to Medtronic's compliance with the Order including processes and process validations which are under development, identify who is responsible for maintaining or pursuing such activities and giving an inventory of materials and records relating to such manufacture;

(4) full and complete details of all dealings with any future Acquirer (other than Baxter) including copies of all correspondence and written reports of all contacts and discussions with any Acquirer and any draft and complete agreements;

(5) a complete inventory of all Patents related to the manufacture or sale of the Products in the U.S., identifying actions needed to maintain such Patents and who is responsible for such actions;

(c) it will provide a written list of the principal individuals involved in the transitioning of the Assets to be Divested to the Acquirer, together with their location and role; and will provide the Trustee with written notice of any changes in such personnel occurring thereafter.

(d) it will provide the Interim Trustee with copies of all reports submitted to the Commission pursuant to Paragraph V of the Order, simultaneous with the submission of such reports to the Commission;

(e) to the extent not reflected in the reports submitted to the Commission pursuant to Paragraph V of the Order, it will provide every two months commencing 60 days after the Divestiture Agreement is accepted by the Commission for public comment, or as requested by the Interim Trustee full and detailed reports to the Interim Trustee as to all of its activities and obligations under the Order concerning the Business including, without limitation to the extent applicable:

(1) all activities involving the research and development, pre-clinical and clinical studies and the pursuit and maintenance of FDA clearance of any of the Assets to be Divested;

(2) all activities concerned with Contract Manufacture as referenced in Paragraph II of the Order, including, without limitation, negotiation and operation of supply agreements, actual supply and inventory;

(3) all activities concerning the assistance, advice and consultation provided to any Acquirer generally as provided in Paragraph II of the Order;

(4) on request, Medtronic will provide the Interim Trustee with any and all records that relate to the manufacture of the Products or the Acquirer with the right to use them to achieve the purposes of the Order;

(f) it will comply with the Interim Trustee's reasonable requests for follow-up discussions or supplementary information concerning any reports provided to or requested by the Interim Trustee pursuant to this Agreement, including meetings and discussions with the principal staff involved in any activities relating to the research, development, manufacture and/or sale of the Assets to be Divested or any product comprised therein or concerned with the maintenance of the Business and, further including, actions necessary to maintain all necessary FDA approvals to manufacture and sell any of the Assets to be Divested, to maintain the viability and marketability of the Assets to be Divested, as well as the tangible assets of the AVecor facilities used to manufacture and sell all of the Assets to be Divested, and to prevent the destruction, removal, wasting, deterioration or impairment of the Assets to be Divested, and will provide the Interim Trustee with access to and copies of all other data, records or other information that the Trustee reasonably believes are necessary to the proper discharge of his responsibilities under the Order;

(g) it will provide notice of any activities or events affecting or likely to affect the maintenance of the Business;

4. Medtronic shall promptly notify the Interim Trustee of any written or oral communication that occurs after the date of this Trust Agreement between the Commission and

Medtronic related to the Order or this Trust Agreement, together with copies (or, in the case of oral communications, summaries) of such communications.

5. The Interim Trustee shall maintain the confidentiality of all information provided to the Interim Trustee by Medtronic. Such information may be disclosed only to:

(a) persons employed by, or working with, the Interim Trustee under this Agreement, or

(b) persons employed at the Commission and working on this matter;

(c) Upon termination of the Interim Trustee's duties under this agreement, the Interim Trustee shall promptly return to Medtronic all material provided to the Interim Trustee by Medtronic and shall destroy any material prepared by the Interim Trustee that contains or reflects any confidential Medtronic information. Nothing herein shall abrogate the Interim Trustee's duty of confidentiality, including the obligation to keep such information confidential after the termination of this agreement;

(d) In addition, the Interim Trustee shall keep confidential all other aspects of the performance of his duties under this agreement and shall not disclose any confidential or proprietary information relating thereto. To the extent that the Interim Trustee wishes to retain any employee, agent, consultant or any other third party to assist the Interim Trustee in accordance with Paragraph III of the Order, the Interim Trustee shall ensure that, prior to being retained, such persons execute a confidentiality agreement in a form agreed upon by the Interim Trustee and Medtronic.

For the purposes of this Section, information shall not be considered confidential or proprietary to the extent that it is or becomes part of the public domain (other than as the result of any action by the Interim Trustee or by any employee, agent, affiliate or consultant of the Interim Trustee), or to the extent that the recipient of such information can demonstrate that such information was already known to the recipient at the time of receipt from a source other than Medtronic or any director, officer, employee, agent, consultant or affiliate of Medtronic when such source is entitled to make such disclosure to such recipient.

6. Nothing in this agreement shall require Medtronic to disclose any material or information that is subject to a legally recognized privilege or that Medtronic is prohibited from disclosing by reason of law or an agreement with a third party.

7. The Interim Trustee shall be reasonably available to Medtronic to discuss any questions or issues that Medtronic may have concerning compliance with the Order as it relates to Medtronic.

8. Medtronic will pay the Interim Trustee \$___ per hour for all reasonable time spent in the performance of the Interim Trustee's duties including all work in connection with the negotiation and preparation of this Trust Agreement. Such hourly rates may be adjusted from time to time by agreement with Medtronic. In addition, Medtronic will pay (i) all out-of-

pocket expenses reasonably incurred by the Interim Trustee in the performance of the Interim Trustee's duties, including any air travel at business class rates, and (ii) all fees and disbursements reasonably incurred by such consultants, accountants, attorneys, investment bankers, business brokers, appraisers and other representatives and assistants as are reasonably necessary to carry out the Interim Trustee's duties and responsibilities. Medtronic acknowledges that the Interim Trustee may need to travel to and from Baxter's and Avecor's facilities for the purpose of fulfilling these duties. The Interim Trustee shall provide details and an explanation of all matters for which the Interim Trustee submits an invoice to Medtronic. At its own expense, Medtronic may retain an independent auditor to verify such invoices.

9. Medtronic hereby confirms its obligation to indemnify the Interim Trustee and hold the Interim Trustee harmless in accordance with and to the extent required by Paragraph III (and, upon direction by the Commission to the Interim Trustee to divest any Asset to be Divested) of the Order.

10. Upon this Trust Agreement becoming effective, the Interim Trustee shall be permitted, and Medtronic shall be required, to notify Baxter or, if applicable, all potential future Acquirers with respect to his appointment as Interim Trustee.

11. In the event of a disagreement or dispute between Medtronic and the Interim Trustee concerning Medtronic's obligations under the Order, and in the event that such disagreement or dispute cannot be resolved by the parties, either party may seek the assistance of the individual in charge of the Commission's Compliance Division to resolve the issue. In the case of any disagreement or dispute between Medtronic and the Interim Trustee not relating to Medtronic's obligations under the Order, and in the event that such disagreement or dispute cannot be resolved by the parties, the parties shall submit the matter to binding arbitration before the American Arbitration Association.

12. This agreement shall be subject to the substantive law of the State of Minnesota (regardless of any other jurisdiction's choice of law principles).

13. This agreement shall terminate two (2) years from the date Medtronic and Acquirer signed the Divestiture Agreement; provided, however, that the Agreement shall end earlier if the Interim Trustee reports to the Commission that the Acquirer has received all necessary FDA approvals to manufacture and sell the Products and has the Commercial Capability to Manufacture the Products and the Commission has accepted that report, or the Commission has appointed a substitute trustee pursuant to paragraph III. A. 8. of the Order.

14. In the event that, during the term of this agreement, the Interim Trustee becomes aware that he has or may have a conflict of interest that may affect or could have the appearance of affecting the performance by the Interim Trustee of any of his duties under this agreement, the Interim Trustee shall promptly inform both Medtronic and the Commission of such conflict or potential conflict.

15. In the performance of his functions and duties under this agreement, the Interim Trustee shall exercise the standard of care and diligence that would be expected of a reasonable person in the conduct of his own business affairs.

16. Any notices or other communication required to be given hereunder shall be deemed to have been properly given if sent by mail or fax (with acknowledgment of receipt of such fax having been received), to the applicable party at its address below (or to such other address as to which such party shall hereafter notify the other party):

If to the Interim Trustee, to:

If Medtronic, to:

Medtronic, Inc.
Corporate Center
7000 Central avenue N.E.
Minneapolis, MN 55432
Attention: Vice President and Chief Development Officer
FAX (612) 572-5404

and:

Attention: General Counsel
FAX (612) 572-5459

17. This agreement shall not become binding until it has been approved by the Commission and the Order has been accepted for public comment.

18. As used in this Agreement, "Commercial Capability to Manufacture" is defined in the manner set forth in Paragraph I of the Order.

IN WITNESS WHEREOF, the parties hereto have executed this Trust Agreement as of the date first above written.

Medtronic, Inc.

Interim Trustee

By _____

Its _____

Attachment 1

This Agreement entered into this ____ day of _____ between _____ and Baxter Healthcare Corporation (the "Acquirer"), provides as follows:

WHEREAS the Federal Trade Commission (the "Commission") has accepted or will shortly accept for Public Comment an Agreement containing a Consent Order (the "Order") with Medtronic, Inc. ("Medtronic"), which provides, among other things, for the appointment of an Interim Trustee to ensure that Medtronic and any acquirer of certain defined assets (the "Assets") used in the business of producing and selling certain products formerly produced and sold by Avecor Cardiovascular, Inc. ("Avecor") as part of its Blood Pump System Business (the "Business") as defined in the Agreement between Avecor, Medtronic and Acquirer dated February ____, 1999 (the "Divestiture Agreement"), and also including the supply of associated reservoirs with a 5/8 inch outlet for use and a reservoir holder with those products (collectively the "Products") perform their respective obligations with respect to those Assets and the Business under the Order, and

WHEREAS, the Commission may appoint an individual of its own choosing, subject to Medtronic's consent, as such trustee in connection with the divestiture of the Assets (the "Interim Trustee") to Acquirer;

WHEREAS the Order further provides that Medtronic shall execute a trust agreement, subject to prior approval of the Commission, conferring all the rights and powers necessary to permit the Interim Trustee to monitor the Acquirer's compliance with the terms of the Order;

WHEREAS, the parties to this Agreement intend to be legally bound;

NOW, THEREFORE, the parties agree as follows:

Acquirer shall:

1. Provide to the Interim Trustee a copy of the certification of its good faith intention, including a plan, to obtain in an expeditious manner all necessary FDA approvals to manufacture and sell the Products and to obtain the Commercial Capability to Manufacture the Products as submitted to the Commission pursuant to the Order;

2. Submit to the Interim Trustee verified written reports every two (2) months or as directed by the Interim Trustee setting forth in detail the efforts of the Acquirer to sell the Products connected with the Business obtained pursuant to the Divestiture Agreement and to obtain all FDA approvals necessary to manufacture and sell the Products and to obtain the

Commercial Capability to Manufacture the Products. The first such report shall be submitted to the Interim Trustee 60 days from the date the Divestiture Agreement is accepted for public comment by the Commission. The Acquirer shall report to the Interim Trustee within ten (10) days of its ceasing the sale in the United States of the Products connected with the Business obtained pursuant to the Divestiture Agreement for any time period exceeding sixty (60) days or abandoning its efforts to obtain any FDA approvals to manufacture and/or sell the Products or to obtain the Commercial Capability to Manufacture the Products;

3. Provide the Interim Trustee with access upon reasonable notice and during regular business hours to all records and all facilities that relate to Acquirer's efforts, pursuant to the Divestiture Agreement, to sell or manufacture the Products, to obtain FDA approvals, or to obtain the Commercial Capability to Manufacture the Products;

4. Submit to the Interim Trustee verified written reports every two (2) months of its effort to prepare for and carry out marketing and sales with respect to the Products commencing 60 days from the date the Divestiture Agreement is accepted for public comment by the Commission;

5. Submit to the Interim Trustee verified written reports every two (2) months of its activities and planned activities relating to manufacture with respect to the Products including any such activities contracted to a third party commencing 60 days from the date the Divestiture Agreement is accepted for public comment by the Commission;

6. Submit to the Interim Trustee verified written reports every two (2) months of the number of staff devoted to the marketing and sale of the Products including any staff recruited from Avecor commencing 60 days from the date the Divestiture Agreement is accepted for public comment by the Commission;

7. Submit to the Interim Trustee verified written reports every two (2) months regarding the Products' market performance against competitive products commencing 60 days from the date the Divestiture Agreement is accepted for public comment by the Commission;

8. Arrange at the Interim Trustee's request, upon reasonable notice, a reasonable number of meetings or discussions, during normal business hours at a reasonable location designated by Acquirer, and provide additional information in response to reasonable requests of the Interim Trustee, relating to the reports and activities set forth in Paragraphs 2-7 above; and allow the Interim Trustee to have sufficient access, during normal business hours and after reasonable notice to Acquirer's senior manager designated for that purpose, to Acquirer's activities and staff to determine whether Acquirer is making appropriate efforts to meet the projections of Acquirer's business plan and to fulfill its responsibilities as contemplated by the Order and the Divestiture Agreement;

9. Cooperate fully in any respect reasonably required by the Interim Trustee to allow him to fulfill his obligations as they relate to Acquirer under the Order;

10. The Interim Trustee shall maintain the confidentiality of all information provided to the Interim Trustee by Acquirer and shall use such information only for the purpose of discharging his obligations as Interim Trustee and not for any other purpose, including, without limitation, any other business, scientific, technological, or personal purpose. Such information may be disclosed only to:

(a) persons employed by or working with the Interim Trustee under this Agreement and the Trust Agreement, or

(b) persons employed at the Commission and working on this matter.

Upon the termination of the Interim Trustee's duties under the Trust Agreement to which this Agreement is an attachment, the Interim Trustee shall promptly return to Acquirer all materials provided to the Interim Trustee by Acquirer and shall destroy any material prepared by the Interim Trustee that contains or reflects any confidential Acquirer information. Nothing herein shall abrogate the Interim Trustee's duty of confidentiality, including the obligation to keep such information confidential after the termination of this Agreement.

In addition, the Interim Trustee shall keep confidential all other aspects of the performance of his duties under this Agreement and shall not disclose any confidential or proprietary information relating thereto. To the extent that the Interim Trustee wishes to retain any employee, agent, consultant or other third party to assist the Interim Trustee in accordance with the Order, the Interim Trustee shall ensure that prior to being retained, such persons execute a confidentiality agreement in a form agreed upon by the Interim Trustee and Acquirer.

For the purposes of this Section, information shall not be considered confidential or proprietary to the extent that it is or becomes part of the public domain (other than as the result of any action by the Interim Trustee or by any employee, agent, affiliate or consultant of the Interim Trustee), or to the extent that the recipient of such information can demonstrate that such information was already known to the recipient at the time of receipt from a source other than Acquirer or any director, officer, employee, agent, consultant or affiliate of Acquirer when such source is entitled to make such disclosure to such recipient.

11. This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by the substantive Law of the State of Minnesota, including all matters of construction, validity and performance.

12. This agreement shall terminate two (2) years from the date Medtronic and Acquirer signed the Divestiture Agreement; provided, however, that the Agreement shall end earlier if the Interim Trustee reports to the Commission that the Acquirer has received all necessary FDA approvals to manufacture and sell the Products and has obtained the Commercial Capability to Manufacture the Products and the Commission has accepted that report, or the Commission has appointed a substitute trustee pursuant to paragraph III. A. 8. of the Order.

13. The Acquirer shall submit copies of all reports submitted to the Interim Trustee pursuant to this Agreement to the Commission simultaneously with the submission of such reports to the Interim Trustee.

14. As used in this Agreement, "Commercial Capability to Manufacture" is defined in the manner set forth in Paragraph I of the Order.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Interim Trustee

Baxter Healthcare Corporation

By _____

Its _____