

## EITAN MEDICAL WEBSITE – TERMS OF USE

### 1. General

- 1.1 These Terms of Use (the “**Terms**”) are a legally binding agreement between the User (“**you**”) and Eitan Medical Ltd., (“**Eitan Medical**”, “**us**” or “**we**”). Please carefully read the following Terms before using the Website to be fully aware of the legal rights and obligations of the User with respect thereto.
- 1.2 These Terms govern your access to and use of the Website, the Content, the Website Services (as such terms are defined below) and the features contained therein, all in connection with your use of the Device
- 1.3 The term “including” is not intended to be exclusive and means “including without limitation”.

### 2. Definitions

For the purpose of these Terms:

- 2.1 “**Content**” means any input or data uploaded, displayed or otherwise available on the Website, whether published and/or uploaded by Eitan Medical or by any other person or entity, including, but not limited to text, pictures, or any other form of information.
- 2.2 “**External Sites**” means third-party websites, plug-ins or applications.
- 2.3 “**Intellectual Property Rights**” means all intellectual, moral, industrial and/or proprietary rights, now or hereafter, recognized under any applicable law anywhere in the world, whether issued or pending, registered or unregistered, including, but not limited to (i) all forms of patents; (ii) inventions and/or discoveries (whether patentable or not); (iii) rights associated with works of authorship, including but not limited to copyrights and mask works; (iv) trademarks and service marks, trade names, domain name registration; (v) designs (whether or not capable of registration), design rights; (vi) database rights; (vii) trade secrets and know-how; (viii) all rights to confidential or proprietary information; (ix) any rights analogous to those mentioned herein; (x) all derivative works thereof; and (xi) any current or future applications, renewals, extensions, provisionals, continuations, continuations-in-part, divisions, re-exams and reissues thereof, and all of the tangible embodiments thereof.
- 2.4 “**User**” means any person or entity accessing, using or viewing the Website or using the Website Services.
- 2.5 “**Website**” means Eitan Medical’s website available at: <https://www.eitanmedical.com/>.
- 2.6 “**Website Services**” means the services provided on the Website, including the ability to access External Sites or links that may be embedded within the Website and any other actions or items supported by or accessible through the Website.

### 3. Accepting the Terms of Use

- 3.1 These Terms shall become effective between you and the Eitan Medical as of the date on which you first commence use of, or otherwise access, the Website or any part thereof (“**Commencement Date**”). Upon accessing the Website, you hereby accept the terms and conditions contained herein and agree to be bound by these Terms with respect to the access and use of the Website and the Website Services.
- 3.2 Eitan Medical’s Privacy Policy, available at: [Privacy Policy - Eitan Medical](#) applies to the use of this Website by the Users. By using and/or accessing the Website and/or Website Services you represent and warrant that you have read and understood the aforementioned Privacy Policy and agree to its terms.

#### 4. **The Website**

- 4.1 You expressly acknowledge and agree that any access to, or use of, the Website and/or any Content, and any consequences thereof, are at your sole risk, responsibility and liability and shall be in accordance with these Terms.
- 4.2 The form and/or features of the Website may change from time to time without prior notice.
- 4.3 Eitan Medical may stop (permanently or temporarily) operating the Website and/or the Website Services and/or displaying any of the Content (or any parts thereof) and/or restrict or terminate the use of, or access to, the Website and/or the Website Services if Eitan Medical believes that the User is in violation of any provision of these Terms and/or if required to do so in order to comply with any applicable laws, statutes, directives, regulations or any other legislation, code of practice or regulatory rules in force in any applicable legal jurisdiction, without liability to Eitan Medical.

#### 5. **Limited License**

- 5.1 Eitan Medical hereby grants the User a limited, revocable, non-exclusive, non-transferable, non-sublicensable license to access and use the Website, the Website Services and the Content, all under the condition of complying with all obligations under these Terms and under applicable laws (the “**License**”).
- 5.2 The License is personal and may be used only by a single identified User.
- 5.3 Except as explicitly mentioned herein, no other rights, implied or otherwise, are granted.

#### 6. **The Content**

- 6.1 Eitan Medical does not warrant against deletion of any Content or the failure to recreate any Content to or on the Website whether it was published on and/or uploaded to the Website by Eitan Medical or by any other person or entity.
- 6.2 Eitan Medical does not guarantee and/or warrant that the Content is true, accurate, up-to-date, appropriate for use and/or compatible with any law, regulation or other legal requirement.
- 6.3 Any use of the Content and/or the Website Services is at your own risk. You are solely responsible and liable for any act or omission (including any decision and/or transaction) based on the Content. Eitan Medical bears no responsibility whatsoever with respect to any Content and/or any such act or omission.
- 6.4 Eitan Medical shall have the right to collect and analyze data relating to the provision, use, and performance of various aspects of the Website and Website Services (including, without limitation, information concerning Content and data derived therefrom), and Eitan Medical will be free to (i) use and otherwise exploit such information and data to monitor, improve and enhance the Website and Website Services and for other development, diagnostic and corrective purposes in connection with the Website and Website Services, and (ii) use, reproduce and disclose Website information, data and material (including Content) that is anonymized, de-identified, aggregate or otherwise rendered not reasonably associated or linked to a User (“**De-Identified Data**”) for product improvement and other lawful purposes, and such De-Identified Data will be owned by Eitan Medical, and Eitan Medical shall have no obligation to pay royalties or any other payment whatsoever with respect thereto.
- 6.5 The User hereby acknowledges that any access to the Content by the User through the Website will be revoked following the expiration or termination of the Website Services or these Terms.

#### 7. **External Sites**

- 7.1 The Website Services may enable access to External Sites.

- 7.2 Use of an External Site is subject to the terms of use of such External Site.
- 7.3 The User acknowledges and agrees that Eitan Medical is not responsible for any External Site, and shall have no liability or responsibility whatsoever to the User or any third party regarding any access to and/or use of any External Site or any content therein.
- 7.4 You understand that by using any External Site, you may encounter content that may be deemed offensive, inappropriate, or objectionable, and which may or may not be identified as having explicit language. You acknowledge and agree that we are not responsible for any content published on an External Site.
- 7.5 We make no representation that any External Site is appropriate or available for use in any particular location.

## **8. Restrictions on Content and Use of the Website**

- 8.1 You represent and warrant that:
  - 8.1.1 you are at least 18 years old;
  - 8.1.2 you are not a person who is either barred or otherwise legally prohibited from receiving the Website Services or using the Website under the laws of the country in which you are a resident or from which you use of or access the Website; or
  - 8.1.3 your access to or use of the Website are consistent with these Terms and all applicable laws, rules and regulations.
- 8.2 The User may not do any of the following while accessing the Website or using the Website Services and shall not permit or encourage any other User or third party, to directly or indirectly:
  - 8.2.1 use the Website and/or the Website Services other than in compliance with these Terms and all applicable local, state, federal, and national, laws, statutes, ordinances, rules and regulations;
  - 8.2.2 facilitate or encourage any violation of these Terms;
  - 8.2.3 except as otherwise provided in these Terms, copy, reproduce, print, download or save a copy, republish, display, perform, advertise, distribute, transmit, broadcast, decompile, reverse engineer, disassemble, attempt to derive the source code of, adapt, modify, create derivative works from, sell, rent, lease, license, loan or otherwise make available or exploit in any form or by any means all or any portion of the Website or any Content, for any purpose;
  - 8.2.4 remove or alter any patent numbers, copyright notices, trademark notices or other proprietary notices or identifying marks, symbols or legends included in the Website;
  - 8.2.5 use the Website for any unlawful purpose or for promotion of illegal activities;
  - 8.2.6 use the Website in a way that is harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;
  - 8.2.7 use the Website for interfering with, or disrupting (or attempting to do so), the access of any person, host or network, including, without limitation, by uploading and/or sending software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware; overloading, flooding, spamming, mail-bombing; or by scripting the creation of Content in such a manner as to interfere with or create an undue burden on the Website;
  - 8.2.8 do anything that could disable, overburden, or impair the proper activity of the Website;
  - 8.2.9 use the Website for the benefit of a person other than yourself;

- 8.2.10 use the Website in a manner that violates or infringes any rights of any third party, including but not limited to, privacy rights, publicity rights or Intellectual Property Rights;
  - 8.2.11 circumvent, disable or otherwise interfere with security-related features of the Website or features that enforce use limitations;
  - 8.2.12 use any robot, spider, or other automated device, process or means to access, retrieve, scrape or index any portion of the Website and/or Website Services;
  - 8.2.13 deep-link to the Website and/or the Website Services without our consent;
  - 8.2.14 engage in “framing,” “mirroring,” or otherwise simulating the appearance or function of the Website Services;
  - 8.2.15 access or use any part of the Website or Website Services for competitive analysis or to build a product or service which competes with the Website or Website Services; or
  - 8.2.16 use the Website or Website Services in a manner that could otherwise cause damage to Eitan Medical or any third party.
- 8.3 You may provide links to the Website, provided that (a) you do not remove or obscure the copyright notice or other notices on the Website, (b) you do not deep-link (i.e. include a link to one of our web pages other than the Website home page) to the Website for any purpose, (c) the site from which you provide the links to the Website does not engage in illegal, gambling or pornographic activities, and (d) you discontinue providing links to the Website immediately upon request by us.

## 9. **No Warranty**

- 9.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WEBSITE, THE WEBSITE SERVICES AND THE CONTENT ARE PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND EITAN MEDICAL HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE WEBSITE, THE WEBSITE SERVICES AND THE CONTENT, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF COMPLETENESS, ACCURACY, AVAILABILITY, TIMELINESS, USEFULNESS, SECURITY, RELIABILITY OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OR OF FITNESS FOR A PARTICULAR PURPOSE.
- 9.2 Some jurisdictions do not allow the exclusion of implied warranties or limitations on applicable statutory rights of a consumer, so the above exclusion and limitations may not apply to you in such jurisdictions.

## 10. **Limitation of Liability**

- 10.1 TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL EITAN MEDICAL, ITS DIRECTORS, OFFICERS, EMPLOYEES AND/OR AGENTS, BE LIABLE FOR (A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES WHATSOEVER, (B) LOSS OF REVENUES, LOSS OF PROFITS, LOSS OF DATA, LOSS OF USE, LOSS OF GOODWILL, BUSINESS INTERRUPTION OR ANY OTHER LOSS, INJURY, CLAIM, LIABILITY, OR DAMAGE OF ANY KIND, RESULTING IN ANY WAY FROM (I) USER’S, ACCESS TO, OR USE, INABILITY TO USE, OR RELIANCE ON THE WEBSITE, THE WEBSITE SERVICES, ANY CONTENT AND/OR EXTERNAL SITE, (II) ANY ERRORS, OMISSIONS OR OTHER INACCURACIES IN ANY CONTENT INCLUDED IN THE WEBSITE AND/OR IN ANY EXTERNAL SITE, (III) ANY OTHER MATTER RELATING TO THE WEBSITE, THE WEBSITE SERVICES, THE CONTENT AND/OR ANY EXTERNAL SITE, REGARDLESS OF THE THEORY OF LIABILITY (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE), EVEN IF EITAN MEDICAL

HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, (C) ANY CLAIMS OF USERS IN CONNECTION WITH THE WEBSITE, OR FOR (D) ANY THIRD PARTY CLAIMS AGAINST THE USER. NOTWITHSTANDING THE AFORESAID, NOTHING HEREIN EXCLUDES OR LIMITS LIABILITY FOR ANY MATTER FOR WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE OR LIMIT, OR TO ATTEMPT TO EXCLUDE OR LIMIT LIABILITY.

10.2 IN NO EVENT SHALL THE TOTAL LIABILITY OF EITAN MEDICAL, ITS DIRECTORS, OFFICERS, EMPLOYEES AND/OR AGENTS, TO ANY USER, AND/OR ANY THIRD PARTY, FOR ALL DAMAGES EXCEED THE AMOUNT OF TEN U.S DOLLARS (USD 10\$), WHETHER OR NOT EITAN MEDICAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.3 Any cause of action by the User with respect to the Website and/or the Website Services, must be instituted within one (1) year after the cause of action arose.

10.4 Some jurisdictions do not allow the exclusion or limitation of liability for personal injury, or of incidental or consequential damages, so the limitations above may not apply to you in such jurisdictions.

## **11. Indemnity**

The User shall indemnify and hold Eitan Medical and its directors, officers, employees, agents, partners, and licensors harmless from and against all damages, losses, and expenses of any kind (including reasonable legal fees and costs), related to any demand or claim brought against Eitan Medical by any third party, due to or in connection with any the use of the Website or the Website Services, violation of these Terms and/or any applicable law, and/or the violation of any rights of another party, by the User.

## **12. Ownership**

12.1 You hereby acknowledge that all Intellectual Property Rights, ownership, title and interest in the Website and the Content (excluding External Sites) and the related patent rights, copyrights, trade secrets, trademarks and all other related Intellectual Property Rights, are and shall remain the sole and exclusive property of Eitan Medical. Without derogating from the above, Eitan Medical reserves all proprietary rights in and to all designs, engineering details and other data pertaining to the Website and the Content.

12.2 The Website contains proprietary information and trade secrets that are owned by Eitan Medical, and are protected by applicable intellectual property and other laws, including but not limited to copyright.

12.3 All copyrights in and to the Website and the Content (excluding External Sites), are owned solely and exclusively by Eitan Medical (and/or by its licensors), who reserve all their rights in law and equity. You are not granted with any right and/or license, or ownership including any copyright, trademark or other Intellectual Property Rights to the Website or to any Content, other than as explicitly set forth in these Terms.

12.4 THE USE OF THE WEBSITE, THE WEBSITE SERVICES, THE CONTENT OR ANY PART THEREOF, OTHER THAN AS PERMITTED IN THESE TERMS, IS STRICTLY PROHIBITED AND INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF EITAN MEDICAL AND/OR OF OTHERS AND MAY BE SUBJECT TO CIVIL AND CRIMINAL PENALTIES, INCLUDING POSSIBLE MONETARY DAMAGES FOR COPYRIGHT INFRINGEMENT.

12.5 Eitan Medical reserves all rights not expressly granted under these Terms.

12.6 You agree that the “Eitan Medical” trademark, trade name, service mark, graphics, logo and other brand features used in connection with the Website and the Website Services, including but not limited to “Eitan Insights”, “Sapphire” "Eitan Medical Sapphire" and “Eitan Medical Avoset” are

trademarks or registered trademarks of Eitan Medical (collectively, the “**Eitan Medical Marks**”). Nothing in these Terms gives a right to use or display Eitan Medical Marks in any manner.

- 12.7 You may, at your sole discretion, provide your input regarding the Website Services and/or the Website, including, without limitation, comments or suggestions regarding the possible creation, modification, correction, improvement or enhancement of the Website Services, products and/or services (collectively “**Feedback**”). We shall be entitled to use Feedback for any purpose without notice, restriction or remuneration of any kind. The use of the Feedback, if any, shall be at Eitan Medical’s sole discretion, and Eitan Medical, in no way, shall be obliged to make use of any kind of the Feedback or part thereof. Eitan Medical shall be the sole owner of any rights in any inventions, developments, improvements, know-how, concepts, techniques, or other intellectual property rights in the Feedback and/or developed or conceived by Eitan Medical as a result of any Feedback and you hereby permanently assign to Eitan Medical, any ownership rights and any other right in the Feedback and waive any moral rights you may have thereto. You acknowledge and agree that you will not improperly use or disclose to us any confidential information or trade secrets of any third parties and will not breach any obligation of confidentiality that you may have to any third party.

### **13. Termination**

- 13.1 These Terms shall be binding upon you as of the Commencement Date, and for as long as you continue to use the Website, and shall remain in effect until the expiration or replacement of these Terms with new terms (consensually or pursuant to the provisions of these Terms).
- 13.2 To the fullest extent permitted by applicable law, Eitan Medical reserve the right, for any reason or for no reason, at its sole discretion and without notice to the User, to revise the Website Services and/or the Website and to terminate, change, suspend or discontinue any aspect of the Website, including, but not limited to, the Content presented on the Website as well as features and/or hours of availability of the Website, and Eitan Medical will not be liable to the User or to any third party for doing so. Eitan Medical may also impose rules for and limits on use of the Website or restrict a User’s access to a part, or all, of the Website without notice.
- 13.3 Without derogating from Eitan Medical’s right to terminate these Terms, Eitan Medical, at its sole discretion, without notice to you, may terminate these Terms upon your failure to comply with any of the provisions of these Terms, without prejudice to the right of Eitan Medical to be indemnified for its damages and for any other right and remedy. It is hereby clarified, that although Eitan Medical has no obligation to monitor your use of the Website Services, Eitan Medical may do so at its own discretion and may terminate these Terms, as detailed above, if Eitan Medical believes that any use of the Website Services may be (or is alleged to be) in violation of these Terms or applicable laws, regulations, guidelines, professional standards, codes of conduct, etc.
- 13.4 In all such cases, these Terms shall terminate, but the provisions which by their nature would continue beyond termination (including, without limitation, the provisions of Sections 9, 10, 11, 12, 13, 14 and 15), shall survive such termination for any reason and shall continue to apply.
- 13.5 Upon termination of these Terms: (a) the License shall immediately expire; (b) the User shall cease any use of the Website and/or the Website Services; (c) the User will lose any access to the Content; and (d) Eitan Medical reserves the right (at its sole discretion) to permanently delete any Content at any time following the effective date of termination of these Terms, and you hereby waive any rights and/or remedies with respect to such deletion of Content.

### **14. Governing Law and Jurisdiction**

- 14.1 These Terms shall be governed and construed in accordance with the substantive laws of the state of Israel, without reference to its conflicts of laws principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms.

14.2 You hereby irrevocably submit to the exclusive jurisdiction of the courts of Tel Aviv, Israel, to resolve any dispute arising out of or pursuant to these Terms, and you hereby consent to the exclusive jurisdiction of and venue in such courts and waive any objection as to inconvenient forum. Notwithstanding the above, you agree that Eitan Medical shall still be allowed to apply for injunctive remedies in any jurisdiction.

## 15. **Miscellaneous**

15.1 **Entire Agreement.** These Terms contain the complete agreement between you and Eitan Medical regarding your use of the Website and/or Website Services and supersede and replace all prior or agreements or understandings, written or oral, with respect thereto.

15.2 **Severability.** In the event that any provision of these Terms is held to be invalid or unenforceable, that provision shall be construed, limited, modified or deleted, to the extent necessary to eliminate any invalidity or unenforceability, and the remaining provisions of these Terms remain in full force and effect.

15.3 **Waiver.** No waiver on the part of Eitan Medical of any right under these Terms shall be effective unless in writing and signed by Eitan Medical's duly authorized representative. No waiver on the part of Eitan Medical of any past or present right arising from any breach or failure to perform shall be deemed as a waiver of any future right arising under these Terms.

15.4 **Assignment.** You may not assign, subcontract or otherwise transfer any of your rights and/or obligations under these Terms. Eitan Medical may assign and/or subcontract some or all of these Terms to any third party in connection with a merger, acquisition, sale of assets, by operation of law, or otherwise. These Terms shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

15.5 **No Third-Party Beneficiaries.** These Terms do not create any obligation of Eitan Medical to any third parties, nor shall they be deemed to create any rights or causes of action on behalf of any third parties.

15.6 **Changes to these Terms.** Eitan Medical may change these Terms from time to time, at its own reasonable discretion and encourages you to review them periodically. Eitan Medical will provide the User with written notice of substantial changes to these Terms on the Website. Such substantial changes will take effect fifteen (15) days after such notice was provided on the Website, or as required by law. All other changes to these Terms are effective immediately upon publication of the updated Terms on the Website. Your continued use of the Website and/or Website Services after the publication of the updated Terms will be deemed acceptance of any and all such changes.

## 16. **Contact Information**

16.1 In case of any questions or comments regarding these Terms, please contact Eitan Medical at: [DPO@eitanmedical.com](mailto:DPO@eitanmedical.com).

\*\*\*\*\*

Last updated: August 3, 2023