

Stroll Software as a Service Agreement



Contract Particulars

Company Name	[Insert]						
Company Address	[Insert]						
Email address (for the service of notices)	[Insert]						
Start Date	As defined in Schedule 1.						
Initial Term	1 Year / 2 Year / 3 Year						
Renewal Period	1 Year / 2 Year / 3 Year						
Purchase Option and applicable timescales	Available at the end of the 1 Year / 2 Years / 3 Year Initial Term. Per AR glasses Purchase Option Price: [Insert]						
Software and Services Description	a) Stroll augmented reality software platform which delivers physiotherapy and rehabilitation software as a service through AR glasses. b) Stroll provides both technical support and clinical account management to all customers Monday – Friday 9am – 5pm (excluding public holidays) c) The Licence Fees set out in this Agreement are payable solely in respect of the Stroll Software Platform. The Equipment is provided to the Clinic free of charge for the Term, subject to return on expiry or termination unless purchased under the Purchase Option.						
Delivery Address	[Insert]						
Clinical Success Manager	[Insert]						
Regulatory Standards	Stroll is registered as a Class 1 medical device. <table> <tr> <td>ISO-13485</td><td>BS-EN-ISO-14971</td></tr> <tr> <td>IEC-82304-1</td><td>BS-EN-62304</td></tr> <tr> <td></td><td>BS-EN IEC-81001-5-1</td></tr> </table>	ISO-13485	BS-EN-ISO-14971	IEC-82304-1	BS-EN-62304		BS-EN IEC-81001-5-1
ISO-13485	BS-EN-ISO-14971						
IEC-82304-1	BS-EN-62304						
	BS-EN IEC-81001-5-1						

Pricing & Payment Terms

[INSERT QUOTE]

This Agreement has been entered into on [insert date]

Signed by [NAME OF
DIRECTOR] for and on
behalf of STROLL LIMITED

.....

Director

Signed by [NAME OF
DIRECTOR] for and on
behalf of [insert Clinic
name]

.....

Director

Operative Terms

Introduction

A Strolll has developed a software as a medical device platform that provides software for AR Glasses that empowers physical therapy and neurological rehabilitation. Strolll makes the Strolll Software Platform available on a subscription basis.

B The Clinic wishes to use the Strolll Software Platform in the provision of its rehabilitation services.

C Strolll has agreed to provide, and the Clinic has agreed to take and pay for The Strolll Software Platform and associated Equipment subject to the terms and conditions of this Agreement.

D This Agreement shall be interpreted in accordance with and be subject to the conditions in Schedule 1. x

1 Services

1.1 Strolll shall provide The Strolll Software Platform and associated Equipment to the Clinic on and subject to the terms of this Agreement.

1.2 Strolll shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

1.2.1 planned maintenance carried out during the maintenance window of 08.00 pm to 05.00 am UK time; and

1.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that Strolll has used reasonable endeavours to give the Clinic at least 6 Normal Business Hours' notice in advance.

1.3 Strolll will, as part of the Services and at no additional cost to the Clinic, provide the Clinic with Strolll's standard Clinic Support Services during Normal Business Hours. Strolll may amend the Clinic Support Services in its sole and absolute discretion from time to time.

2 Licence

2.1 In consideration of the Licence Fees paid by the Clinic to Strolll, Strolll grants to the Clinic a non-exclusive, non-transferable licence for the Term commencing on the Start Date to use The Strolll Software Platform in accordance with the terms of this Agreement.

2.2 In relation to scope of use:

2.2.1 For the purposes of clause 2.1, use of the Strolll Software Platform shall be restricted to (i) the embedded software in object code form preloaded onto the AR

Glasses, (ii) the clinician web portal, and (iii) any other software modules made available by Strolll from time to time, in each case solely for the purpose of providing in-clinic or telehealth (virtual) rehabilitation activities.

2.2.2 the Clinic may not use The Strolll Software Platform other than as specified in clauses 2.1, Error! Reference source not found. and 4 including using the embedded software within The Strolll Software Platform on any other AR Glasses without the prior written consent of Strolll, and the Clinic acknowledges that additional fees may be payable on any change of use.

2.2.3 The Clinic shall record the location and storage of all AR Glasses and take steps to prevent unauthorised use of the AR Glasses including unauthorised downloading of the Strolll Software Platform.

2.2.4 except as expressly stated in this clause 2, the Clinic has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Strolll Software Platform in whole or in part.

2.3 The Clinic shall not:

2.3.1 sub-license, assign or novate the benefit or burden of this licence in whole or in part;

2.3.2 allow The Strolll Software Platform or any component part to become the subject of any charge, lien or encumbrance (other than a lien of the Funder); and

2.3.3 deal in any other manner with any or all of its rights and obligations under this agreement,

without the prior written consent of Strolll, such consent not to be unreasonably withheld or delayed.

2.4 Strolll may at any time sub-license, assign, novate, charge or deal in any other manner with any or all of its rights and obligations under this licence, provided it gives written notice to the Clinic.

- 2.5 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 2.6 A party assigning any or all of its rights under this agreement may disclose to a proposed assignee any information in its possession that relates to this agreement or its subject matter, the negotiations relating to it and the other party which is reasonably necessary to disclose for the purposes of the proposed assignment.
- 2.7 The Clinic shall:
- 2.7.1 ensure that the Strolll Software Platform is installed on designated AR Glasses only; and
- 2.7.2 notify Strolll as soon as it becomes aware of any unauthorised use of The Strolll Software Platform or any component part by any person or any incident involving use of the Strolll Software Platform.
- 2.8 The Clinic shall permit Strolll to inspect and have access to any premises from which the AR Glasses are prescribed and have access to any records kept in connection with this licence, for the purposes of ensuring that the Clinic is complying with the terms of this licence, provided that Strolll provides reasonable advance notice to the Clinic of such inspections, which shall take place at reasonable times.

3 Strolll's obligations and warranty

- 3.1 Strolll undertakes that the Strolll Software Platform will be provided, and the Services will be performed with reasonable skill and care.
- 3.2 Strolll shall use all reasonable endeavours to effect delivery by the Start Date.
- 3.3 If the Clinic fails to accept delivery of the Equipment on the Start Date, then, except where such failure is caused by Strolll's failure to comply with its obligations under this Agreement:
- 3.3.1 The Equipment shall be deemed to have been delivered at 9.00 am on the Start Date; and
- 3.3.2 Strolll shall store the Equipment until delivery takes place.
- 3.4 The undertaking at clause 3.1 shall not apply to the extent of any non-conformance which is caused by use of the Strolll Software Platform contrary to Strolll's instructions, or modification or alteration of the Strolll Software Platform by any party other than Strolll or Strolll's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Strolll will, at its

expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Clinic with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Clinic's sole and exclusive remedy for any breach of the undertaking set out in clause 3.1.

- 3.5 Subject always to the payment of the Licence Fees, Strolll shall provide the Strolll Software Platform and associated Equipment to the Clinic in accordance with the terms set out in the Particulars and shall not, other than in the exercise of its rights under this Agreement or applicable law, interfere with the Clinic's quiet possession of the Equipment.
- 3.6 Strolll does not warrant that the Clinic or Patient's use of the Services will be uninterrupted or error-free or that the Services, and 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 Clinic acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 3.7 This Agreement shall not prevent Strolll from entering into similar Agreements with third parties or other clinics, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.
- 3.8 Strolll warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.
- 3.9 Strolll warrants that The Strolll Software Platform shall comply with the applicable Regulatory Standards.
- 3.10 Strolll shall follow its archiving procedures for Clinic Data as set out in its back-up policy available upon request from Strolll, as such document may be amended by Strolll in its sole discretion from time to time. In the event of any loss or damage to Clinic Data, the Clinic's sole and exclusive remedy against Strolll shall be for Strolll to use reasonable commercial endeavours to restore the lost or damaged Clinic Data from the latest back-up of such Clinic Data maintained by Strolll in accordance with the archiving procedure described in its back-up policy. Strolll shall not be responsible for any loss, destruction, alteration or disclosure of Clinic Data caused by any third party (except those third parties sub-contracted by Strolll to perform services related to Clinic Data maintenance and back-up for which it shall remain fully liable).
- 3.11 Strolll warrants that the Equipment shall substantially conform to its specification (as

made available by Strolll), be of satisfactory quality and fit for any purpose held out by Strolll. Strolll shall use all reasonable endeavours to remedy, free of charge, any material defect in the AR Glasses which manifests itself during the Term, provided that:

- 3.11.1 the Clinic notifies Strolll of any defect in writing within ten Business Days of the defect occurring;
- 3.11.2 Strolll is permitted to make a full examination of the alleged defect;
- 3.11.3 the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised manipulation by any person other than Strolll's authorised personnel;
- 3.11.4 the defect did not arise out of any information, design or any other assistance supplied or furnished by the Clinic or on its behalf; and
- 3.11.5 the defect is directly attributable to defective material, workmanship or design.
- 3.11.6 If the Clinic is unable to use the Strolll Software Platform for more than forty-eight (48) consecutive hours due to technical issues (excluding issues caused by Clinic or User error, as reasonably determined by Strolll), the Clinic will be entitled to a time credit equal to the period of such downtime. This credit will be applied as an extension to the contract term, provided that:
 - a) the Clinic notifies Strolll of the issue within five (5) Business Days of its occurrence, and
 - (b) the Clinic provides Strolll with reasonable cooperation to remedy the issue.

may be required by Strolll

in order to provide the Services, including but not limited to Clinic Data, security access information and configuration services;

- 4.1.2 comply with all applicable laws and regulations with respect to its activities under this Agreement;
- 4.1.3 ensure only Clinicians can prescribe the Strolll Software Platform to Patients;
- 4.1.4 ensure that the Clinicians use and prescribe the Strolll Software Platform in accordance with the terms and conditions of this Agreement and Strolll's Instructions for Use and shall be responsible for any breach of this Agreement by the Patient or other Authorised User;
- 4.1.5 ensure that the Patients are aware to use the Strolll Software Platform in a suitable environment and in accordance with their prescription, clinic's instructions and Strolll's Instructions for Use;
- 4.1.6 not allow any person other than an Authorised User to use the Strolll Software Platform;
- 4.1.7 use the Equipment with reasonable care and in accordance with Strolll's instructions, and promptly notify Strolll of any loss, damage or malfunction;
- 4.1.8 make no alteration to the Equipment and shall not remove any existing component (or components) from the Strolll Software Platform or the Equipment;
- 4.1.9 obtain and shall maintain all necessary licences, consents, and permissions (including without limitation a CQC registration) necessary for Strolll to perform their obligations under this Agreement, including without limitation the Services;
- 4.1.10 ensure that its network and systems comply with the relevant specifications provided by Strolll from time to time and if provided, to ensure the Clinic and/or the Patient use the router or Network as specified by Strolll; and

4 Clinic's obligations

4.1 The Clinic shall:

- 4.1.1 provide Strolll with:
 - (a) all necessary co-operation in relation to this Agreement; and
 - (b) all necessary access to such information as

4.1.11	ensure that the Clinic and the Patients, to the extent permitted by law and except as otherwise expressly provided in this Agreement, use the Equipment provided by Strolll to maintain and secure its network connections and telecommunications links from the AR Glasses to Strolll's cloud storage.	sale, underlet or lend the Equipment (other than to a Patient) or allow the creation of any mortgage, charge, lien or other security interest in respect of it; or
4.2	The Clinic shall own all right, title and interest in and to all of the Clinic Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy, and quality of all such Clinic Data.	4.3.8 do or permit to be done any act or thing which will or may jeopardise the right, title or interest of Strolll in the Equipment; or
4.3	The Clinic shall not:	4.3.9 suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if the Equipment is so confiscated, seized or taken, the Clinic shall notify Strolll and the Clinic shall at its sole expense use its best endeavours to procure an immediate release of the Equipment and shall indemnify Strolll on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation; or
4.3.1	except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Strolll Software Platform software (as applicable) in any form or media or by any means; or	4.3.10 deliver up the Equipment at the end of the Term at such address as Strolll requires, or if necessary allow Strolll or its representatives access to the Clinic or any premises where the Equipment is located for the purpose of collecting the Equipment; and
4.3.2	access all or any part of the Services in order to build a product or service which competes with the Strolll Software Platform; or	4.3.11 not do or permit to be done anything which could invalidate the insurances referred to in clause Error! Reference source not found.
4.3.3	use the Strolll Software Platform to provide services including the Services to third parties other than Patients; or	4.4 The rights provided under this clause 3.11.6 are granted to the Clinic only and shall not be considered granted to any subsidiary or holding company of the Clinic.
4.3.4	license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services or the AR Glasses available to any third party except the Authorised User; or	
4.3.5	attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 3.11.6; or	
4.3.6	introduce or permit the introduction of any Virus or Vulnerability into Strolll's network and information systems; or	
4.3.7	without the prior written consent of Strolll (or the Funder), part with control of (including for the purposes of repair or maintenance), sell or offer for	
5 Licence Fees and payment		
5.1	The Clinic shall pay the Licence Fees to Strolll in accordance with this clause 5 and the Contract Particulars. The Licence Fees are payable solely in respect of the Strolll Software Platform; no separate fees are payable for use of the Equipment during the Term unless the Clinic elects to purchase or upgrade the Equipment under this Agreement.	
5.2	The Clinic shall no later than the Start Date provide Strolll valid, up-to-date and complete credit card details or approved purchase order information acceptable to Strolll and any other relevant valid, up-to-date and complete contact and billing details and, if the Clinic provides:	

5.2.1	its credit card details to Strolll, the Clinic hereby authorises Strolll to bill such credit card:	5.4.4	are inclusive of delivery, packaging, packing, shipping, carriage, insurance, service, support and maintenance but exclusive of value added tax, which if applicable shall be added to Strolll's invoice(s) at the appropriate rate.
	(a) on the Start Date for the Licence Fees payable in respect of the Initial Term;	5.5	The Clinic shall, subject to clause 5.6, have the option, exercisable by not less than thirty (30) Business Days' written notice to Strolll, to purchase the AR Glasses following the Initial Term at the Purchase Option Price.
	(b) any merchant fee incurred by Strolll for processing of a credit card; and	5.6	The Purchase Option may be exercised only if:
	(c) subject to clause 13.1, on each anniversary of the Start Date for the Licence Fees payable in respect of the next Renewal Period;	5.6.1	all amounts due to Strolll under this Agreement up to the date of exercise of the Purchase Option have been paid in full by the Clinic; and
5.2.2	its approved purchase order information to Strolll, Strolll shall invoice the Clinic:	5.6.2	the Clinic enters into a new software only subscription agreement with Strolll.
	(a) prior to the Start Date for the Licence Fees payable in respect of the Initial Term; and	5.7	On completion of the purchase of the AR Glasses under this clause 5, such title to the AR Glasses as Strolll had on the Start Date shall transfer to the Clinic. The AR Glasses shall transfer to the Clinic in the condition and at the location in which they are in on the date of transfer.
	(b) subject to clause 13.1, at least 30 days prior to each anniversary of the Start Date for the Licence Fees payable in respect of the next Renewal Period,	5.8	At the expiry of the Initial Term the Clinic shall, subject to clause 5.6.2, have the option to upgrade the AR Glasses to the latest version provided by Strolll.
	and the Clinic shall pay each invoice within 30 days of the date of invoice.	5.9	During the Term, the Clinic may request an upgrade to newer AR glasses supported by Strolll. Strolll may accept or decline any request in its discretion. If accepted, Strolll will provide a written quotation; the clinic must pay the quoted upgrade fee in full before dispatch. The upgrade does not change the Term or the Licence Fees unless Strolll's quotation expressly states otherwise. Title and risk remain as set out in clause 7. On delivery of the upgraded AR glasses, the Clinic must stop using and return the replaced AR glasses to Strolll within ten (10) Business Days in good working order (fair wear and tear excepted).
5.3	If Strolll has not received payment of any Licence Fees within 30 days of the Start Date or renewal date, and without prejudice to any other rights and remedies, Strolll may, without liability to the Clinic, disable the Clinic's password, account and access to all or part of the Strolll Software Platform and Strolll shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid.	6	
5.4	All Licence Fees stated or referred to in this Agreement:	<u>Proprietary rights</u>	
5.4.1	shall be payable in pounds sterling;	6.1	The Clinic acknowledges and agrees that Strolll and/or its licensors own all intellectual property rights in the Strolll Software Platform and its component parts. Except as expressly stated herein, this Agreement does not grant the Clinic any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of The Strolll Software Platform.
5.4.2	are, subject to clause 12.3.2, non-cancellable and non-refundable;		
5.4.3	shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law)		

6.2	Strolll confirms that it has all the rights in relation to the Services and the Strolll Software Platform that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.	notify Strolll of any incident affecting the Equipment.
6.3	Strolll shall retain the property and copyright in all documents supplied to the Clinic in connection with the Services and it shall be a condition of such supply that the contents of such documents shall not be communicated either directly or indirectly to any other person, firm or company other than Authorised Users without the prior written consent of Strolll.	
6.4	Strolll's Intellectual Property Rights in and relating to The Strolll Software Platform shall remain the exclusive property of Strolll, and the Clinic shall not at any time make any unauthorised use of such Intellectual Property Rights, nor authorise or permit any of its agents or contractors or any other person to do so.	
6.5	In relation to the Strolll Software Platform software:	
6.5.1	the Clinic acknowledges that it is subscribing to receive only the media including the Equipment on which the software is recorded and the accompanying user manuals;	
6.5.2	nothing contained in these terms shall be interpreted as an assignment of any Intellectual Property Rights in the Strolll Software Platform or user manuals; and	
6.5.3	the Clinic shall be subject to the rights and restrictions imposed by Strolll as the owner of the Intellectual Property Rights in the Strolll Software Platform and user manuals, and shall comply with all licence agreements, terms of use and registration requirements relating to them.	
7	<u>Title</u>	
7.1	The Equipment is provided to the Clinic free of charge for use during the Term and shall at all times remain the property of Strolll (or the Funder, where applicable), and the Clinic shall have no right, title or interest in or to the Equipment (save the right to possession and use of the Equipment subject to the terms and conditions of this Agreement), except where the Clinic purchases the AR Glasses pursuant to the Purchase Option in clause 5.5.	
8	<u>Risk</u>	
8.1	The risk of loss, theft, damage or destruction of the Equipment shall remain with Strolll during the Term. The Clinic shall promptly	
9	<u>Insurance maintained by Strolll</u>	
9.1	Equipment insurance	
9.1.1	Strolll shall, at its own expense, obtain and maintain insurance of the Equipment to a value not less than its full replacement value, comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as Strolll may reasonably require.	
9.2	Public and product liability insurance	
9.2.1	Strolll shall, at its own expense, maintain in force throughout the Term public liability and product liability insurance with a reputable insurer, with cover of not less than £5,000,000 for any one claim and £10,000,000 in the aggregate in any twelve (12) month period, and shall provide evidence of such insurance to the Clinic upon reasonable request.	
9.3	Cyber Liability Insurance	
9.3.1	Strolll shall maintain in force throughout the Term a cyber liability insurance policy with cover of not less than £1,000,000. Such insurance shall include protection against data protection breaches and cyber security incidents.	
9.4	Clinic obligations	
9.4.1	the Clinic assumes sole responsibility for results obtained from the use of the Strolll Software Platform by the Patients, and for conclusions drawn from such use. Strolll shall have no liability for any injury caused by errors or omissions in any information, instructions or scripts provided to Strolll by the Clinic in connection with the Services, or any actions taken by Strolll at the Clinic's direction;	
9.4.2	The Clinic shall promptly notify Strolll in writing of (i) any loss, accident, damage or incident involving the Equipment, or (ii) any other event or circumstance which may reasonably be expected to give rise to a claim under any insurance maintained by Strolll pursuant to this Agreement.	

9.4.3 In the event that the Clinic or a Patient does any act or omission which would invalidate the insurance procured by Strolll, the Clinic shall indemnify Strolll against all such uninsured losses.

10.7.3 certify in writing to the other party that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority. The provisions of this clause shall continue to apply to any such documents and materials retained by a recipient party, subject to clause 13 (Term and termination).

10 Confidentiality

10.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information including information concerning the business, assets, affairs, customers, patients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 10.2.

10.2 Each party may disclose the other party's Confidential Information:

10.3 to its employees, officers, representatives, contractors, sub-contractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the agreement. Each party shall ensure that its employees, officers, representatives, contractors, sub-contractors or advisers to whom it discloses the other party's confidential information comply with this clause 10.3; and

10.4 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

10.5 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

10.6 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.

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

10.7.1 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;

10.7.2 erase all the other party's Confidential Information from computer and communications systems and AR Glasses used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and

10.8 No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

11 Indemnity

11.1 The Clinic shall defend, indemnify and hold harmless Strolll against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Clinic's and the Patient's use of the Strolll Software Platform, provided that:

11.1.1 the Clinic is given prompt notice of any such claim;

11.1.2 Strolll provides reasonable co-operation to the Clinic in the defence and settlement of such claim, at the Clinic's expense; and

11.1.3 the Clinic is given sole authority to defend or settle the claim.

11.2 For the avoidance of doubt, the indemnity at clause 11.1 shall not apply in the event that any such claim arises from Strolll's negligence including a fault in the Strolll Software Platform.

11.3 Strolll shall defend the Clinic, its officers, directors and employees against any claim that the Clinic's and/or the Patient's use of the Services in accordance with this Agreement infringes any patent effective as of the Start Date, copyright, trademark, database right or right of confidentiality, and shall indemnify the Clinic for any amounts awarded against the Clinic in judgment or settlement of such claims, provided that:

11.3.1 Strolll is given prompt notice of any such claim;

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| <p>11.3.2 the Clinic does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to Strolll in the defence and settlement of such claim, at Strolll's expense; and</p> <p>11.3.3 Strolll is given sole authority to defend or settle the claim.</p> <p>11.4 In the defence or settlement of any claim, Strolll may procure the right for the Clinic to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 2 Business Days' notice to the Clinic without any additional liability or obligation to pay liquidated damages or other additional costs to the Clinic.</p> <p>11.5 In no event shall Strolll, its employees, agents and sub-contractors be liable to the Clinic to the extent that the alleged infringement is based on:</p> <p>11.5.1 a modification of the Strolll Software Platform by anyone other than Strolll; or</p> <p>11.5.2 the Clinic's use of the Strolll Software Platform in a manner contrary to the instructions given to the Clinic by Strolll; or</p> <p>11.5.3 the Clinic's use of the Strolll Software Platform after notice of the alleged or actual infringement from Strolll or any appropriate authority.</p> <p>11.6 The foregoing and clause 12.3.2 state the Clinic's sole and exclusive rights and remedies, and Strolll's (including Strolll's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.</p> | <p>12.1.2 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;</p> <p>12.1.3 The Strolll Software Platform is provided to the Clinic on an "as is" basis; and</p> <p>12.1.4 The Strolll Software Platform should be used in accordance with the instructions for use. Strolll as the manufacturer are not permitted to promote the device for any other purpose than specified therein as this would be considered off-label use. The Clinician is permitted to use the Strolll Software Platform with another patient population if in their clinical judgement this use is deemed safe and effective. This is at the risk of the Clinic and Strolll as the manufacturer is not liable. For further information about off-label use, please refer to Off-label use of a medical device - GOV.UK (www.gov.uk)</p> <p>12.2 Nothing in this Agreement excludes the liability of Strolll:</p> <p>12.2.1 for death or personal injury caused by Strolll's negligence; or</p> <p>12.2.2 for fraud or fraudulent misrepresentation.</p> <p>12.3 Subject to clause 12.1 and clause 12.2:</p> <p>12.3.1 Strolll 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, wasted expenditure, 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</p> <p>12.3.2 Strolll's total aggregate liability in contract (including in respect of the indemnity at clause 9.1 and clause 11.2), 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 an amount equal to the total</p> |
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12 Limitation of liability

- | | |
|---|--|
| <p>12.1 Except as expressly and specifically provided in this Agreement:</p> <p>12.1.1 the Clinic assumes sole responsibility for results obtained from the use of the Strolll Software Platform by the Patients, and for conclusions drawn from such use. Strolll shall have no liability for any injury caused by errors or omissions in any information, instructions or scripts provided to Strolll by the Clinic in connection with the Services, or any actions taken by Strolll at the Clinic's direction;</p> | <p>12.3.2 Strolll's total aggregate liability in contract (including in respect of the indemnity at clause 9.1 and clause 11.2), 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 an amount equal to the total</p> |
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	Licence Fees paid by the Clinic to Strolll under this Agreement.		
12.3.3	Nothing in this Agreement excludes the liability of the Clinic for any breach, infringement, off-label use or misappropriation of Strolll's Intellectual Property Rights.	13.4.3	Strolll (or the Funder) may, by its authorised representatives, without notice and at the Clinic's expense, retake possession of the Equipment and for this purpose may enter the Clinic or any premises at which any part of the Equipment is located;
13	<u>Term and termination</u>	13.4.4	the Clinic shall ensure the safe and proper storage of the Equipment until it has been collected by Strolll (or the Funder);
13.1	At the end of the Initial Term, this Agreement shall automatically renew for successive Renewal Periods (as set out in the Particulars), unless either party gives the other not less than sixty (30) days' prior written notice of its intention not to renew.	13.4.5	without prejudice to any other rights or remedies of the Clinic, the Clinic shall pay to Strolll on demand:
13.2	The Clinic may terminate this Agreement by giving thirty (30) days written notice to Strolll however the Clinic shall not be entitled to a refund for the remaining months of the Term.	13.4.6	all payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant clause 5; and
13.3	Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:	13.4.7	any costs and expenses incurred by Strolll (or the Funder) in recovering the Equipment or in collecting any sums due under this Agreement (including any storage, insurance, repair, transport, legal and remarketing costs);
13.3.1	the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment;	13.4.8	Strolll may destroy or otherwise dispose of any of the Clinic Data in its possession unless Strolll receives, no later than ten days after the effective date of the termination of this Agreement, a written request for the delivery to the Clinic of the then most recent back-up of the Clinic Data. Strolll shall use reasonable commercial endeavours to deliver the back-up to the Clinic within thirty (30) days of its receipt of such a written request, provided that the Clinic has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Clinic shall pay all reasonable expenses incurred by Strolll in returning or disposing of Clinic Data; and
13.3.2	the other party commits a material breach of any other term of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;		
13.3.3	the other party is subject to an Insolvency Event; or		
13.3.4	in accordance with a Force Majeure event.		
13.4	On termination of this Agreement for any reason:	13.4.9	any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, 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.
13.4.1	all licences granted under this Agreement shall immediately terminate and the Clinic shall immediately cease all use of the Strolll Software Platform;		
13.4.2	each party shall return and make no further use of the Strolll Software Platform, the Equipment, and other items (and all copies of them) belonging to the other party;		

Schedule 1 Interpretation and General Terms

1 Interpretation

1.1 The definitions and rules of interpretation in this paragraph apply in this Agreement.

Agreement	This Agreement
Authorised Users	The Clinicians and the Patients and any of them.
Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Clinician	those employees, agents and independent contractors of the Clinic who are clinically trained and authorised by the Clinic to prescribe the Services.
Confidential Information	means all confidential information (however recorded or preserved) disclosed by a party to the other party whether before or after the date of this agreement in connection with The Strolll Software Platform, including: the terms of this agreement or any agreement entered into in connection with the Strolll Software Platform; any information that would be regarded as confidential by a reasonable business person relating to: the business, assets, affairs, patients, clients, suppliers, plans, intentions, or market opportunities of the disclosing party (or of any member of the Group to which the disclosing party belongs); the operations, processes, information, know-how, designs, trade secrets or software of the disclosing party (or of any member of the Group to which the disclosing party belongs); and any information that is developed by the parties in the course of supplying or using The Strolll Software Platform.
Clinic Data	the data inputted by the Clinic, Authorised Users, or Strolll on the Clinic's behalf for the purpose of using the Services or facilitating the Clinic's use of the Services.
Clinic Support Services	The initial training on use of the Strolll Software Platform and support of a clinical success manager on an ongoing basis offered at the sole discretion of Strolll. Technical support helpline provided during Normal Business Hours.
AR Glasses	The AR Glasses specified in the Particulars and any equivalent replacement thereof from time to time and working together with the preloaded Strolll Software Platform to provide the Services.
Equipment	the AR Glasses, Wi-Fi router and any other additional equipment supplied by Strolll during the Term without separate charge, on a loan basis, solely for use in connection with the Services.
Funder	any third-party funder that Strolll may elect at its option to use from time to time to fund the cost of the Equipment.
Initial Term	the initial term of this Agreement as set out in the Particulars.
Insolvency Event	Any of the following events: the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986; the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);

the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this definition of Insolvency Event;

the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Agreement is in jeopardy.

Intellectual Property Rights	means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Normal Business Hours	8.00 am to 5.00 pm local UK time, each Business Day.
Stroll Software Platform	means all software applications developed and provided by Stroll, including (i) embedded software on augmented reality (AR) glasses, (ii) the clinician web portal, and (iii) any other software modules, features, or components that may be developed and made available by Stroll in the future, collectively referred to as the "Stroll Software Platform."
Renewal Period	the period described in the Contract Particulars.
Services	means the physiotherapy and rehabilitation software as a service provided by Stroll to Clinics and its authorised users through the use of the Stroll Software Platform under this Agreement, as further described in the Particulars.
Start Date	means the date agreed in writing between the Parties as the commencement date for the Services, being the date on which Stroll first provides the Equipment and training to the Clinic. If the Clinic fails to accept delivery of the Equipment on or before the Start Date, other than due to Stroll's failure to comply with its obligations under this Agreement: (i) the Start Date shall be deemed as the date of the delivery of the Equipment and; (ii) Stroll shall store the Equipment until delivery takes place. Where a training date has been agreed and is postponed by the Clinic with less than ten (10) Business Days' prior written notice, the Start Date shall be deemed to be the originally scheduled training date, unless otherwise agreed by Stroll in writing. Stroll shall use commercially reasonable efforts to deliver the Equipment by any agreed delivery date.
Stroll	Stroll Limited incorporated and registered in England and Wales with company number 11832565 whose registered office is at 2A Staffordshire Place, Tipping Street, Stafford, ST16 2LP.
Licence Fees	the Licence Fees payable by the Clinic to Stroll for the subscription to receive the Services through use of the Stroll Software Platform as set out in the Particulars.

Patients	the patients of the Clinic who use or are prescribed the Services by the Clinicians.
Term	has the meaning given in the Particulars (being the Initial Subscription Term together with any subsequent Renewal Periods).
Virus	any thing (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, AR Glasses or network or any other service or AR Glasses; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or AR Glasses.
Vulnerability	a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be interpreted accordingly.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement.
- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.
- 1.9 A reference to writing or written includes email but not fax.
- 1.10 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.

General Terms

2	Data protection	6	Waiver
2.1	The following definitions apply in this paragraph Schedule 1:	6.1	A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
2.1.1	Controller and Personal Data: as defined in the Data Protection Legislation.	6.2	A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
2.1.2	Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder), the Privacy and Electronic Communications Regulations 2003 (S/2003/2426), and any applicable guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority.	7	Rights and remedies
2.2	Each party shall, at its own expense, ensure that it complies with and assists the other party to comply with the requirements of the data protection legislation and the Data Collection Agreement.		Except 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.
2.3	The parties acknowledge that for the purposes of the Data Protection Legislation, each party is an independent data controller in respect of any Personal Data processed by that party.	8	Severance
3	Force majeure	8.1	If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
	Neither party shall be in breach of this Agreement or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate this Agreement by giving thirty (30) days' written notice to the affected party.	8.2	If any provision or part-provision of this Agreement is deemed deleted under paragraph 8.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
4	Conflict	9	Entire Agreement
	If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.	9.1	This Agreement constitutes the entire Agreement between the parties and supersedes and extinguishes all previous and contemporaneous Agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.
5	Variation	9.2	Each party agrees that it shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. No party shall have any claim for innocent or negligent misrepresentation based on any statement in this Agreement.
	No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).	10	Assignment
		10.1	The Clinic shall not, without the prior written consent of Strolll, assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other

manner with any of its rights and obligations under this Agreement.

10.2 Strolll may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement, provided that it gives prior written notice of such dealing to the Clinic.

11 No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

12 Third party rights

12.1 Save for the rights of the Funder detailed in this Agreement, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

12.2 The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

13 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.

14 Notices

14.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:

14.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal

place of business (in any other case); or

14.1.2 sent by email to the email address as set out in the Particulars (or an address substituted in writing by the party to be served):.

14.2 Any notice shall be deemed to have been received:

14.2.1 if delivered by hand, at the time the notice is left at the proper address;

14.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

14.2.3 if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

14.3 This paragraph does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

15 Governing law

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 interpreted in accordance with the law of England and Wales.

16 Jurisdiction

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