



TERMS OF SERVICE

This Agreement is made as of the Commencement Date and is entered into between:

Ardia Digital Health Ltd, a company incorporated and registered in England and Wales under company number 10513948 whose registered office address is at 46 BELMONT ROAD, POOLE, BH14 0DB, UK ("**ADH**") and:

- (1) the **Client**, details of which are set out on the initial Purchase Order.

Background:

- (A) ADH has developed certain web-based software applications which it makes available to subscribers via the internet for the purpose of cost-effectively managing patients with chronic kidney disease remotely.
- (B) The Client owns and operates hospital(s) and / or healthcare facilities in the United Kingdom. The Client wishes to use ADH's Products and Services in relation to the operation of its business, and may wish to appoint ADH to provide further Products and Services to it from time to time.
- (C) When the Client requests Products and/or Services from ADH, ADH and the Client will enter into a separate Purchase Order in accordance with these Terms of Service.

1. Definitions and interpretation

- 1.1 In this Agreement, unless the context otherwise requires, the following definitions shall apply:

"Aggregated Data" means summary Anonymised Data relating to multiple Patients.

"Agreement" means these Terms of Service and any Purchase Order referencing these Terms of Service, and any other Schedules, supplements, exhibits or appendices thereto, whether attached or incorporated by reference.

"Anonymised Data" means Patient Data that has had any personally identifiable characteristics removed, such that it does not contain any Personal Data and can no longer identify individuals, whether through reverse-engineering or otherwise.

"Applicable Law" means the relevant requirements of all laws, regulations, rules or codes of practice pertaining to matters covered by this Agreement, including (as appropriate) those promulgated by the UK Information Commissioner's Office ("**ICO**").

"Authorised Users" means those employees, workers, agents and independent contractors of the Client who are authorised by the Client to use the Products, Services and/or Documentation. For the avoidance of doubt, **"Authorised Users"** includes Clinicians and their employees.

"Business Day" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Clinician" means an employee, agent or contractor of the Client who uses the Products, the Services and/or the Documentation in the course of carrying on the Client's primary business as a provider of healthcare services.

"Commencement Date" means the Effective Date of the initial Purchase Order.

"Confidential Information" means any commercial, financial, technical or other confidential or proprietary information (however recorded, preserved or disclosed) which is disclosed by a party (the **"Disclosing Party"**) or its Representatives to the other party (the **"Receiving Party"**) or the Receiving Party's Representatives, or which the Receiving Party otherwise obtains, receives or has access to as a result of this Agreement, including but not limited to:

- (a) the existence and terms of this Agreement or any Purchase Order;
- (b) any information which is identified as being confidential at the time of disclosure or would be regarded as confidential by a reasonable business person relating to:
 - (i) the business, affairs, customers, clients, suppliers, plans of the Disclosing Party; and/or
 - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the Disclosing Party; and/or
- (c) any documents, information or analysis derived from, containing or reflecting Confidential Information.

"Data Controller" has the meaning set out in the GDPR.

"Data Processor" has the meaning set out in the GDPR.

"Data Protection Legislation" means any and all applicable data protection or privacy laws or regulations, including without limitation (i) the EU's Data Protection Directive 95/46/EC (implemented in the UK through the Data Protection Act 1998) and, on and after 25 May 2018, (unless and until the GDPR is no longer directly applicable in the UK), the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018; and (iii) and the EU's Privacy and Electronic Communications Directive 2002/58/EC, as amended, extended or replaced from time to time.

"Documentation" means any and all implementation or explanatory materials or other printed or electronic materials provided or made available to the Client and/or Clinicians by ADH and which relate to the Products or the Services including any specifications or descriptions of the Products or the Services, user guides and/or training materials in relation to the Products or the Services (or any part thereof).

"Effective Date" means the date on which a Purchase Order is signed by the Client.

"Fees" means the fees payable by the Client to ADH under a Purchase Order in accordance with these Terms of Service.

"GDPR" means the General Data Protection Regulation (EU) 2016/679.

"Initial Subscription Term" means the initial term of a Purchase Order, as set out in the applicable Purchase Order.

"Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Patient" means a person receiving healthcare services from the Client and who is or becomes a user of the Products and/or Services.

"Personal Data" has the meaning set out in Data Protection Legislation.

"Patient Data" means any content, materials, data and information inputted by a Patient (or by a Clinician on a Patient's behalf) or otherwise generated in the course of a Patient's use of the Products and/or Services. **"Patient Data"** includes Personal Data where applicable.

"Products" means the online software application(s) provided by ADH to deliver the Services and more particularly described in the relevant Purchase Order.

"Purchase Order" means a written purchase order form entered into by ADH and the Client pursuant to clause 2, the form of which is set out at Schedule 2.

"Renewal Subscription Term" has the meaning given in clause 2.2(b).

"Representatives" has the meaning given in clause 16.2.

"Service Commencement Date" means the date on which ADH commences the provision of Services under a Purchase Order.

"Service Credits" means the service credits specified in paragraph 3 of the SLA.

"Service Levels" means the service levels, including responses and response times, set out in paragraph 2 of the SLA.

"Service Level Agreement" or "SLA" means the service level agreement set out at Schedule 1.

"Services" means the subscription services and other related services provided by ADH to the Client under the relevant Purchase Order.

"Subscription Term" means the total duration of a Purchase Order, being the Initial Subscription Term together with any subsequent Renewal Subscription Term(s).

"Terms of Service" means these terms and conditions of service, including any Schedule or annexure to them and any document in agreed form.

1.2 In this Agreement, unless the context otherwise requires:

- (a) words in the singular include the plural and vice versa and words in one gender include any other gender;
- (b) a reference to a statute or statutory provision includes:
 - (i) any subordinate legislation (as defined in section 21(1), Interpretation Act 1978) made under it; and
 - (ii) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it whether such statute or statutory provision comes into force before or after the date of this Agreement;
- (c) a reference to:
 - (i) a party is to a party to this Agreement and includes its successors in title and permitted assigns;
 - (ii) "written" or "writing" includes fax and email;
 - (iii) a clause or Schedule is to a clause of or Schedule to these Terms of Service and references to paragraphs are to paragraphs of the relevant Schedule; and

- (iv) a person includes any individual, firm, body corporate, association or partnership, government or state (whether or not having a separate legal personality);
- (d) the words "includes" or "including" shall be construed as illustrative only and shall not limit the generality of the preceding words;
- (e) if there is any conflict or inconsistency between any provision of these Terms of Service, any Schedule or a Purchase Order the following order of priority shall apply:
 - (i) the Purchase Order; then
 - (ii) the clauses of these Terms of Service; then
 - (iii) the Schedules to these Terms of Service; and
- (f) headings are inserted for convenience only and shall not affect the interpretation of this Agreement.

2. Commencement and duration

- 2.1 This Agreement shall commence on the Commencement Date and shall continue in full force and effect until termination or expiry of all Purchase Orders entered into between the parties hereunder, on which date the Agreement shall automatically terminate.
- 2.2 Each Purchase Order shall commence on the Effective Date specified therein and, unless terminated earlier in accordance with clause 14, shall:
 - (a) continue in full force and effect for the Initial Subscription Term; and
 - (b) without prejudice to clause 7.2, automatically extend for consecutive periods of twelve (12) months (each a **"Renewal Subscription Term"**) at the end of the Initial Subscription Term and at the end of each Renewal Subscription Term.

Either party may give written notice to the other party, not later than three (3) months before the end of the Initial Subscription Term or the relevant Renewal Subscription Term, to terminate the Purchase Order at the end of the Initial Subscription Term or the relevant Renewal Subscription Term, as the case may be.

3. Purchase Orders

- 3.1 The Client shall be entitled from time to time to request in writing the provision of Products and Services from ADH.
- 3.2 ADH shall complete a draft Purchase Order containing the information required by the template Purchase Order at Schedule 2 and shall submit the completed draft Purchase Order to the Client for its written approval.
- 3.3 Products and/or Services shall only be supplied under this Agreement when they are covered by a Purchase Order placed under and in accordance with the terms of this Agreement.
- 3.4 A Purchase Order shall not enter into force, be legally binding or have any other effect unless it is signed by the authorised representatives of ADH and the Client.
- 3.5 Each Purchase Order entered into by ADH and the Client forms part of this Agreement between ADH and the Client.

4. Use of Products and Services

- 4.1 Subject to payment by the Client of the Fees in accordance with the relevant Purchase Order, the restrictions set out in this clause 4 and the other terms and conditions of this Agreement, ADH hereby grants to the Client a non-exclusive, non-transferable right to permit Authorised Users to use the Products, Services and/or Documentation during the Subscription Term.
- 4.2 The Client shall, and shall ensure that each Authorised Users shall, use the Products, Services and/or Documentation solely in connection with the provision of healthcare services by the Client and at all times in accordance with these Terms of Services and any applicable Purchase Order.
- 4.3 The parties acknowledge and agree that the Client shall be responsible for all acts and omissions of its Authorised Users in respect of the Products, Services and/or Documentation as if they were the acts and omissions of the Client, and shall be directly liable to ADH for any material breach by any Authorised Users of any of the terms of this Agreement. An obligation on the Client to do, or to refrain from doing, any act or thing shall include an obligation on the Client to procure that Authorised Users also do, or refrain from doing, such act or thing. The Client shall fully indemnify, and keep indemnified, ADH against all losses, costs, claims, properly incurred reasonable expenses and other liabilities whatsoever incurred by any breach during the term of the applicable purchase order up to a total amount of Fees paid during the twelve (12) months immediately preceding the date on which the claim arose. This includes all interest penalties, legal and other reasonable, properly incurred, professional costs and expenses that ADH suffers or incurs, or may suffer or incur, as a result of, or in connection with, any material breach by an Authorised User of any term of this Agreement.
- 4.4 The Client shall not, except as may be allowed by Applicable Law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:
- (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Products and/or Documentation in any form or media or by any means; or
 - (b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Products; or
 - (c) subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except Clinicians and/or Patients.
- 4.5 The Client shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Products and/or Services and, as soon as reasonably practicable after becoming aware of any such unauthorised access or use, shall notify ADH.

5. Provision of Products and Services

- 5.1 ADH shall, during the relevant Subscription Term, provide the Products and Services in accordance with the terms of this Agreement and the relevant Purchase Order and make available the Documentation subject to the terms of this Agreement and the relevant Purchase Order.
- 5.2 ADH shall use all reasonable endeavours to meet any implementation or 'go-live' dates for the Products and Services specified in a Purchase Order, but any such dates shall be estimates only and time shall not be of the essence of this Agreement. ADH shall regularly liaise with the Client regarding expected timeframes for delivery.
- 5.3 Products and Services are made available to the Client on a subscription basis through a web portal or web-based software applications. The Client shall be responsible for providing the content, equipment, connectivity, and other infrastructure requirements necessary to access

and use the Products and Services. Unless otherwise expressly indicated in a Purchase Order, the Client shall be responsible for the management, operation, and security of its systems, including back-up, of all databases and applications.

5.4 If indicated in the applicable Purchase Order, ADH shall provide:

- (a) set-up, provisioning and integration services to enable the Client's systems to access and use the Products and Services;
- (b) training in the use of the Products and/or Services as required by the Client; and
- (c) technical support for the Products and/or Services,

in each case as detailed in the applicable Purchase Order.

5.5 Unless otherwise indicated in the applicable Purchase Order, any charges for the services provided by ADH under clause 5.4 are included in the Fees set forth in that Purchase Order.

5.6 Any requirements identified during set-up, provisioning or integration that are outside the scope of the Services detailed in the applicable Purchase Order are not included under the applicable Purchase Order and will be provided under a separate mutually agreed Purchase Order covering the additional work.

5.7 In order to support the provision of any of the services requested by the Client pursuant to clause 5.4, the Client shall:

- (a) provide such access as is reasonably necessary for ADH authorised personnel to carry out any of the services requested by the Client pursuant to clause 5.4;
- (b) ensure that all personnel, network access and other resources required to support the provision by ADH of any of the services pursuant to clause 5.4 are made available to ADH and remain consistent; and
- (c) provide ADH with such information, cooperation and assistance as is reasonably requested by ADH.

5.8 Any delays caused by a failure on the part of the Client to provide necessary resources in accordance with clause 5.7 may impact applicable Fees and any timetable for delivery of Products or Services.

5.9 ADH may change or modify Products and/or Services at any time, provided that ADH shall not materially diminish the functionality of any Products and/or Services during the Subscription Term of any Purchase Order then in force.

5.10 The Client acknowledges and agrees that its purchase of subscription(s) for Products and/or Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by ADH, including any roadmaps, with respect to future functionality or features.

6. Service levels

6.1 During each Subscription Term, ADH shall:

- (a) provide the Products and Services in accordance with SLA;
- (b) provide technical support for the Products and Services in accordance with the SLA; and
- (c) meet or exceed the Service Levels in the performance of its obligations under the SLA.

6.2 If ADH fails to meet any of the Service Levels, then the Client shall be entitled to Service Credits in accordance with the paragraph 3 of the SLA, provided that ADH shall not be liable for Service Credits to the extent that any failure to meet the Service Levels is due to:

- (a) a force majeure event in accordance with clause 18; or
- (b) a failure by the Client to comply with its obligations under this Agreement.

6.3 The provision of a Service Credit shall be the Client's sole and exclusive remedy for any failure by ADH to meet the Service Levels.

7. Fees and payment

7.1 The Client shall pay to ADH the Fees for Products and Services provided hereunder in accordance with this clause 7 in the amounts set forth in the applicable Purchase Order.

7.2 The Fees set forth in a Purchase Order shall be fixed for the Initial Subscription Term applicable to that Purchase Order. In the event that the Subscription Term of a Purchase Order continues beyond the Initial Subscription Term pursuant to clause 2.2, ADH shall be entitled to increase the Fees payable in respect of such Purchase Order, with the prior agreement of the Client not less than four (4) months before the end of the Initial Subscription Term (or any subsequent Renewal Subscription Term, as the case may be).

7.3 ADH shall invoice the Client in respect of each Purchase Order:

- (a) on the Effective Date, for the Fees payable in respect of the first year of Initial Subscription Term;
- (b) within thirty (30) days of each anniversary of the Effective Date, for the Fees payable in respect of each subsequent year during the Initial Subscription Term; and
- (c) subject to clauses 2.2 and 7.2, within thirty (30) days of each anniversary of the Effective Date for the Fees payable in respect of each year during the Renewal Subscription Term,

and the Client shall pay each invoice within thirty (30) days of the date of such invoice.

7.4 If ADH has not received payment by the due date, and without prejudice to any other rights and remedies of ADH:

- (a) ADH may, without liability to the Client, disable the Client's access to all or part of the Products and/or Services while the invoice(s) concerned remain unpaid; and
- (b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to three per cent (3%) over the then current base lending rate of Barclays Bank Plc from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

7.5 All Fees and other amounts stated or referred to in this Agreement:

- (a) shall be payable in pounds sterling;
- (b) are, subject to clause 14.2, non-cancellable and non-refundable; and
- (c) are exclusive of value added tax, which shall be added to ADH's invoice(s) at the appropriate rate.

8. ADH's undertakings regarding use of data

8.1 ADH undertakes to the Client that:

- (a) unless specifically instructed by the Client or as required by Applicable Law, ADH will not disclose to any third party, or otherwise compromise the confidentiality of, Patient Data;
- (b) unless specifically instructed by the Client or as required by Applicable Law, ADH will not disclose to any third party, or otherwise compromise the confidentiality of, Patient Data which includes elements that make it possible to identify individual staff members or employees of the Client, whether through reverse-engineering or otherwise;
- (c) all Patient Data will be encrypted and stored securely in accordance with standards of security which meet or exceed those set out in Applicable Law;
- (d) ADH shall comply with all relevant Applicable Law pertaining to the treatment of Patient Data;
- (e) in rendering Patient Data into Anonymised Data, ADH shall ensure that such anonymisation meets or exceeds the standards laid down in Applicable Law, including without limitation the ICO's *"Anonymisation: managing data protection risk"* code of practice and any updates or replacements thereto;
- (f) it will not share any Anonymised Data with insurance companies or others without the explicit written prior consent of the Client; and
- (g) it will not share any Anonymised Data with other health services provider organisations without the explicit written prior consent of the Client.

9. Data Protection

- 9.1 The Client and ADH will comply with all applicable requirements of the Data Protection Legislation (and the terms below shall have the meanings as defined in the Data Protection Legislation).
- 9.2 The Client and ADH acknowledge that for the purposes of the Data Protection Legislation, the Client is the Data Controller and ADH is the Data Processor.
- 9.3 Without prejudice to the generality of clause 9.1, the Client will ensure that it has all necessary consent and notices in place to enable lawful transfer of Personal Data to ADH for the purposes and duration of this Agreement. In particular, the Client shall be responsible for obtaining any applicable consent from Data Subjects except where expressly agreed between the parties that ADH will obtain consents on behalf of the Client.
- 9.4 Without prejudice to the generality of clause 9.1, ADH shall, in relation to any Personal Data processed in connection with the performance by ADH of its obligations under these Terms of Service:
 - (a) Process Personal Data only on the written instructions of the Client;
 - (b) Ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss, or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures
 - (c) Ensure that all personnel who manage personal Data are obliged to keep the Personal Data confidential; and
 - (d) Not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:

- (i) The Client or ADH has provided appropriate safeguards in relation to the transfer;
 - (ii) The data subject has enforceable rights and effective legal remedies;
 - (iii) ADH complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) ADH complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- (e) Assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) ADH shall Notify the Client without undue delay on becoming aware of a Personal Data breach and shall provide to the Client all data and details relating to such breach and provide any necessary assistance to enable the Client to remedy any such breach, and shall do so in a timely manner.
 - (g) At the written direction of the Client, delete or return Personal Data and copies thereof to the Client on termination of this Agreement unless required by law to store the Personal Data; and
 - (h) Maintain complete and accurate records and information to demonstrate its compliance with this clause 14 and allow for audits by the Client or the Client's designated auditor.

10. Intellectual Property Rights

- 10.1 The parties agree that the ownership of, and Intellectual Property Rights subsisting in, Patient Data collected via Products or via the delivery of Services pursuant to clause 4 shall vest in, and belong to the Client. ADH hereby assigns, and will procure that any employee, contractor, sub-licensee or any other third party engaged by ADH in relation to the deployment of the Products or delivery of the Services will take all such steps and execute all such documents as may be necessary to assign, such Intellectual Property Rights to the Client. For the avoidance of doubt, and subject to the other terms of this Agreement, the Client may have access to and make such use of the Patient Data as it sees fit, subject to compliance with Applicable Law.
- 10.2 The Client hereby grants to ADH a non-exclusive, royalty-free, worldwide licence of its Intellectual Property Rights in the Patient Data:
- (a) to enable ADH to deploy the Products and perform the Services hereunder;
 - (b) to render Patient Data into Anonymised Data;
 - (c) to aggregate such Anonymised Data with other anonymised data deriving from third parties, and perform data analytics on the Aggregated Data collected; and
 - (d) offer services to the Client and third parties, using the data resulting from all or part of such analytics,

provided always that ADH shall comply with its obligations under clause 8 at all times.

- 10.3 The parties agree that the ownership of, and Intellectual Property Rights subsisting in, the Products, the Services, Anonymised Data, and data, reports and analyses generated by ADH using aggregated Anonymised Data, shall vest in, and belong to ADH. To the extent that the Client in the course of this Agreement creates any new Intellectual Property Rights in the Products, the Services, or Anonymised Data, it hereby assigns, and will procure that any employee, contractor, sub-licensee or any other third party engaged by the Client in relation to

the deployment of the Products or delivery of the Services will take all such steps and execute all such documents as may be necessary to assign, such Intellectual Property Rights to ADH.

- 10.4 To the extent that the Client wishes ADH to configure any Product so that such Product appears to be a product which bears the trade marks and get-up of the Client, it hereby grants a non-exclusive, royalty-free, worldwide licence of such trade marks and get-up for such purposes. Notwithstanding the foregoing, the Client agrees that even if the Product is so presented to Patients and the Client's staff, nonetheless it shall include on the front screen (or at such other location(s) as ADH shall reasonably agree with the Client) with reasonable prominence the trade mark 'MyRenalCare' or such other legend as ADH shall require.
- 10.5 No licence, right or other interest is conferred by either party to the other in respect of any of its Intellectual Property Rights, except as specifically set out in this Agreement and all such right are reserved.

11. ADH's obligations

- 11.1 ADH undertakes that the Products will be provided and the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.
- 11.2 The undertaking at clause 11.1 shall not apply to the extent of any non-conformance which is caused by use of the Products and/or Services contrary to the ADH's instructions, or modification or alteration of the Products and/or Services by any party other than ADH or ADH's duly authorised contractors or agents. If the Products or Services do not conform with the undertaking at clause 11.1, ADH shall, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Client with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Client's sole and exclusive remedy for any breach of the undertaking set out in clause 11.1.
- 11.3 Notwithstanding the foregoing, ADH does not warrant that:
- (a) the Client's use of the Products and/or Services will be uninterrupted or error-free; or
 - (b) the Products, Services, Documentation and/or the information obtained by the Client through the Products and/or Services will meet the Client's requirements.
- 11.4 ADH is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Client acknowledges that the Products and Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 11.5 ADH warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

12. Client's obligations

- 12.1 The Client shall:
- (a) comply with all Applicable Law with respect to its activities under this Agreement; and
 - (b) obtain and shall maintain all necessary licences, consents, and permissions necessary for ADH, its contractors and agents to perform their obligations under this Agreement.

13. Liability

- 13.1 This clause 13 sets out the entire financial liability of ADH (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client:
- (a) arising under or in connection with this Agreement;

- (b) in respect of any use made by the Client of the Products and Services or any part of them; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

13.2 Except as expressly and specifically provided in this Agreement:

- (a) the Client assumes sole responsibility for results obtained from the use of the Products and Services by the Client, and for conclusions drawn from such use. ADH shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to ADH by the Client in connection with the Products and/or Services, or any actions taken by ADH at the Client's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by Applicable Law, excluded from this Agreement; and
- (c) the Products and the Services are provided to the Client on an "as is" basis.

13.3 Nothing in this Agreement shall limit or exclude the liability of ADH for:

- (a) death or personal injury caused by ADH's negligence, or that of its personnel;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
- (d) any other liability that cannot be legally limited or excluded by law.

13.4 Subject to clauses 13.2 and 13.3:

- (a) ADH shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and
- (b) ADH's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total amount of Fees paid during the twelve (12) months immediately preceding the date on which the claim arose.

14. Termination

14.1 Without limiting its other rights or remedies, either party may terminate this Agreement or any Purchase Order with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any of the terms of this Agreement or the relevant Purchase Order (as applicable) and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of being notified in writing to do so; or
- (b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party; or
- (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of

competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder; or

- (d) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- (e) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (f) the other party ceases, or threatens to cease, to trade; or
- (g) the other party takes or suffers any similar or analogous action in any jurisdiction.

14.2 In case of termination by the Client in accordance with clause 14.1(a), the Client shall be entitled to a pro-rata refund of any pre-paid Fees in respect of any affected Purchase Order. Except for termination by the Client in accordance clause 14.1(a), termination shall not relieve the Client from the obligation to pay any Fees that remain unpaid at the time of termination.

15. Consequences of termination

15.1 On termination of this Agreement or any Purchase Order for any reason:

- (a) subject to clause 14.2, the Client shall immediately pay to ADH all outstanding unpaid invoices and interest;
- (b) subject to clause 15.2, all licences granted under this Agreement or the relevant Purchase Order (as applicable) shall immediately terminate;
- (c) ADH shall deliver to the Client a complete copy of all Patient Data, following which, unless the Client directs otherwise, ADH shall remove, delete or destroy all elements that make it possible for ADH or any third party to identify individual Patients from any data deriving from Patient Data;
- (d) each party shall return, delete or destroy (as applicable) and make no further use of any Products, Documentation and other items (and all copies of them) belonging to the other party; and
- (e) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

15.2 The rights of ADH under clauses 10.2(c) and 10.2(d) shall survive termination and, in the case of 10.2(d), the Client's consent to offer such Services shall be deemed given in perpetuity, provided always that ADH shall continue to comply with its obligations under clause 8 at all times.

15.3 Termination or expiry of an individual Purchase Order (for any reason) shall not automatically affect the continuance of this Agreement or any other Purchase Order(s) then in force. Without prejudice to clause 15.1, on termination or expiry of a Purchase Order, each party's obligations to continue to deliver upon its respective obligations under that Purchase Order shall (unless otherwise so expressed) cease.

15.4 Termination of this Agreement pursuant to clause 14.1 shall automatically operate to terminate all Purchase Orders then in force.

15.5 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

16. Confidential Information

16.1 Each party shall keep the other party's Confidential Information confidential and shall not:

- (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement (the "**Permitted Purpose**"); or
- (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 16.

16.2 A party may disclose the other party's Confidential Information to those of its employees, officers, representatives and professional advisers (together, its "**Representatives**") who need to know such Confidential Information for the Permitted Purpose, provided that:

- (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
- (b) at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this clause 16.

16.3 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or stock exchange or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 16.3, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.

16.4 The provisions of this clause 16 shall not apply to any Confidential Information that:

- (a) is or becomes generally available to the public (other than as a result of its disclosure by the Receiving Party or its Representatives in breach of this clause 16);
- (b) was available to the Receiving Party on a non-confidential basis before disclosure by the Disclosing Party;
- (c) was, is or becomes available to the Receiving Party on a non-confidential basis from a person who, to the Receiving Party's knowledge, is not bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Receiving Party;
- (d) the parties agree in writing is not confidential or may be disclosed; or
- (e) is developed by or for the Receiving Party independently of the information disclosed by the Disclosing Party.

16.5 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this Agreement are granted to the other party, or to be implied from this Agreement.

16.6 On termination or expiry of this Agreement, each party shall:

- (a) destroy or return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;

- (b) erase all the other party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and
 - (c) certify in writing to the other party that it has complied with the requirements of this clause 16.6, provided that the Receiving Party may retain documents and materials containing, reflecting, incorporating or based on the Disclosing Party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority. The provisions of this clause 16 shall continue to apply to any such documents and materials retained by the Receiving Party.
 - 16.7 The provisions of this clause 16 shall remain in full force and effect notwithstanding any termination or expiry of this Agreement for any reason.
- 17. Dispute resolution**
- 17.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (a "**Dispute**") then the parties shall in good faith follow the procedure set out in this clause 17.
 - 17.2 Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a "**Dispute Notice**"), together with relevant supporting documents. On service of a Dispute Notice, the ADH key contact and the Client key contact (as specified in the relevant Purchase Order) shall attempt in good faith to resolve the Dispute;
 - 17.3 If the ADH key contact and the Client key contact are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to the CEO of ADH and the CEO (or an alternative representative appointed by the CEO) of the Client who shall attempt in good faith to resolve it.
 - 17.4 If the CEO of ADH and the CEO (or any representative appointed by the CEO) of the Client are for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, both parties may (but shall not be required) agree to seek to resolve the Dispute through a mediation process
 - 17.5 Neither party shall commence legal proceedings in relation to a Dispute until thirty (30) days have elapsed from the date that the Dispute is referred to the CEO of ADH and the CEO of the Client in accordance with clause 17.3.

18. Insurance

ADH shall maintain public liability, product liability and pollution liability insurance (each to a limit of liability of £5,000,000) along with professional liability, cyber liability and privacy liability insurance (each to a limit of liability of £3,000,000) with a reputable insurer during the Initial Subscription Term and any Renewal Subscription Term, and shall provide the Client with a copy of such insurance policy upon request.

19. Force majeure

- 19.1 Neither party shall have any liability to the other under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of ADH or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the other party is notified of such an event and its expected duration.

- 19.2 If the period of delay or non-performance lasts for three (3) calendar months, the party not affected may terminate this Agreement and any relevant Purchase Order by giving fourteen (14) days' written notice to the affected party.

20. Notices

- 20.1 Any notice or other communication required to be given under this Agreement shall be via email communication or in writing. Where communication is via email it should be addressed to the ADH Key Contact as per the Purchase Order form. Where communication is in writing it shall be signed by or on behalf of the party giving it and shall be delivered by hand, or sent by recorded delivery (or international equivalent, where required), to the registered address of the party as set out in this Agreement. Either party may, by a notice given in accordance with this clause 20, change its address for the purposes of this clause 20.

- 20.2 A notice shall be deemed to have been served:

- (a) at the time of delivery if delivered by hand; or
- (b) two (2) Business Days after posting in the case of an address in the same territory as the territory from which it was sent and five (5) Business Days after posting for any other address.

21. No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture between the parties, or to authorise either party to act as agent for the other and neither party shall have authority to act in the name of or on behalf of the other, or to enter into any commitment or make any representation or warranty or otherwise bind the other in any way.

22. Assignment and subcontracting

- 22.1 The Client shall not, without the prior written consent of ADH, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 22.2 ADH may, with the prior written consent of the Client (not to be unreasonably withheld), assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

23. Cumulative remedies

Save as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

24. Third party rights

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. Severance

- 25.1 If any provision (or part of a provision) of these Terms of Service or a Purchase Order is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions of these Terms of Service or the relevant Purchase Order (as the case may be) shall remain in force.
- 25.2 If any invalid, unenforceable or illegal provision (or part provision) would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

26. Variation

Any variation of these Terms of Service or any Purchase Order shall only be valid and effective if it is in writing and signed by the parties (or their authorised representatives).

27. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

28. Entire agreement

28.1 This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes any prior agreements, understandings or arrangements between the parties in relation to such subject matter.

28.2 Each party acknowledges that:

- (a) in entering into this Agreement (and each subsequent Purchase Order) it does not rely, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not expressly set out in this Agreement or the relevant Purchase Order; and
- (b) the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a claim for damages for breach of contract under this Agreement or the relevant Purchase Order.

29. Further assurance

Each party agrees to execute, acknowledge and deliver such further instruments, and do all further similar acts, as may be necessary or appropriate to carry out the purposes and intent of this Agreement.

30. Counterparts

This Agreement and each Purchase Order may be executed in any number of counterparts and by the parties in separate counterparts. Each counterpart, when executed, shall constitute a duplicate original and all counterparts shall together constitute the one instrument.

31. Governing law and jurisdiction

31.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

31.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 – Service Level Agreement

1 Definitions and interpretation

1.1 The following definitions and rules of interpretation apply in this Schedule:

"Downtime" means all hours in any calendar month during a Subscription Term where a Product or Service is not available, excluding Excused Downtime.

"Excused Downtime" means collectively all of the following:

- (a) scheduled network, hardware, software, or service maintenance periods;
- (b) downtime caused by the acts or omissions of the Client or the Client's employees, agents, contractors, or suppliers, or anyone gaining access to the Products and/or Services by means of any Authorised User's account or equipment;
- (c) downtime caused by a failure of the internet, phone network, mobile phone network, and other transmission method by which the Products and/or Services are delivered;
- (d) downtime caused by the occurrence of any event that is beyond ADH's reasonable control; or
- (e) downtime of the portion of any Product or Service provided by third party suppliers.

"Fault" means any error in or failure of the Product(s) and/or Service(s) to operate in all material respects in accordance with the Documentation.

"Solution" means either of the following outcomes:

- (a) correction of a Fault; or
- (b) a workaround in relation to a Fault that is reasonably acceptable to the Client.

"Support Request" means a request made by the Client for support in relation to the Products and/or Services, including correction of a Fault.

"Uptime" means the number of hours a Product or Service is available during any calendar month during a Subscription Term.

"Service Hours" means 09:00 – 17:00 UK working hours on Monday to Friday, excluding public holidays.

"Support Hours" means 09:00 – 17:00 UK working hours on Monday to Friday, excluding public holidays.

1.2 All initial capitalised terms in this Schedule shall have the meaning given to them in the Terms of Service.

2 Service Levels

2.1 ADH warrants at least ninety-nine per cent (99%) Uptime during Service Hours over any calendar month during any applicable Subscription Term (the **"Uptime Commitment"**).

2.2 Actual Uptime for the purpose of determining ADH's compliance with the Uptime Commitment is calculated as the Uptime in any calendar month divided by the total number of hours in the relevant calendar month, less any Excused Downtime.

2.3 The Client may request technical support by submitting a Support Request to the ADH key contact (as specified in the relevant Purchase Order). Each Support Request shall include a description of the Fault and the start time of the incident.

2.4 The Client shall provide ADH with:

- (c) prompt notice of any Faults; and
- (d) such output and other data, documents, information, assistance and (subject to compliance with all Client's security and encryption requirements) remote access to the Client's systems, as are reasonably necessary to assist ADH to reproduce operating conditions similar to those present when the Client detected the relevant Fault and to respond to the relevant Support Request.

2.5 ADH shall:

- (e) prioritise all Support Requests based on its reasonable assessment of the severity level of the problem reported; and
- (f) respond to all Support Requests in accordance with the responses and response times specified in the table set out below:

Severity rating	Fault description	Time Period	Service Level response / response time
1	A critical error in, or failure of, the Products or Services that disables major functions of the affected Product(s).	Service Hours	ADH shall acknowledge receipt of a Support Request within thirty (30) minutes. ADH shall restore the affected Product(s) to a state that allows the Client to continue to use all functions of the affected Product(s) and/or Service(s) in all material
2	A critical error in the Products or Services for which a workaround exists, or a non-critical error in the Products or Services that affects the operations of the Client's business.	Service Hours	ADH shall acknowledge receipt of a Support Request within three (3) hours. ADH shall provide a temporary fix or workaround, which allows the Client to continue to use all functions of the Product(s) in all material respects. ADH shall implement a Solution as soon as practicable.
3	A significant error without workaround to some users or significant functionality available only with workaround to most users or minor functionality unavailable to most users.	Service Hours	Acknowledgment of receipt of the Support Request within one (1) Business Day. ADH shall implement a Solution within ten (10) Business Days after the Level 1 response time has elapsed.

4	An isolated or minor error, such as presentation errors not affecting functionality.	Service Hours	Acknowledgement of receipt of the Support Request within two Business Days.
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3 Service Credits

3.1 We will credit 2% of the base monthly recurring fee for the affected account, per hour of downtime. The total credit allowance per month is capped at 100% of that month's monthly recurring fee for the affected account. You must notify ADH via opening a support ticket indicating that you wish to pursue your rights as guaranteed by this SLA within 10 days of the incident to be eligible for credit. This guarantee covers MyRenalCare internal infrastructure including application and database servers, routers, switches, the cables connecting them, and connectivity to ADH backbone providers. This guarantee does not cover email delivery. MyRenalCare is not required to provide SLA-guaranteed services or credits to customers who are in default of their contractual obligations.

3.2 Provided that the Client notifies ADH in accordance with paragraph 3.1, ADH shall either:

- (g) credit the amount of the Service Credit as a deduction from the amount due from the Client in the next invoice then due to be issued in connection with the applicable Purchase Order; or
- (h) where no future payments are due from the Client to ADH, pay to the Client the amount that would have been credited against the next invoice pursuant to sub-paragraph (g) above. This will be paid 30 days after the conclusion of the month during which the claim was made.

Save as expressly set out at sub-paragraph (h) above, ADH shall not in any circumstances be obliged to pay any money or make any refund to the Client in respect of any Service Credit.

3.3 The parties acknowledge and agree that each Service Credit is a genuine pre-estimate of the loss likely to be suffered by the Client.

4. Online usage queries generated by the Client or patients of the Client

4.1 All queries relating to using the ADH website which are generated through the 'Contact Us' form on the MyRenalCare website (www.myrenalcare.com) will receive an immediate response to say that the query has been received.

4.2 All queries to receive responses within an average response time of 24 hours.

4.3 Provision of monthly reporting by ADH detailing query type and response times.

4.4 Failure to meet response time(s) in clause 4.2 will not result in any service credits.

Schedule 2 – Template Purchase Order

PURCHASE ORDER FORM

Reference Number: XXXX

This Purchase Order constitutes an offer by Ardia Digital Health Ltd, a company incorporated and registered in England and Wales with registered offices at 46 BELMONT ROAD, POOLE, BH14 0DB, UK ("ADH").

When signed and returned to ADH by the "**Client**" (as defined herein), this Purchase Order becomes a binding agreement between ADH and the Client, in accordance with clause 3 of the ADH standard Terms of Service (attached).

Name Of Client: <i>(include details e.g. name, registered number, registered address)</i>	
Summary of Product(s) / Service(s) Purchased: <i>(include details e.g. online portal)</i>	
Scope: (number of sites, patient cohorts, professional users)	
Implementation: (implementation activities to be delivered)	
Service: (ongoing service activities)	
Fee / Pricing: (include details e.g. annual Fee payable for Products and Services purchased)	
Service Commencement Date: <i>(include details of when ADH will start performing the Services. This may or may not be the same as the Effective Date)</i>	
Service Subscription Term:	

<i>(include details of initial term of this Purchase Order)</i>	
ADH Key Contact: <i>(include mobile and e-mail details)</i>	
Client Key Contact: <i>(include mobile and e-mail details)</i>	

This Purchase Order incorporates and shall be governed by the ADH standard Terms of Service (attached). The Terms of Service apply to this Purchase Order to the exclusion of any other terms that the Client may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Client acknowledges that it has had the opportunity to review the Terms of Service prior to executing this Purchase Order.

Unless otherwise defined in this Purchase Order, capitalised terms used in this Purchase Order shall have the meaning given to them in clause 1 of the Terms of Service. To the extent that there is any conflict or inconsistency between this Purchase Order and any provision of the Terms of Service, this Purchase Order shall prevail.

This Purchase Order shall not become effective on the date signed by the Client below ("**Effective Date**").

SIGNED: Signature: _____ Name: _____ Title: _____ Organisation: Ardia Digital Health Ltd Date: _____	SIGNED: Signature: _____ Name: _____ Title: _____ Organisation: _____ Date: _____
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