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## **EXCLUSIVE DISTRIBUTION AGREEMENT**

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concluded by and between:

**AETHER BIOMEDICAL SP. Z O.O.**

**and**

**[•]**

**THIS AGREEMENT** is entered into as of [ ] ("Effective Date") by and between:

**AETHER BIOMEDICAL sp. z o.o.** with its registered office in Poznan, ul. Królowej Jadwigi 43, 61-871 Poznan, entered into the register of entrepreneurs of the National Court Register Poznan – Nowe Miasto i Wilda, VIII Commercial Division of the National Court Register under KRS No.: 0000755184, REGON: 381661137, NIP: 7831791083, share capital 64.750 zł (fully paid), represented by Dhruv Agrawal – President of the Management Board,

hereinafter referred to as „**Aether**”

and

[ ] incorporated under the laws of [ ] as a [ ] company, having its registered office in [ ], entered in the register [ ], having tax identification number: [ ], represented by: [ ] - [ ]

hereinafter referred to as the „**Distributor**”

hereinafter referred to collectively as „**Parties**” and separately as the „**Party**”.

**WHEREAS**, Distributor is in the business of distribution and reselling of bionic limb prosthesis, exoskeletons and associated components including but not limited to control systems for prosthetic limbs and sensory feedback systems.

**WHEREAS**, Distributor desires to distribute certain Aether products to the Medical Centers in the Territory, as these terms are defined below.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, and intending to be legally bound by this Agreement, the Parties agree as follows:

## **1. DEFINITIONS AND INTERPRETATION**

1.1 Unless otherwise expressly provided to the contrary in this Agreement, all capitalized terms used herein shall have their respective meanings set forth below:

**Agreement** means this exclusive distribution agreement.

**Authorized Persons** mean individuals authorized by the Distributor to place Orders hereunder. A list of “**Authorized Persons**” is attached as Schedule 4.

**Authorized Resellers** means a third party meeting the criteria to act as a reseller of the Product for Distributor in accordance with Clause 2.9.

**Business Day** means any day other than a Saturday, Sunday or a bank or public holiday in Poland or in the Territory.

**Certificate** means a certificate issued by Aether in writing or in electronic form, evidencing the a given third party is a party of Certified Partnership Program.

**Certified Partnership Program** means the professional procedures maintained by Aether that are designed to train, qualify, educate and monitor third-party partners of Aether (inter alia distributors, clinical partners etc.) based upon qualification parameters set by Aether; being a party of “**Certified Partnership Program**” shall be evidenced solely by Certificate issued by Aether.

**Confidential Information** shall have meaning set out in Clause 11.1.

**Delivery** shall have meaning set out in Clause 6.1.

<b>Delivery Point</b>	shall have meaning set out in Clause 6.1.
<b>General Terms</b>	shall have meaning set out in Clause 3.1.
<b>Instruction for Use</b>	means instruction for use of the Product by Qualified Personnel available at Aether's website <a href="https://www.aetherbiomedical.com/downloads">https://www.aetherbiomedical.com/downloads</a> . Aether may update or modify the Instruction for Use from time to time.
<b>Medical Center(s)</b>	means a healthcare facility that provides medical services to Patients and is authorized by Distributor under this Agreement to resale Products to the Patients.
<b>MSRP</b>	means a manufacturer suggested retail price.
<b>Minimum Quantity</b>	shall have meaning set out in Clause 7.7.
<b>Order</b>	shall mean order for Product(s) made hereunder.
<b>Patient</b>	means an individual receiving from Medical Center (or having received) preventive, diagnostic, therapeutic, rehabilitative, or maintenance health services.
<b>Patient Materials</b>	means collectively: (i) Terms and Conditions, (ii) User Manual, (iii) and any other documents, information, items and materials in any form, which are provided by Aether related to the use of the Product by Patients.
<b>Price</b>	means the price payable by the Distributor to Aether in consideration of the sale and supply of Products pursuant to the terms of this Agreement and each of the Orders.
<b>Product List</b>	means a list of Products and its pricing available for the Distributor, current copy of which is attached as Schedule 3. Aether may add to, delete from, or otherwise modify the Products on the " <b>Product List</b> " at any time.
<b>Product(s)</b>	means products of Aether, in particular "Zeus" system combined of: (i) a multi action bionic limb available in left hand (A-01-L) or right hand (A-01-R) configuration, (ii) instruction for use (0704_IFU), (iii) user guide (U01DC-0100), (iv) software instruction (U01DC-0400), (v) Quick start guide for clinicians (U01DC-0200), (vi) accessories kit (AC-01), (vii) Zeus configurator web application v 1.00 or higher.
<b>Qualified Personnel</b>	mean individuals engaged in the delivery of a medical or health care service who have been licensed, certified, or otherwise properly qualified under the laws applicable to the Territory and applicable to that particular service. " <b>Qualified Personnel</b> " may be Medical Center's employed physicians, physician employees of independent physician practices under contract with Medical Center and pursuant to contracts with independent physicians, as well as nurse practitioners and other physician extenders.
<b>Qualified Personnel Materials</b>	means collectively: (i) Instruction for Use, (ii) and any other documents, information, items and materials in any form, which are provided by Aether related to sale of the Product and providing training to the Patients.
<b>Representative(s)</b>	means each Party's affiliates, and it's or their respective, distributors, shareholders, directors, officers, employees and agents.

<b>Binding Forecast</b>	shall have meaning set out in Clause 7.4.
<b>Term</b>	means the term of this Agreement, which shall commence on the Effective Date and shall remain in effect until the termination or expiration hereof in accordance with the provisions of this Agreement.
<b>Terms and Conditions</b>	means the insert to be included in Medical Center's documentation intended for Patients setting forth the terms and conditions for use of the Product available at Aether's website: <a href="https://7842652.fs1.hubspotusercontent-na1.net/hubfs/7842652/PDF%20Resources/MSD-12%20Aether_General%20terms%20of%20collaboration%20with%20clinical%20partners.pdf">https://7842652.fs1.hubspotusercontent-na1.net/hubfs/7842652/PDF%20Resources/MSD-12%20Aether_General%20terms%20of%20collaboration%20with%20clinical%20partners.pdf</a> . Aether may update or modify the Terms and Conditions from time to time.
<b>Territory</b>	means geographic territory of [•].
<b>Trademark</b>	means any trademark, trade name, service name, Aether's name and other designation of Aether or the Product(s), either registered or not.
<b>User Manual</b>	means the insert to be included in Medical Center's documentation intended for Patients setting forth the manual for use of the Product available at Aether's website: <a href="https://www.aetherbiomedical.com/downloads">https://www.aetherbiomedical.com/downloads</a> . Aether may update or modify the User Manual from time to time.
<b>VAT</b>	shall have meaning set out in Clause 4.4.

- 1.2 Unless the context otherwise requires:
- (a) all references to time, will be the time in Warsaw, Poland;
  - (b) any reference to a statute, statutory provision or subordinate legislation shall be construed as referring to that statute, statutory provision or subordinate legislation as amended, modified, consolidated, re-enacted or replaced and in force from time to time, whether before or after the date of this Agreement.
- 1.3 The Schedules to this Agreement shall for all purposes form part of this Agreement. In case of amendment or update of a Schedule from time to time, upon amendment or update of such Schedule it shall replace the former Schedule.
- 1.4 The Parties hereto jointly participated in the negotiation and drafting of this Agreement. Each Party acknowledges that (i) has been advised to and has been given the opportunity to consult with legal counsel for the purposes of reviewing this Agreement; (ii) has read and understands this Agreement, (iii) is fully aware of its legal effect, and (iv) has entered into this Agreement freely and voluntarily and based on each Party's own judgment and not on any representations or promises other than those contained in this Agreement.

## 2. APPOINTMENT AS DISTRIBUTOR

- 2.1 Aether hereby appoints Distributor as the **exclusive**, authorized distributor of the Products to the Medical Centers located in the Territory and Distributor accepts such appointment.
- 2.2 Distributor shall be entitled to sell Products to the Medical Center only after such Medical Center becomes a party of Certified Partnership Program. Prior sale of Products, Distributor shall verify whether such Medical Center holds a Certificate.
- 2.3 Distributor shall not be entitled to sell Products directly to the Patients.

- 2.4 Distributor shall not obtain the Products for resale from any person or entity other than Aether.
- 2.5 Distributor shall sell, offer for sale and promote only the accepted by Aether (in writing or via e-mail) supplies, spare parts, components and other peripheral equipment for use in conjunction with the Product.
- 2.6 Aether reserves the right to discontinue or modify the Products, modify the Product specifications, or replace the Products with other Aether or third party products in its sole discretion, provided that, except as required by law, any such discontinuations, modifications, or replacements will not apply to Products that are subject to an outstanding purchase Order accepted by Aether pursuant to the General Terms.
- 2.7 Aether may prohibit Distributor from providing Products to any person that it reasonably believes is using the Products in violation of: (i) the terms of this Agreement, or (ii) any law, regulation, policy, guideline, order, or similar authority issued by a federal, state or local government or any agency, board or commission thereof.
- 2.8 The relationship of Aether and Distributor established by this Agreement is that of independent contractors and nothing contained herein shall be construed to: (i) give either Party the power to direct and control the day-to-day activities of the other, (ii) constitute the Parties as Distributors, joint ventures, co-owners or otherwise as participants in a joint or common undertaking, or (iii) allow Distributor to create or assume any obligation on behalf of Aether.
- 2.9 Subject to the terms and conditions of this Agreement, Distributor may appoint Authorized Resellers to market and sell the Products to the Medical Centers located on Territory under this Agreement, provided that (i) Distributor has entered into a written agreement with each such third party that at least provide same level of protection for Aether and Products as the terms of this Agreement, including any disclaimers and limitations of warranties and liability, rights of and limitations on scope of marketing and sales activities with respect to the Products; (ii) Aether grants its prior express consent to appointment of such Authorized Reseller. At any time, if requested by Aether, Distributor shall terminate the Authorized Reseller.
- 2.10 Distributor shall be responsible for the actions and omissions of all Authorized Resellers, and such conduct shall be governed by the terms of this Agreement, as if performed by Distributor. For clarity, in any circumstance where Distributor sells Product through an Authorized Reseller, both Distributor and the Authorized Reseller shall be responsible for performing the obligations of Distributor under this Agreement related to such sales (including support obligations), and Distributor shall be responsible under this Agreement for any failure of the Authorized Reseller to do so. The circumstance that Aether granted its consent to appoint the Authorized Reseller does not affect the responsibility of the Distributor and the Authorized Reseller as set out herein.

### **3. GENERAL TERMS OF COLLABORATION**

- 3.1 General terms of collaboration between the Parties under this Agreement and general responsibilities of the Parties are available at Aether's website: <https://www.aetherbiomedical.com/terms-of-conditions> (the "**General Terms**"). The General Terms shall for all purposes form part of this Agreement.
- 3.2 The General Terms regulate in particular:
- (a) Parties' general obligations and responsibilities including:
    - (i) Distributor's general responsibilities;

- (ii) Distributor's legal compliance;
  - (iii) Distributor's obligations with respect to resale of Product to Medical Centers;
- (b) procedure of placing Orders;
- (c) general terms and conditions of Delivery;
- (d) general marketing development;
- (e) Aether's support responsibilities;
- (f) Product's integrity regulations;
- (g) Trademark use;
- (h) Aether's software license terms and conditions;
- (i) Aether's warranty protection terms provided to end-users (Patients).

#### 4. PRICES

- 4.1 Prices paid by Distributor to Aether for Products shall be **DAP** (*Delivered At Place – Incoterms 2020*)/**DDP** (Delivery Duty Paid) to Delivery Point and shall be net prices and initially be as set forth in the Product List constituting Schedule 3 hereto.
- 4.2 Aether shall have the right, at any time, to change, alter, or amend Prices upon written notice. New Prices shall become effective after 30 (thirty) days from the notice being served to the Distributor. Distributor is responsible for distribution of new Product List to Authorized Resellers.
- 4.3 Prices include shipping and handling charges as well as packing in Aether's standard.
- 4.4 Price does not include any federal, state or local taxes that may be applicable to the Products in the Territory or otherwise. Aether shall not be responsible for any taxes on the sale of the Products by Distributor to Medical Centers or Distributor's customers. Pricing per this Agreement represents the net cash amount to be received by Aether. Accordingly, any fees indicated herein shall be exclusive of Value Added Tax ("**VAT**") if applicable, or other sales tax or other governmental charges of such kind at the rate prescribed by law which shall be specified in the applicable invoice. If Aether has an obligation to collect, remit or have withheld any such taxes, duties or fees, an amount shall be added to Distributor invoice and paid by Distributor such that the net amount of cash received by Manufacturer equals the pricing per this Agreement.
- 4.5 Distributor's sole remuneration for performing its responsibilities under this Agreement shall be the payments it receives from its Medical Centers. Aether shall not reimburse the Distributor for any costs incurred by the Distributor in connection to this Agreement
- 4.6 Distributor shall establish the prices charged to Medical Centers at Distributor's sole discretion, however Product List will include MSRP for each Product. Charging lower price than the Product's MSRP indicated in then-current Product List shall not affect the Price to be paid by Distributor to Aether.
- 4.7 No failure to collect payment from any Medical Center shall relieve Distributor of its obligation to pay Aether under this Agreement.

#### 5. PAYMENT

- 5.1 Payment terms are [ ]
- 5.2 If any sum payable under the Agreement is not paid when due then, without prejudice to the Aether's other rights in the Agreement or otherwise:

- (a) such sum will bear statutory interest from the due date until the date that actual payment is made in full, both before and after any judgement;
- (b) Aether will be entitled to suspend all future Deliveries of Ordered Products and/or performance of the services pursuant to the terms of the Agreement until the outstanding amount has been received.

## **6. DELIVERY**

- 6.1 Ordered Products will be supplied on a **DAP** (*Delivered At Paid – Incoterms 2020*) / **DDP** (Delivery Duty Paid) basis to the delivery point agreed between Parties ("**Delivery Point**") in standard package ("**Delivery**"). At the time of delivery of Ordered Products by Distributor to the Delivery Point, the title (excluding any software components of Products) and risk of loss will pass to Distributor. All freight, insurance and other shipping expenses to the Delivery Point, will be borne by Aether unless otherwise agreed by Parties. Any expenses related to Distributor's special packing requests shall be borne by Distributor.
- 6.2 Other terms and conditions of the Delivery are included in the General Terms.

## **7. MINIMUM INVENTORY, PURCHASES AND FORECASTS**

### ***Minimum inventory and demo kits***

- 7.1 Distributor shall during the Term maintain at all time at his sole cost:
  - (a) a minimum inventory of Products equivalent to one quarter of sales of the current contract year, to ensure the timely supply of Products to the Medical Centers;
  - (b) at least [ ] units of Products for demonstrational purposes (demo or trial kits).
- 7.2 Upon execution of this Agreement Distributor shall purchase an "initial Order" of Products for inventory and demo versions as set forth Schedule 1.

### ***Sales forecast***

- 7.3 For each contract year (12-months' periods) during the Term, the Parties shall agree in good faith on a minimum purchase quantity of Products that Distributor shall purchase from Aether for sale in the Territory during such contract year with a breakdown by quarters.
- 7.4 Before start of each contract year Distributor shall provide to Aether a forecast ("**Binding Forecast**") which shall represent a good faith estimate of the expected sales quantities with a breakdown by quarters and per Product in the Territory for the next twelve (12) months of this Agreement showing at least minimum purchase quantity. The Binding Forecast shall be accepted by Aether.
- 7.5 The minimum purchase quantity for initial 12-month period and a first Binding Forecast constitutes Schedule 2 hereto. Should the Parties fail to agree on the minimum purchase quantity for an upcoming year, the minimum purchase quantity shall be the same as the one of the ongoing year.
- 7.6 Distributor shall provide to Aether quarterly updates of the Binding Forecast during the term of this Agreement.
- 7.7 In the event that Distributor fails to meet the minimum purchase quantity agreed under Binding Forecast for a given quarter ("**Minimum Quantity**"), Distributor once a contract year shall have the right to extend the term for reaching Minimum Quantity in a given quarter for additional quarter (i.e. additional 3 (three) calendar months) for the purpose of purchasing Minimum Quantity, provided that Distributor notifies Aether in writing or

via e-mail of any such election no later than 10 (ten) days before the end of the quarter in which Distributor predict failure to reach the Minimum Quantity.

- 7.8 In the event that the minimum purchase quantity set out in Binding Forecast for 2 (two) consecutive quarters is not reached the exclusive license to distribute granted to Distributor in the Territory hereunder shall automatically convert into a non-exclusive license (non-exclusive distribution license), i.e. without a need to modify this Agreement in any way, and additionally in such event Aether may terminate this Agreement in accordance with Clause 12.4.

## **8. AETHER REPRESENTATIONS**

Aether represents and warrants to Distributor as follows:

- (a) Aether is a limited liability company duly organized, validly existing and in good standing under the laws of Poland. Aether has the full right, power and authority to enter into this Agreement and all documents contemplated hereby, and conduct any obligations set forth herein;
- (b) each of the persons signing this Agreement and the other documents contemplated by this Agreement on behalf of Aether has the legal right, power and authority to bind Aether;
- (c) no petition in bankruptcy (voluntary or otherwise), attachment, execution proceeding, assignment for the benefit of creditors, or petition seeking reorganization or insolvency, arrangement or other action or proceeding under Polish bankruptcy law is pending against or contemplated (or, to Aether's knowledge, threatened) by or against Aether.

## **9. DISTRIBUTOR'S REPRESENTATIONS**

Distributor represents and warrants to Distributor as follows:

- (a) Distributor is a company duly organized, validly existing and in good standing under the laws under which the Distributor is incorporated. Distributor has the full right, power and authority to enter into this Agreement and all documents contemplated hereby, and conduct any obligations set forth herein;
- (b) each of the persons signing this Agreement and the other documents contemplated by this Agreement on behalf of Distributor has the legal right, power and authority to bind Distributor;
- (c) no approval or consent is required from any person (including any Distributor, shareholder, member, creditor, investor or governmental body) for Distributor to execute, deliver or perform this Agreement. This Agreement and all documents required hereby to be executed by Distributor are and shall be valid, legally binding obligations of and enforceable against Distributor in accordance with their terms.
- (d) no petition in bankruptcy (voluntary or otherwise), attachment, execution proceeding, assignment for the benefit of creditors, or petition seeking reorganization or insolvency, arrangement or other action or proceeding under Polish bankruptcy law is pending against or contemplated (or, to Distributor's knowledge, threatened) by or against Distributor.

## **10. LIMITATIONS OF LIABILITY AND INDEMNITY**

- 10.1 No interruption, disruption, or unavailability of the Products shall be considered to be a breach of this Agreement by Aether and Aether shall have no liability or responsibility arising out of or relating to any such event.



- 10.2 Notwithstanding any other provision of this Agreement, Aether shall not be liable to Distributor pursuant to this Agreement in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by Distributor of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business, goodwill production, opportunity, revenue or contracts or any other financial or economic loss provided that nothing in this Clause shall or be deemed to seek to limit any Party's liability for fraud. Total liability of Aether hereunder shall be limited to its remuneration actually received under the Order with respect to which any damage was caused.
- 10.3 Distributor will, at its expense, defend Aether from or settle any claim, proceeding, or suit from or against any claim by a third party to the extent that it relates to or results from any action, omission to act, representation or warranty given by the Distributor. The Distributor shall reimburse Aether for any costs related to such claims, proceedings or suits including paid damages, proceedings costs and legal fees.
- 10.4 If any Product is found defective or deficient as a result of acts or omissions of Distributor, Distributor shall upon notification by Medical Center Patient or Aether (i) correct or cure the defect (or defend the asserted defect to the Patient in good faith to the reasonable satisfaction of Aether) to the reasonable satisfaction of Patient within 14 (fourteen) days or such time period allowed by Aether, or (ii) if such defect cannot be cured within such time period, Distributor shall purchase new Product from Aether and replace Patient's affected Product with the new one at its own cost, and (iii) hold harmless and indemnify Aether pursuant to Clause 10.3.
- 10.5 Notwithstanding other rights of Aether hereunder, Aether may suspend any sales to Distributor and suspend its appointment as Distributor in case the Distributor causes any damage to Aether or its goodwill.

## **11. CONFIDENTIALITY**

- 11.1 Each Party shall, and shall cause each of its Representatives to keep secret and retain in strictest confidence any and all confidential matters relating to this Agreement and/or relating to the other Party, including but not limited to other Party's trade secrets and all other information of a business, financial, marketing, technical, personnel or other nature relating to the business of the such Party including, without limitation, any Distributor or vendor lists developed by the such Party, know-how, specifications, inventions, computer hardware, software programs and source code, data relating to the development, research (collectively, "**Confidential Information**"); and shall not disclose Confidential Information, and shall cause its affiliates and Representatives not to disclose them, to any person except such Representatives.

## **12. TERM AND TERMINATION**

- 12.1 This Agreement shall commence on the Effective Date and continue for 12 (twelve) months from the Effective Date.
- 12.2 This Agreement shall be automatically renewed for the period of 12 (twelve) months following its initial term set out in Clause 12.1 and renewed term under this Clause 12.1 and remain in full force on conditions set forth herein unless either Party notifies the other Party on its will to terminate this Agreement not later than one month prior to the date set out in Clause 12.1 or a date being the last day of a renewed period as specified herein.
- 12.3 Notwithstanding to the foregoing, either Party may terminate this Agreement at any time by giving 3 (three) months' notice to the other Party.
- 12.4 Aether may terminate this Agreement immediately by giving notice to the Distributor if:

- (a) Distributor is in material breach of any of the terms of this Agreement, e.g. Distributor sells or distributes Products outside of the Territory;
- (b) any payment due from Distributor is 20 (twenty) Business Days or more past due;
- (c) Parties do not agree on Binding Forecast or Aether does not accept Binding Forecast;
- (d) fails meet minimum purchase quantity set out in Binding Forecast for 2 (two) consecutive quarters;
- (e) any step is taken (in each case including, without limitation, the making of an application or the giving of any notice) towards the insolvency of Distributor, including without limitation, any of the following:
  - (i) any steps being taken to liquidate, wind up, place into bankruptcy or dissolve Distributor;
  - (ii) to appoint a liquidator, trustee, receiver, administrative receiver, administrator or similar officer to Distributor or any part of their respective undertaking or assets;
  - (iii) an encumbrancer takes possession of or any distress, execution, sequestration or process is levied or enforced upon the whole or any part of the undertaking, assets, rights or revenues of Distributor;
  - (iv) Distributor cease to carry on the whole or a substantial part of its business or stops or suspends payment of its debts or proposes or enters into any composition, scheme, compromise or arrangement with or for the benefit of its creditors generally or any class of them; or
  - (v) Distributor is unable to pay its debts as they fall due or is deemed unable to pay its debts.

12.5 Notice on termination of the Agreement shall be made in writing or via e-mail.

12.6 The rights to terminate this Agreement given by the foregoing provisions of this Clause 12 shall not prejudice any other right or remedy of any of the other Parties in respect of the breach concerned (if any) or any other breach.

12.7 Following termination of this Agreement:

- (a) Clauses 10, 11 and this Clause continue in force; and
- (b) Distributor shall not be entitled to any compensation whatsoever on termination or expiry of this Agreement; and
- (c) Aether shall also have the right, but not the obligation, to (a) purchase or (b) broker the transfer to a distributor of Aether's choosing any inventory of Products in Distributor's possession on the date of termination (including demo versions of Products) at the Prices paid by Distributor for such Products ("**Remaining Inventory**"). Distributor shall have the right for 90 (ninety) days after the date of termination hereof to sell all or a portion of the Remaining Inventory Aether chooses not to so purchase or broker. Any Remaining Inventory that (a) Aether chooses to purchase or to broker or (b) Distributor has not sold within such 90 (ninety)-day period shall be shipped by Distributor at Aether's direction and reasonable expense to a location designated by Aether; and
- (d) Distributor shall cease its use of all Trademarks, URLs, domain names, and other brand identifiers of Aether and shall cease representing to any third party that it is affiliated in any way with Aether.

### 13. GENERAL

13.1 **Amendment.** No amendment of this Agreement shall be valid unless it is in a document form within the meaning of Polish law. The Parties hereby agree that the electronic signature (e.g. DocuSign) or scans (electronic copies) of signed text of the Agreement or any amendment to this Agreement signed by e-mail or fax, shall be sufficient to comply with this document-form requirement.

13.2 **Entire agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes any previous agreement or arrangement between the Parties or any of them relating to the subject matter hereof.

13.3 **Severance.** If any provision of this Agreement is or becomes illegal, invalid or unenforceable under the law of any jurisdiction, that shall not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Agreement.

If any provision of this Agreement is found to be illegal, invalid or unenforceable as described in this Clause 13.3, but would be legal, valid or enforceable if some part of the provision were deleted or modified, the provision in question shall apply with such modification(s) and/or deletions(s) as may be necessary to make it valid, but such modification(s) and/or deletions(s) shall only apply in the jurisdiction in question and not in any other jurisdictions.

13.4 **No assignment.** Distributor shall not assign or otherwise dispose of any of its rights, obligations, or interests in this Agreement, without prior written consent of Aether.

13.5 **Counterparts.** This Agreement was made in 2 (two) counterparts – 1 (one) for each Party.

### 14. NOTICES

14.1 Any notice or other communication given under the Agreement shall be in writing and signed by or on behalf of the Party giving it and may be served by delivering it personally or sent by prepaid registered post or via email to the address and for the attention of the relevant Party set out in Clause 14.2 (or as otherwise notified by that Party under the Agreement). Any such notice shall be deemed to have been received:

- (a) if delivered personally, at the time of delivery;
- (b) in the case of registered post, at the time of delivery; and
- (c) in the case of email, at the time of transmission.

Provided that if deemed receipt occurs before 8 a.m. on a Business Day, the notice shall be deemed to have been received at 8 a.m. on that day, and if deemed receipt occurs after 4 p.m. on a Business Day, or on a day which is not a Business Day, the notice shall be deemed to have been received at 8 a.m. on the next Business Day.

14.2 The addresses of the Parties for the purposes hereof are:

(a) Distributor:

[•]

Address: [•]

for the attention of: [•]

e-mail: [●]

(b) Aether:

**Aether Biomedical sp. z o.o.**

Address: ul. Królowej Jadwigi 43, 61-871 Poznań,

for the attention of: Dhruv Agrawal – President of Management Board

e-mail: dhruv@aetherbiomedical.com

- 14.3 Either Party may change its address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the other Party, which notice of change of address shall not become effective until the actual receipt thereof by the other Party.
- 14.4 The Parties agree that the non-receipt of registered post or other correspondence with recorded delivery by the recipient, served at the relevant address of the Party, shall be deemed to be received on the date of delivery to the address of the Party set out in Clause 14.2.
- 14.5 Notices (including accompanying papers) given under or in connection with the Agreement shall be given in English.

## **15. GOVERNING LAW AND JURISDICTION**

- 15.1 **Governing law.** This Agreement shall be governed by and construed in accordance with the laws of Poland without giving effect to any of the conflict of law principles or rules thereof.
- 15.2 **Exclusion of CISG.** The Parties hereby agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- 15.3 **Dispute resolution and jurisdiction.** Each Party irrevocably agrees to submit all disputes arising out of or in connection with this Agreement to the exclusive jurisdiction of the courts of Poland having jurisdiction over Aether's registered office.

Schedules:

**Schedule 1** – Order for inventory

**Schedule 2** – First Binding Forecast

**Schedule 3** – Product List

**Schedule 4** – List of Authorized Persons

**Schedule 5** – Order form : FRM-30 Demo Unit Ordering Form; FRM-31 Purchase Order Form EU/Non-EU; FRM - 15 Purchase Order Form US

**DISTRIBUTOR – [●]**

**AETHER – AETHER BIOMEDICAL SP. Z O.O.**

SIGNATURE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

**SCHEDULE 1  
INITIAL ORDER**

No.	Product	Net price per item	Amount	Total net price
1.				
2.				
3.	[•] - demo			
<b>Total net</b>				
<b>VAT</b>				
<b>Total gross</b>				
Expected Delivery date:				
Delivery Point:				
Individual authorized for pick up:				

**SCHEDULE 2**  
**MINIMUM QUANTITY**

<b>term (starting from [•]) – contract year</b>	<b>total quantity of sold Products by Distributor in quarter</b>
1 <sup>st</sup> quarter	[•]
2 <sup>nd</sup> quarter	[•]
3 <sup>rd</sup> quarter	[•]
4 <sup>th</sup> quarter	[•]

**SCHEDULE 3  
PRODUCT LIST**

<b>No.</b>	<b>Product</b>	<b>Price</b>	<b>MSRP</b>
1.	Product "Zeus" – left hand spec.		
2.	Product "Zeus" - right hand spec.		

**SCHEDULE 4**  
**LIST OF INDIVIDUALS AUTHORIZED TO PLACE ORDERS**

<b>No.</b>	<b>Name</b>	<b>e-mail</b>	<b>phone</b>
1.			
2.			
3.			



**SCHEDULE 5**  
**ORDER-FORM**