



**AAH PHARMACEUTICALS LIMITED
 FMD MODULE AGREEMENT**

PART 1A: CUSTOMER'S DETAILS

Contract Date:		("Contract Date")
Customer Name: (Legal Entity)		("Customer" or "you")
Pharmacy Name: (Trading As) Address of Customer:		("Customer Site") For any additional pharmacy sites, please complete the table located in Part 1C.
Branch & Account No:		
Telephone Number:		
Contact Name:		
Technology Delivery Manager:		

This section must be completed by the customer

Contact Name for FMD	
Site e-mail address:	
Registration ID*:	
Site Telephone Number	

*ODS Code in England, Wales and Northern Ireland. Contractor Code in Scotland

PART 1B – INITIAL TERM

3	Months ("Initial Term") From FMD Module installation date
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PART 1C: ADDITIONAL CUSTOMER SITE(S)

Please check that this Part 1C contains the correct details of each pharmacy for which you are ordering

Each additional pharmacy listed in this Part 1C shall be deemed to be a Customer Site and together with the Customer Site set out in Part 1A above, shall collectively be referred to as the "**Customer Sites**".

Additional pharmacies can be added or removed as Customer Sites following the prior written agreement of the parties.

Legal Entity	AAH Account Number	Address	Site Contact Name:	Site e-mail address:	Registration ID:	Site Telephone Number:

PART 1 D: ONBOARDING PROCESS

For Groups (SecurMed have defined as 6 branches and higher) - Once we have completed the registration, SecurMed will send the credentials and we will manage this on your behalf.

For independents (SecurMed have defined as 5 branches or lower) - Once we have completed the registration SecurMed will then post out the credentials to you. Upon receiving these credentials you can enter the credentials into the ProScript Connect system using the on-boarding wizard. Support will be provided by the Service Desk 0344 209 2601.

PART 1E: FORMATION OF AGREEMENT

This FMD agreement is made on the Contract Date specified in Part 1A between:

- (1) AAH Pharmaceuticals Limited, Sapphire Court, Walsgrave Triangle, Coventry, CV2 2TX (the "**Supplier**"); and
- (2) The party specified as the Customer in Part 1A. (**Customer**)

It is agreed that:

- (A) This FMD agreement consists of Parts 1 - 3 and any Annexes to such Parts ("**FMD Agreement**").
- (B) By signing this FMD agreement, you are accepting an offer by the Supplier to provide the product selected in Part 2.
- (C) This FMD Agreement will apply to the exclusion of any other terms and conditions of business contained or referenced in any acknowledgement or any other form of acceptance by you (whether written or not), or any other document issued by you to the Supplier. No other terms will be implied by trade custom, practice or any course of dealings between the parties unless such terms and conditions are expressly stated to apply
- (D) In consideration of the provision of the relevant Products/Services, you agree to be bound by, and to comply with, the terms and conditions that apply in respect of the FMD Module (as specified at Part 3 below).

Prior to provision of the FMD Module, please sign this agreement to acknowledge your acceptance of its terms and return a signed copy to the Supplier at the address above.

Print Name:

Position:

Signed: **Date:**

Authorised signatory for and on behalf of the Customer

PART 2 – FMD Module

PART 2 – PROSCRIPT CONNECT

By selecting these Products/Services you agree to be bound by and to comply with the Terms and Conditions in pages 5-11.

PART 2A – PROSCRIPT FMD MODULE REGISTRATION AND ONBOARDING

Selection	Products / Services	Charges	Qty	Total £
<input checked="" type="checkbox"/>	<ul style="list-style-type: none">- Portal Registration (see Part 1D) and User Credentials Management, with SecurMed UK/ National Medicines Verification System (NMVS).- Certificate Download, installation and configuration- Password and Certificate Management (tools to automatically reset the password after 90 days and renew the certificate after 24 months)	£595.00 per Customer Site		£595.00
ProScript FMD Module Registration and Onboarding Total				£595.00

PART 2B – FMD MODULE MONTHLY FEES

Selection	Products / Services	Charges	Qty	Total £
<input checked="" type="checkbox"/>	<p>FMD Module</p> <ul style="list-style-type: none">(a) transmission of the Unique Identifier (UI) data to the NMVS and receipt of information from the NMVS as to the current status of the relevant product(s);(b) FMD scanning feedback integrated within ProScript Connect, notifying you of verification and decommissioning errors (together with expiry date checks) as identified by the NMVS; and(c) FMD reporting functionality	£28.50 per month per Customer Site		28.50
FMD Module Monthly Charges Total				28.50

PART 3 - FMD MODULE LICENCE CONDITIONS

The customer named at Part 1A of this FMD Module Agreement agrees to enter into and be bound by these Licence Conditions with effect on the Contract Date set out at Part 1A above.

FMD Specification

- 1.1 The Customer has subscribed for use of the FMD Module.
- 1.2 The FMD Module is a software tool designed to assist community pharmacy in complying with the requirements of the Falsified Medicines Directive (FMD) 2011/62/EU (as maybe implemented into local legislation).
- 1.3 The FMD Module comprises the following elements:
 - (a) facilitating the on-boarding and registration of the Customer with the relevant UK Medicines Verification System provider (for the avoidance of doubt, access to or use of the National Medicines Verification System (NMVS) will be subject to acceptance by the Customer of such separate terms of use as may be required by the UK Medicines Verification System provider at the relevant time);
 - (b) facilitating the installation on the Customer's system of the relevant electronic certification (as provided by the UK Medicines Verification System provider);
 - (c) transmission of the UI data to the NMVS and receipt of information from the NMVS as to the current status of the relevant product(s);
 - (d) FMD scanning feedback will be integrated within ProScript Connect, notifying you of verification and decommissioning errors (together with expiry date checks) as identified by the NMVS; and
 - (e) FMD reporting functionality will be available within ProScript Connect, enabling you to create reports relating to its FMD activities.
- 1.4 The Customer acknowledges that it will still need to undertake a visual inspection of the relevant product(s) to ensure that any tamper proof seals remain intact.

2. Supply and installation of the System

- 2.1 The Supplier shall as soon as reasonably practical after the date the Customer enters into this licence agreement and subject to payment in accordance with paragraph 5, remotely deploy the FMD Module at the Customer site set out at Part 1C, using reasonable skill and care.
- 2.2 Before the Supplier can install the FMD Module, the Customer shall be required to register on the portal register as set out at Part 1D of this FMD Module Agreement. The Customer acknowledges that the deployment and registration requirements may be subject to change at any time.
- 2.3 The Customer agrees to purchase any Maintenance Releases offered by the Supplier in accordance with paragraph 7. The Customer acknowledges that failure to apply the Maintenance Releases may result in deterioration of the FMD Module for which the Supplier shall have no liability.
- 2.4 The Customer acknowledges and agrees that the FMD Module is intended to support, not substitute for, the expertise and professional judgment of pharmacists or other healthcare professionals and that any software, services and data is provided on the basis that the pharmacist will retain responsibility for deciding whether to (and what to) dispense, and for accuracy of endorsements and claims for payment.

3. Supplier Warranties

- 3.1 The Supplier does not give any warranty that:
 - (a) The FMD Module is fit for any purpose other than that for which it is supplied and intended by the Supplier to be used;
 - (b) The FMD Module will achieve any particular performance criteria; or
 - (c) Use of the FMD Module will be uninterrupted and error free.
- 3.2 If a defect occurs within the FMD Module, the Customer shall log a call with the Supplier's service desk. The Supplier shall use reasonable endeavours to assist the Customer but provides no guarantees as to any fix or resolution times.
- 3.3 The Supplier shall provide data back-up services in accordance with its routine back-up processes to Customer using Proscript Connect.
- 3.4 All conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this licence or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

4. Term

This licence shall commence on the installation date and shall remain in effect for a period of 3 months from that date and thereafter automatically for successive 3 month periods unless and until terminated in accordance with the terms of this licence agreement.

5. Charges and Payment

5.1 The Customer shall pay the charge set out at Part 2, together with any supplemental fees agreed in writing from time to time (**Charges**).

5.2 The Charges shall include a one off set up fee for the installation of the FMD Module and a monthly charge for the licence. These costs shall be payable by the Customer monthly with the first payment (which shall include the one off set up fee) payable by the Customer on the first day of the calendar month following installation of the FMD Module. Subsequent payment shall be due each month thereafter.

5.3 The Supplier reserves the right to increase the charges by providing not less than 15 days written notice.

5.4 In the event that any third party licensor increases the fees paid or payable by the Supplier in relation to the FMD Module, the Supplier shall be permitted pass on such increase to the Customer by revising the charging accordingly. The revised charges shall apply on the next 3 month run following notice of the charge increase to the Customer.

6. System Licence

6.1 In consideration of the Charges paid by the Customer to the Supplier, the Supplier grants to the Customer a limited, non-exclusive, non-transferable licence during the term set out at paragraph 4.

6.2 The Supplier 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 Customer.

6.3 The Customer shall:

- (a) Only use the FMD Module for its normal internal business purposes and not of any affiliate or other third party;
- (b) Use the FMD Module in accordance with any user documentation, guides or training (and any other reasonable instructions received from time to time by or on behalf of the Supplier;
- (c) notify the Supplier as soon as it becomes aware of any unauthorized use of the FMD Module by any person or any errors in the FMD Module;
- (d) not and shall not permit any third party to copy, adapt, reverse engineer, decompile, disassemble, reverse assemble, modify, adapt or make error connections to the FMD Module in whole or in part; and
- (e) not use the FMD Module otherwise than as specified in this licence agreement.

6.4 Where the Customer is using any additional third party solutions provided by the Supplier in addition to the FMD Module (such as anti-virus), then such use maybe subject to the relevant third party's end user licence terms which must be accepted.

7. Maintenance

The Supplier will provide the Customer with all Maintenance Releases generally made available to its customers. The Customer shall install all Maintenance Releases as soon as reasonably practicable after receipt, subject to payment of any applicable fees.

8. Customer obligations Fees

8.1 The Customer shall:

- (a) Ensure that it follow its SOP for verifying and decommissioning products;
- (b) Provide the Supplier with such assistance and co-operation in relation to the FMD Module as the Supplier may reasonably require;
- (c) Act in accordance with applicable laws and regulations (including any applicable professional standards, licences and permissions)
- (d) Ensure it has in place the minimum IT environment for it to properly receive the FMD Module;
- (e) Maintain all necessary network connections for it to properly receive and use the FMD Module; and
- (f) Follow good industry practice, including without limitation ensuring that it applies up to date anti-virus and regularly reboots its machines and systems.

- 8.2 The Customer shall not:
- (a) Sub-licence, assign, novate, transfer, sell, lease, rent, charge or otherwise deal or encumber the FMD module or the benefit or burden of this agreement in whole or in part;
 - (b) Allow the FMD Module to become the subject of any change, lien or encumbrance; or
 - (c) Deal in any other manner with any or all of its rights and obligations other than as set out in this agreement without the prior written consent of the Supplier.

9. Limits of liability

- 9.1 Subject to paragraphs 9.2 and 9.4, the total liability of the Supplier to the Customer (or any third party claiming through the Customer) (whether in contract, tort (including without limitation negligence) or otherwise) arising out of or in connection with this licence agreement (including in respect of the FMD Module) shall not exceed in aggregate the amount paid and invoiced and payable by the Customer.
- 9.2 Subject to paragraph 9.4, the Supplier and its licensors shall have no liability to the Customer (or any third party claiming through or under the Customer) under or in connection with this licence agreement (including without limitation the FMD Module) howsoever arising whether in contract, tort (including without limitation negligence) or otherwise for loss or profit, loss of contracts or loss or damage to systems or programs or for special, indirect or consequential loss or damage
- 9.3 The Supplier shall have no liability to the Customer under or in connection with this licence agreement (whether in contract, tort (including without limitation negligence) or otherwise), for any loss or damage to data except where and to the extent the Supplier is obliged to provide data backup services under the licence agreement and fails to do so in accordance with this licence agreement. If any liability arises, the Supplier's liability for such loss or damage to data shall be subject to paragraph 9.2.
- 9.4 The exclusions in this paragraph 9 shall apply to the fullest extent permissible at law, but the Supplier does not exclude liability for:
- (a) death or personal injury caused by the negligence of the Supplier, its officers, employees, contractors or agents;
 - (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 which may not be excluded by law.

10. Intellectual property rights

The Customer acknowledges that all Intellectual Property Rights in the FMD Module and any Maintenance Releases belong and shall belong to the Supplier or the relevant third-party owners (as the case may be), and the Customer shall have no rights in or to the FMD Module other than the right to use it in accordance with the terms of this licence agreement.

11. Termination

- 11.1 Without affecting any other right or remedy available to it, this licence agreement and the right to use the FMD Module or any part thereof may be terminated by the Supplier with immediate effect by giving written notice to the Customer if:
- (a) the Customer fails to pay any amount due under this licence agreement on the due date for payment and remains unpaid for 14 days after being notified in writing to make such payment;
 - (b) the Customer disposes or all or substantially all of its business or assets to any person;
 - (c) there is a change of control of the Customer (where "control" shall have the meaning set out in section 1124 of the Corporation Tax Act 2010);
 - (d) the Licence granted to the Supplier in respect of any part of the FMD Module expires or is terminated for any reason or the agreement between the Supplier and its licensor in relation to the provision of the FMD Module expires or is terminated or notice to terminate such agreement is served.

- 11.2 This licence agreement may be terminated by either party providing not less than 3 month's written notice, such notice to expire at the end of the applicable 3 month run period.
- 11.3 This licence agreement may be terminated by either party on written notice to the other party having immediate effect if the other party:
- (a) Commits a material breach of any other term of this licence agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - (b) being a company presents a petition or has a petition presented for its winding up or convenes a meeting to pass a resolution for voluntary winding up or has an administrative receiver appointed of all or any part of its assets or undertaking or has a petition presented for an administration order to be made in relation to it or calls a meeting or of enters into a composition or arrangement with its creditors or ceases to carry on business; or
 - (c) being an individual, dies or being a partnership or firm, is dissolved or in either case has a bankruptcy petition issued or bankruptcy order made against the other party or negotiates or enters into any composition or arrangement with or assignment for the benefit or creditors of the other party.

12. Effect of Termination

- 12.1 Upon termination of this licence agreement for any whatever reason:
- (a) All rights and licences granted to the Customer regarding the FMD Module shall cease.
 - (b) The Customer shall cease to use the FMD Module.
 - (c) If required by the Supplier, the Customer shall immediately and permanently destroy or return to the Supplier (at the Supplier's option) all copies of the FMD Module then in its possession, custody or control (except to the extent strictly necessary for the Customer to comply with applicable law or record keeping requirements) and certify in writing to the Supplier that it has done so.
 - (d) The Customer shall remain liable for all outstanding Charges that remain unpaid and that were payable before the effective date of termination.
- 12.2 Termination or expiry of this agreement shall not affect 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 or expiry.

13. Force Majeure

Neither party shall be liable for any delay in performing its obligations (other than obligations to pay money), hereunder if such delay is caused by circumstances beyond the reasonable control of the party so delaying and such party shall be entitled to a reasonable extension of time for the performance of such obligations which shall be agreed between the parties.

14. Waive Failure by the Supplier to exercise or enforce any of its rights or remedies under this licence agreement shall not constitute a waiver if any such right or remedy, nor shall it prevent the exercise or enforcement of the right or remedy at any time.

15. Entire agreement

This licence agreement contains the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

16. Variation

No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17. Third-party rights

A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

18. Notices

All notices that are required to be give under this licence agreement shall be in writing and sent to the address of the intended recipient set out in the Order Form. For the purposes of this clause, "writing" shall not include e-mail or fax.

19. Governing law and jurisdiction

This licence agreement and any dispute or claim arising out of or in connection (including non-contractual disputes or claims) shall be subject to the laws of England and Wales and the subject to the exclusive jurisdiction of the English courts.

20. Definitions and Interpretation

20.1 The definitions and rules of interpretation in this clause apply in this licence.

- (a) **Charges:** has the meaning given at paragraph 5.1 of this licence agreement;
- (b) **Maintenance Release:** release of the FMD Module that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.
- (c) **New Version:** any new version of the FMD Module which from time to time is publicly marketed and offered for purchase by the Supplier in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product.