

NON-EXCLUSIVE CLINICAL PARTNER AND RESELLER AGREEMENT

THIS AGREEMENT is entered into as of [] (“**Effective Date**”) by and between (the “**Agreement**”):

AETHER BIOMEDICAL sp. z o.o. with its registered office in Poznan, ul. Mostowa 11, 61-854 Poznan, entered into the register of entrepreneurs of the National Court Register Poznan – Nowe Miasto and Wilda, VIII Commercial Division of the National Court Register under KRS No.: 0000755184, REGON: 381661137, NIP: 7831791083, 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 „**Partner**”

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

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:

Business Day	means any day other than a Saturday, Sunday or a bank or public holiday in Poland or in the Territory.
Delivery	shall have meaning set out in Clause 5.1.
Delivery Point	shall have meaning set out in Clause 5.1.
Instruction for Use	means instruction for use of the Product by Qualified Personnel available at Aether’s website https://www.aetherbiomedical.com/product . Aether may update or modify the Instruction for Use from time-to-time.
MSRP	means manufacturer suggested retail price.
Order	shall mean order for Product(s) made by Partner hereunder.
Ordered Products	shall mean Product(s) ordered by Partner under Order accepted by Aether.
Patient	means an individual receiving (or having received) preventive, diagnostic, therapeutic, rehabilitative, or maintenance health services from Partner.
Price	means the price payable by the Partner to Aether in consideration of the sale and supply of Products pursuant to the terms of this Agreement and each of the Orders.
Product	means product(s) of Aether.
Product List	means a list of Products and its pricing available for the Partner, current copy of which is attached as Schedule 1. Aether may add to, delete from, or otherwise modify the Products on the “ Product List ” at any time.
Qualified Personnel	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.
Term	means the term of this Agreement, which shall commence on the Effective Date.
Terms and Conditions	means the insert to be included in Partner’s documentation intended for Patients setting forth the terms and conditions for use of the Product available at Aether’s website: https://7842652.fs1.hubspotusercontent-

[na1.net/hubfs/7842652/PDF%20Resources/MSD-14%20Zeus The%20bionic%20Limb%20Terms and Conditions.pdf](https://na1.net/hubfs/7842652/PDF%20Resources/MSD-14%20Zeus%20The%20bionic%20Limb%20Terms%20and%20Conditions.pdf)

Aether may update or modify the Terms and Conditions from time to time.

Territory

means geographic territory of [•].

User Manual

means the insert to be included in Partner’s documentation intended for Patients setting forth the manual for use of the Product available at Aether’s website: <https://www.aetherbiomedical.com/downloads>. Aether may update or modify the User Manual from time to time.

Warranty

shall have meaning set out in Clause 7.1.

- 1.2 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.

2. APPOINTMENT AS RESELLER

- 2.1 Subject to the terms and conditions of this Agreement, Aether hereby appoints Partner as the non-exclusive, authorized reseller of the Products to the Patients in the Territory and Partner accepts such appointment.
- 2.2 Partner shall be entitled to sell Products in the course of providing medical services to its Patients.
- 2.3 The Partner is solely responsible for medical services provided to the Patient, including but not limited to the selection of appropriate medical products for Patients within the implemented therapy or treatment procedure and the assessment of the usefulness and suitability of any medical products (including Product) for Patient.
- 2.4 Partner shall not obtain the Products for resale from any person or entity other than Aether.
- 2.5 Partner 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.
- 2.7 The relationship of Aether and Partner established by this Agreement is that of independent contractors.
- 2.8 Partner shall not appoint or use any third parties to market, sell or distribute the Products without prior written consent of Aether.

3. GENERAL TERMS OF COLLABORATION

General terms of collaboration between the Parties under this Agreement and general responsibilities of the Parties are available at Aether’s website: [https://7842652.fs1.hubspotusercontent-na1.net/hubfs/7842652/PDF%20Resources/MSD-12%20Aether General%20terms%20of%20collaboration%20with%20clinical%20partners-1.pdf](https://7842652.fs1.hubspotusercontent-na1.net/hubfs/7842652/PDF%20Resources/MSD-12%20Aether%20General%20terms%20of%20collaboration%20with%20clinical%20partners-1.pdf)

(the “General Terms”). The General Terms shall for all purposes form part of this Agreement.

4. PRICES

- 4.1 Prices paid by Partner to Aether for Products shall be DDP (*Delivery Duty Paid – Incoterms 2020*)/DAP (*Delivered At Place*) to Delivery Point and shall be net prices and initially be as set forth in the Product List.

- 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 Partner.
- 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 Partner to Patients or Partner'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, 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 Partner invoice and paid by Partner such that the net amount of cash received by Manufacturer equals the pricing per this Agreement.
- 4.5 Partner's sole remuneration for performing its responsibilities under this Agreement shall be the payments it receives from its Patients. Aether shall not reimburse the Partner for any costs incurred by the Partner in connection to this Agreement
- 4.6 Partner shall establish the prices charged to Patients at Partner'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 Partner to Aether.
- 4.7 No failure to collect payment from any Patient shall relieve Partner of its obligation to pay Aether under this Agreement.

5. DELIVERY

- 5.1 Ordered Products will be supplied on a DDP (Delivery Duty Paid – Incoterms 2020)/DAP (Delivered At Place) basis to the delivery point agreed between Parties ("**Delivery Point**") in standard package ("**Delivery**"). Any expenses related to Partner's special packing requests shall be borne by Partner.
- 5.2 Other terms and conditions of the Delivery are included in the General Terms.

6. PAYMENT

- 6.1 The payment terms are: []
- 6.2 If any sum payable under this Agreement is not paid when due then, without prejudice to the Aether's other rights in this Agreement Aether will be entitled to suspend all future Deliveries of ordered Products and/or performance of the services pursuant to the terms of this Agreement until the outstanding amount has been received.

7. WARRANTY AND DISCLAIMER

- 7.1 Subject to provision of applicable laws and regulations, Aether does not provide any warranty protection to end-users of the Products (Patients) other than warranty under terms and conditions set out in Terms and Conditions ("**Warranty**").
- 7.2 Aether's sole liability under Warranty is towards such Patient and not the Partner, Partner shall have no claims against Aether under Warranty.
- 7.3 Other terms and conditions of the Warranty are included in the General Terms.

8. LIMITATIONS OF LIABILITY AND INDEMNITY

- 8.1 Partner 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 Partner. The Partner shall reimburse Aether for any costs related to such claims, proceedings or suits including paid damages,

proceedings costs and legal fees. In particular Partner shall indemnify Aether from any claim, proceeding, or suit from or against any claim by a third party arising out of:

- (a) services provided to the Patient by the Partner,
- (b) a selection of the Patient's treatment method using the Product,
- (c) a selection of the Product as a technical solution within the treatment method provided to Patient,
- (d) an assessment of the usefulness and suitability of Product for Patient,
- (e) non-performance or improper performance of the Partner's obligations towards the Patient under this Agreement.

8.2 If any Product is found defective or deficient as a result of acts or omissions of Partner, Partner shall upon notification by 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, Partner 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 8.1.

8.3 Other terms and conditions of the liability and indemnity are included in the General Terms.

9. TERM AND TERMINATION

9.1 This Agreement shall commence on the Effective Date and continue for 12 (twelve) months from the Effective Date. This Agreement renews automatically for successive 12 (twelve) months' periods at the expiration of the initial Term, unless terminated by either Party by notice given to the other at no sooner than but within 90 (ninety) days prior to its termination date.

9.2 Notwithstanding to the foregoing, either Party may terminate this Agreement at any time by giving 30 (thirty) days' notice to the other Party.

9.3 Aether may terminate this Agreement immediately by giving notice to the Partner if:

- (a) Partner is in material breach of any of the terms of this Agreement;
- (b) any payment due from Partner is 20 (twenty) Business Days or more past due.

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

9.5 Following termination of this Agreement Partner 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.

10. GENERAL

10.1 **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.

10.2 **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.

10.3 **Severance.** If any provision of this Agreement is found to be illegal, invalid or unenforceable, 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.

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

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

11. NOTICES

11.1 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 11.2 (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.

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

(a) **Partner:**

Address: [●],

e-mail: [●]

(b) **Aether:**

Address: ul. Mostowa 11, 61-854 Poznań,

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

e-mail: dhruv@aetherbiomedical.com

11.3 Either Party may change its address for the purpose of receiving notices or demands as herein provided by a notice given in the manner aforesaid to the other Party.

11.4 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 11.2.

12. GOVERNING LAW AND JURISDICTION

12.1 **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.

12.2 **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.

12.3 **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.

PERSONAL DATA PROCESSING AGREEMENT

WHEREAS:

- A. the Partner acts as a Data Controller;
- B. the Parties concluded a [non-exclusive clinical partner and reseller agreement] dated on [●] ("**Principal Agreement**"), the performance of which implies the processing of personal data within the scope of this Agreement ("**Agreement**");
- C. the purpose of this Agreement is to define terms and conditions under which Aether Biomedical shall perform the personal data processing operations on behalf of the Partner;

- D. by concluding this Agreement the Parties intend to regulate the processing of personal data in compliance with the requirements of the current legal framework in relation to data processing and with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ("**GDPR**");

THE PARTIES AGREE AS FOLLOWS:

1. ENTRUSTING THE PROCESSING OF PERSONAL DATA. THE SCOPE AND PURPOSE OF DATA PROCESSING.

1. **Subject of the Agreement. [GDPR 28.3]** Pursuant to the provisions of the GDPR, the Partner entrusts Aether Biomedical with the processing of personal data as referred to in Article 4 of the GDPR, on terms and in accordance with the purpose set out in this Agreement and in the Principal Agreement.
2. **Duration of processing. [GDPR 28.3]** Aether Biomedical shall process personal data for the duration of the Principal Agreement, subject to the provisions of this Agreement.
3. **Nature and purpose of processing. [GDPR 28.3]** The nature and purpose of data processing result from the Principal Agreement, i.e.:
 - a. the nature of personal data processing is determined by the role of Aether Biomedical under the Principal Agreement;
 - b. the purpose of personal data processing is to perform the Principal Agreement properly, inter alia to supply the Partner with Aether Biomedical's products for its resale to the end-users, and to provide the Partner with access to with Aether Biomedical's CRM system.
4. **Type of personal data. [GDPR 28.3]** Data processing will include the types of personal data indicated below:
 - a. name(s) and surname(s);
 - b. functions and positions held;
 - c. PESEL numbers or other identification numbers;
 - d. details of an identity document;
 - e. e-mail address;
 - f. telephone numbers;
 - g. mailing address.
5. **Categories of data subjects. [GDPR 28.3]** The personal data processed by Aether Biomedical hereunder shall refer to the following groups of people:
 - a. Partner's personnel, contractors and employees (including but not limited to clinicians and therapists);
 - b. clients (patients), which are the end users of Aether Biomedical's products, for whom an account has been created CRM system operated by Aether Biomedical;
 - c. contact persons of the Partner.

2. SUB-PROCESSING

1. **DATA SUB-PROCESSING. [GDPR 28.2]** PARTNER HEREBY AUTHORIZES AETHER BIOMEDICAL TO ENGAGE ANOTHER DATA PROCESSOR ("**SUB-PROCESSOR**") OF AETHER BIOMEDICAL'S CHOICE FOR PROCESSING OF PERSONAL DATA ON BEHALF OF PARTNER UNDER WRITTEN AGREEMENT CONCLUDED WITH SUCH SUB-PROCESSOR. THE SCOPE AND PURPOSE OF PROCESSING THE PERSONAL DATA BY THE SUB-PROCESSOR SHALL NOT EXCEED THE SCOPE AND PURPOSE OF PERMITTED PROCESSING THEREOF BY AETHER BIOMEDICAL UNDER THIS AGREEMENT.

2. **SUB-PROCESSORS.** SUCH SUB-PROCESSORS SHALL INCLUDE: (I) AETHER BIOMEDICAL'S SUBCONTRACTORS ENGAGED IN THE PERFORMANCE OF THE PRINCIPAL AGREEMENT, AND (II) PROVIDER OF INFRASTRUCTURE. THE LIST OF SUB-PROCESSORS SUBCONTRACTED FOR DATA PROCESSING IS AVAILABLE AT THE REQUEST OF THE PARTNER.
 3. **OBJECTION RIGHT. [GDPR 28.2 SENTENCE 2]** PARTNER MAY OBJECT TO AETHER BIOMEDICAL'S USE OF A SUB-PROCESSOR BY NOTIFYING AETHER BIOMEDICAL PROMPTLY IN WRITING OR VIA E-MAIL WITHIN 7 DAYS AFTER RECEIPT OF THE NOTICE.
 4. **DATA PROTECTION OBLIGATIONS OF SUB-PROCESSORS. [GDPR 28.4]** SUB-PROCESSORS SHALL APPLY THE SAME DATA PROTECTION OBLIGATIONS AS SET OUT HEREIN, IN PARTICULAR PROVIDE SUFFICIENT GUARANTEES OF APPROPRIATE TECHNICAL AND ORGANIZATIONAL MEASURES TO ENSURE THAT THE DATA PROCESSING MEET THE REQUIREMENTS OF THE GDPR.
- 3. OBLIGATIONS OF AETHER BIOMEDICAL (DATA PROCESSOR)**
1. **DOCUMENTED INSTRUCTIONS. [GDPR.28.3.A]** AETHER BIOMEDICAL PROCESSES THE PERSONAL DATA ONLY IN ACCORDANCE WITH THE DOCUMENTED (E.G. IN WRITING OR E-MAIL) INSTRUCTIONS OF THE PARTNER. THE PARTIES SHALL DETERMINE IN THE AGREEMENT THE METHOD OF COMMUNICATION FOR THE PURPOSES OF PERFORMING THIS AGREEMENT.
 2. **TRANSFER OF PERSONAL DATA OUTSIDE THE EEA. [GDPR.28.3.A]** AETHER BIOMEDICAL MAY NOT TRANSFER OR AUTHORIZE THE TRANSFER OF PERSONAL DATA TO A THIRD COUNTRY OR AN INTERNATIONAL ORGANIZATION OUTSIDE THE EUROPEAN ECONOMIC AREA ("EEA") WITHOUT THE PRIOR WRITTEN CONSENT OF THE PARTNER. IF PERSONAL DATA PROCESSED UNDER THIS AGREEMENT IS TRANSFERRED FROM A COUNTRY WITHIN THE EEA TO A COUNTRY OUTSIDE THE EEA, THE PARTIES SHALL ENSURE THAT THE PERSONAL DATA ARE ADEQUATELY PROTECTED. TO ACHIEVE THIS, THE PARTIES SHALL, UNLESS AGREED OTHERWISE, RELY ON THE STANDARD CONTRACTUAL CLAUSES FOR THE TRANSFER OF PERSONAL DATA, APPROVED BY THE EUROPEAN COMMISSION.
 3. **NOTIFICATION OF PERSONAL DATA TRANSFER OUTSIDE THE EEA. [GDPR.28.3.A]** IF AETHER BIOMEDICAL IS REQUIRED BY LAW TO TRANSFER PERSONAL DATA OUTSIDE THE EEA, AETHER BIOMEDICAL SHALL INFORM THE PARTNER ABOUT THAT LEGAL REQUIREMENT BEFORE PROCESSING DATA, UNLESS THE LAW PROHIBITS SUCH INFORMATION ON IMPORTANT GROUNDS OF PUBLIC INTEREST.
 4. **CONFIDENTIALITY. [GDPR.28.3.B]** AETHER BIOMEDICAL ENSURES THAT THE PERSONS AUTHORIZED BY AETHER BIOMEDICAL TO PROCESS PERSONAL DATA HAVE COMMITTED THEMSELVES TO CONFIDENTIALITY OR ARE SUBJECT TO AN APPROPRIATE STATUTORY OBLIGATION OF CONFIDENTIALITY.
 5. **PROOF OF COMPETENCY.** AETHER BIOMEDICAL ENSURES THAT PERSONS AUTHORIZED BY AETHER BIOMEDICAL TO PROCESS PERSONAL DATA HAVE RECEIVED APPROPRIATE TRAINING ON THEIR RESPONSIBILITIES REGARDING THE PROTECTION OF PERSONAL DATA.
 6. **SECURITY. [GDPR.28.3.C]** AETHER BIOMEDICAL ENSURES THE PROTECTION OF PERSONAL DATA AND TAKES ALL MEASURES REQUIRED PURSUANT TO ARTICLE 32 OF THE GDPR, IN ACCORDANCE WITH THE FOLLOWING PROVISIONS OF THIS AGREEMENT.
 7. **DATA SUBJECT REQUEST. [GDPR.28.3.E]** TAKING INTO ACCOUNT THE NATURE OF THE PERSONAL DATA PROCESSING, AETHER BIOMEDICAL SHALL ASSIST PARTNER THROUGH IMPLEMENTING APPROPRIATE TECHNICAL AND ORGANIZATIONAL MEASURES, INSOFAR AS THIS IS POSSIBLE, IN FULFILLING PARTNER'S OBLIGATION TO RESPOND TO THE REQUESTS OF THE DATA SUBJECTS WITH RESPECT TO THE EXERCISE OF THEIR RIGHTS AS REFERRED TO IN CHAPTER III OF THE GDPR. IF THE DATA SUBJECT TRANSFERS THE REQUEST DIRECTLY TO AETHER BIOMEDICAL, AETHER BIOMEDICAL SHALL IMMEDIATELY INFORM PARTNER ABOUT THE SUBMITTED REQUEST. PARTNER IS SOLELY RESPONSIBLE FOR PREPARING A RESPONSE TO THE REQUEST OF THE DATA SUBJECT.

8. **SECURITY OF PERSONAL DATA. [GDPR.28.3.F]** AETHER BIOMEDICAL SHALL ASSIST THE PARTNER, INSOFAR AS THIS IS POSSIBLE, IN FULFILLING THE OBLIGATIONS RELATED TO ENSURING ADEQUATE DATA SECURITY OF PERSONAL DATA, OBLIGATION TO REPORT VIOLATIONS OF PERSONAL DATA PROTECTION OR OBLIGATION TO ASSESS THE IMPACT FOR DATA PROTECTION (RESULTING FROM ARTICLES 32-36 OF THE GDPR).
9. **LAWFULNESS OF INSTRUCTIONS. [GDPR 28.3 SEC 2]** IN THE EVENT OF AETHER BIOMEDICAL'S DOUBTS AS TO CONFORMITY OF THE PARTNER'S INSTRUCTION WITH THE PROVISIONS OF LAW, AETHER BIOMEDICAL SHALL IMMEDIATELY INFORM THE PARTNER IN WRITING OR VIA E-MAIL OF THE IDENTIFIED DOUBT.
10. **DATA PROTECTION BY DESIGN. [GDPR 25.1]** WHENEVER AETHER BIOMEDICAL PLANS TO MAKE CHANGES WITH REGARD TO THE PROCESSING OF PERSONAL DATA, IT SHALL COMPLY WITH THE REQUIREMENTS SET OUT IN ARTICLE 25(1) OF THE GDPR (DATA PROTECTION BY DESIGN).
11. **LIMITATION OF ACCESS. [GDPR 25.2]** AETHER BIOMEDICAL SHALL ENSURE THAT AETHER BIOMEDICAL'S ACCESS TO PERSONAL DATA IS LIMITED TO THOSE OF PERSONNEL ENGAGED IN THE PERFORMANCE OF THE PRINCIPAL AGREEMENT.
12. **RECORDS OF PROCESSING ACTIVITIES. [GDPR 30.2]** IF APPLICABLE, AETHER BIOMEDICAL SHALL MAINTAIN A RECORD OF PROCESSING ACTIVITIES CARRIED OUT ON BEHALF OF PARTNER AS REFERRED TO IN ARTICLE 30(2) OF THE GDPR AND MAKE IT AVAILABLE TO THE PARTNER UPON ITS REQUEST, EXCEPT FOR INFORMATION CONSTITUTING A TRADE SECRET OF OTHER CUSTOMERS OF AETHER BIOMEDICAL.
13. **CONFIDENTIALITY OBLIGATIONS OF PERSONS AUTHORIZED TO PROCESS DATA.** AETHER BIOMEDICAL SHALL ENSURE THAT PERSONS AUTHORIZED TO PROCESS PARTNER'S PERSONAL DATA WILL (I) PROCESS SUCH DATA ONLY IF INSTRUCTED BY THE PARTNER, AND (II) KEEP SUCH DATA AND THE SECURITY MEASURES SECRET, AND THE OBLIGATION OF CONFIDENTIALITY SHALL SURVIVE THE TERMINATION OF PERSONNEL ENGAGEMENT IN SUCH PERSONAL DATA PROCESSING.

4. OBLIGATIONS OF PARTNER (DATA CONTROLLER)

1. **PARTNER'S DUTIES.** PARTNER SHALL COOPERATE WITH AETHER BIOMEDICAL WITH RESPECT TO DATA PROCESSING, INCLUDING PROVIDING AETHER BIOMEDICAL WITH EXPLANATIONS IN THE EVENT OF DOUBT AS TO THE CONFORMITY OF THE PARTNER'S INSTRUCTIONS WITH THE PROVISIONS OF LAW, AS WELL AS FULFILL PARTNER'S OBLIGATIONS IN A TIMELY MANNER.
2. **COMPLIANCE WITH PRINCIPLES RELATING TO PROCESSING OF PERSONAL DATA. [GDPR 5]** PARTNER REPRESENTS THAT IT IS PROCESSING PERSONAL DATA IN ACCORDANCE WITH THE PRINCIPLES SET OUT IN ARTICLE 5 OF THE GDPR.
3. **THE PARTNER'S STATEMENT.** PARTNER REPRESENTS THAT IT IS THE CONTROLLER OF THE PERSONAL DATA AND THAT IT IS ENTITLED TO PROCESS THE PERSONAL DATA TO THE EXTENT THAT PARTNER ENTRUSTED THESE DATA FOR PROCESSING TO AETHER BIOMEDICAL.

5. SECURITY OF PERSONAL DATA

SAFETY MEASURES. [GDPR 32] PRIOR TO THE COMMENCEMENT OF THE PROCESSING OF PERSONAL DATA, AETHER BIOMEDICAL SHALL IMPLEMENT APPROPRIATE TECHNICAL AND ORGANIZATIONAL MEASURES ENSURING AN ADEQUATE LEVEL OF SECURITY CORRESPONDING TO THE RISK RELATED WITH THE PROCESSING OF PERSONAL DATA, REFERRED TO IN ARTICLE 32 OF THE GDPR, IN ORDER TO PROTECT THE PERSONAL DATA AGAINST ACCIDENTAL OR UNLAWFUL DESTRUCTION OR ACCIDENTAL LOSS, ALTERATION, UNAUTHORIZED DISCLOSURE OR ACCESS, IN PARTICULAR WHERE THE PROCESSING INVOLVES THE TRANSMISSION OF DATA OVER A NETWORK, AND AGAINST ALL OTHER UNLAWFUL FORMS OF PROCESSING. IN PARTICULAR AETHER BIOMEDICAL, IF APPLICABLE, SHALL PROVIDE:

- a. the pseudonymization and encryption of personal data,

- b. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services,
- c. the ability to promptly restore the availability and access to personal data in the event of a physical or technical incident,
- d. a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of processing.

6. NOTIFICATION OF A PERSONAL DATA BREACH

1. **NOTIFICATION OF SUSPECTED PERSONAL DATA BREACH.** IN THE EVENT OF SUSPECTED PERSONAL DATA BREACH, AETHER BIOMEDICAL SHALL NOTIFY PARTNER OF THE PERSONAL DATA BREACH WITHIN 24 HOURS AFTER BECOMING AWARE OF IT.
2. **NOTIFICATION OF PERSONAL DATA BREACH.** THE NOTIFICATION OF THE PERSONAL DATA BREACH SHALL BE SENT TO THE PARTNER ALONG WITH THE INFORMATION AS REFERRED TO IN ARTICLE 33(3) OF THE GDPR, IN ORDER TO ENABLE PARTNER TO FULFILL ITS OBLIGATION TO NOTIFY THE PERSONAL DATA BREACH TO THE COMPETENT SUPERVISORY AUTHORITY.
3. **COMMUNICATION.** THE PARTIES SHALL DETERMINE THE METHODS OF COMMUNICATION AND DESIGNATE PERSONS RESPONSIBLE FOR INCIDENT MANAGEMENT AND NOTIFICATIONS IN ORDER TO REPORT PERSONAL DATA BREACHES AND OTHER INCIDENTS IN A TIMELY MANNER PURSUANT TO THE GDPR. FOR THIS PURPOSE, THE PARTIES DESIGNATE CONTACT PERSONS INDICATED IN CLAUSE 7 BELOW.

7. CONTACT PERSONS

CONTACT DETAILS. THE CONTACT PERSONS IN ALL MATTERS RELATED TO THE PERSONAL DATA PROTECTION, INCLUDING THE NOTIFICATIONS REFERRED TO IN CLAUSE 6.3, SHALL BE SAME AS IN THE PRINCIPAL AGREEMENT. THE ADDRESSES FOR NOTICES (INCLUDING E-MAIL ADDRESSES) PROVIDED IN THE PRINCIPAL AGREEMENT SHALL APPLY ALSO FOR NOTICES UNDER THIS AGREEMENT.

8. CONTROL RIGHTS. AUDITS.

1. **AUDIT RIGHTS. [GDPR.28.3.H]** AETHER BIOMEDICAL SHALL MAKE AVAILABLE TO PARTNER, ON ITS REQUEST, ALL INFORMATION NECESSARY TO DEMONSTRATE COMPLIANCE WITH THIS AGREEMENT AND ALLOW FOR AND CONTRIBUTE TO AUDITS, INCLUDING INSPECTIONS, CONDUCTED BY PARTNER OR ANOTHER AUDITOR MANDATED BY PARTNER IN RELATION TO THE PROCESSING OF THE PARTNER'S PERSONAL DATA BY AETHER BIOMEDICAL.
2. **COOPERATION WITH THE SUPERVISORY AUTHORITY. [GDPR 31]** AETHER BIOMEDICAL SHALL COOPERATE, ON REQUEST, WITH THE SUPERVISORY AUTHORITY IN THE PERFORMANCE OF ITS TASKS.
3. **NOTIFICATION OBLIGATIONS.** AETHER BIOMEDICAL SHALL NOTIFY THE PARTNER IMMEDIATELY OF:
 - a. initiation of any control, audit or inspection concerning the processing of personal data by Aether Biomedical, in particular conducted by the supervisory authority, as well as of any decisions issued in relation thereto,
 - b. administrative, judicial or any other proceedings, actual or pending, concerning the processing of the personal data by Aether Biomedical, as well as of any decisions, orders or rulings issued in relation thereto,
 - c. any requirement to make personal data available to the competent authority, unless provisions of law do not allow for such notification.

9. LIABILITY

1. **LIABILITY OF AETHER BIOMEDICAL. [GDPR 82.2]** AETHER BIOMEDICAL SHALL BE LIABLE FOR THE DAMAGE CAUSED BY PROCESSING ONLY IF (I) IT HAS FAILED TO COMPLY WITH THE GDPR PROVISIONS SPECIFICALLY DIRECTED TO DATA PROCESSORS, OR (II) IT HAS ACTED WITHOUT THE PARTNER'S LAWFUL INSTRUCTIONS, OR AGAINST THOSE INSTRUCTIONS.
2. **LIABILITY OF SUB-PROCESSORS. [GDPR 28.4]** WHERE THE SUB-PROCESSOR FAILS TO FULFIL ITS DATA PROTECTION OBLIGATIONS, AETHER BIOMEDICAL SHALL REMAIN FULLY LIABLE TO PARTNER FOR THE PERFORMANCE OF THAT SUB-PROCESSOR'S OBLIGATIONS.

10. RETURN AND DELETION OF PERSONAL DATA

1. **END OF DATA PROCESSING. [GDPR 28.3.G]** UPON TERMINATION OF THIS AGREEMENT, AETHER BIOMEDICAL SHALL NOT HAVE THE RIGHT TO FURTHER PROCESS PERSONAL DATA AND SHALL BE OBLIGED TO DELETE OR RETURN PERSONAL DATA TO PARTNER (INCLUDING ALL THEIR BACKUPS), UNLESS THE APPLICABLE LAW REQUIRES STORAGE OF THE PERSONAL DATA.
2. **OBLIGATION TO STORE THE PERSONAL DATA. [GDPR 28.3.G]** IF AETHER BIOMEDICAL CANNOT DELETE PERSONAL DATA WITHIN THE TIME LIMIT SET BY THE PARTNER DUE TO LAWS REQUIRING THE STORAGE OF PERSONAL DATA, AETHER BIOMEDICAL SHALL NOTIFY IT TO PARTNER.

11. FINAL PROVISIONS

1. **ENTRY INTO FORCE.** THIS AGREEMENT SHALL ENTER INTO FORCE UPON EXECUTION BY BOTH PARTIES.
2. **TERM. [GDPR 28.3]** THE AGREEMENT IS CONCLUDED FOR THE DURATION OF THE PRINCIPAL AGREEMENT. FOR THE AVOIDANCE OF ANY DOUBT, THE EXPIRATION OR TERMINATION OF THE PRINCIPAL AGREEMENT SHALL RESULT IN THE TERMINATION OF THIS AGREEMENT.
3. **PRIORITY.** IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THIS AGREEMENT AND THE PRINCIPAL AGREEMENT, THE PROVISIONS OF THIS AGREEMENT SHALL PREVAIL.
4. **CONFIDENTIALITY.** THE CONTENT OF THIS AGREEMENT, AS WELL AS ANY PERSONAL DATA OR INFORMATION DISCLOSED IN CONNECTION WITH THIS AGREEMENT SHALL BE TREATED BY THE PARTIES AS STRICTLY CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO THIRD PARTIES.
5. **JURISDICTION.** EACH PARTY IRREVOCABLY AGREES TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF POLAND HAVING JURISDICTION OVER AETHER BIOMEDICAL'S REGISTERED OFFICE IN RELATION TO ANY CLAIM OR MATTER ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.
6. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF POLAND.
7. **COUNTERPARTS.** THIS AGREEMENT MAY BE EXECUTED IN TWO OR MORE IDENTICAL COUNTERPARTS, ALL OF WHICH SHALL BE CONSIDERED ONE AND THE SAME AGREEMENT.

Partner (title and signature):

Aether (title and signature):

SCHEDULE 1 – PRODUCT LIST:

No.	Product	Price	MSRP
1.	Product "Zeus" – left hand spec.		
2.	Product "Zeus" - right hand spec.		

Forms:

FRM-30 Demo Unit Ordering Form

FRM-15 Purchase Order Form US

FRM- 31 Purchase Order Form EU/Non-EU