

## I - GENERAL PROVISIONS

The present General Conditions apply in their entirety to any Subscription taken out by a CLIENT to the "BORA CARE" remote monitoring and prevention solution dedicated to chronic respiratory insufficiency and published by BIOSENCY, a simplified joint stock company with a capital of € 507,130, whose registered office is located at 8 bis rue du Pressoir Godier, 35760 Saint-Grégoire FRANCE, registered in the Trade and Companies Register under the number 830 861 860 00013 RCS Rennes FRANCE.

They constitute the essential and determining conditions. Therefore, any order to BIOSENCY implies the unreserved acceptance of the present General Conditions. Any other condition in contradiction with the present General Conditions will only be taken into account if it has been expressly accepted in writing by BIOSENCY.

The fact that BIOSENCY does not avail itself at any time of a prerogative recognized by the present General Conditions shall not be interpreted as a waiver by BIOSENCY of its right to avail itself of the corresponding prerogative at a later date. Each of the stipulations of these General Conditions shall apply to the full extent permitted by law and the nullity of all or part of a clause shall have no influence on the rest of this clause and the General Conditions as a whole.

### 1.1. – DEFINITIONS

Whenever used in the body of these Terms and Conditions, the terms below shall have the following meaning:

#### **Subscription(s) :**

Any subscription(s) to the BORA CARE Solution taken out by the CLIENT from BIOSENCY. There is one Subscription per BORA BAND. The Subscription is concluded for the duration fixed in the Special Conditions. The Subscription includes the provision of Materials and Accessories listed in the Special Conditions.

#### **Accessories :**

The accessories of the BORA BAND Wristband that comply with the standards in force allowing its attachment and power supply.

#### **Administrator(s) :**

Any employee authorized by the CLIENT to create and manage on behalf of the latter Patient Accounts and Employee Accounts.

#### **Wristband(s) " BORA BAND " :**

Medical device for remote monitoring and prevention in ambulatory dedicated to chronic respiratory insufficiency published by the company BIOSENCY.

#### **CLIENT :**

Any legal person(s) or professional(s) authorized by the Public Health Code to ensure the remote monitoring of Patients in accordance with the purpose of the BORA CARE Solution, such as in particular home healthcare providers (PSAD), health establishments (hospitals, clinics, dispensaries), nursing homes, liberal health professionals, or any other health or medico-social structure, having subscribed to a Subscription from BIOSENCY with a view to making the BORA CARE Solution available to Patients.

#### **Collaborator :**

Any natural person(s) in charge of the remote monitoring of Patients on behalf of the CLIENT.

#### **Administrator Account(s) :**

Any account assigned to an Administrator for the purpose of managing Patient and Collaborator Accounts.

#### **Healthcare Professional(s) Account(s) :**

Any account assigned to a Healthcare Professional, in order to allow him/her to use the BORA CARE Solution, i.e. the read-only consultation of data generated within the framework of the remote monitoring provided by the CLIENT.

#### **Patient Account(s) :**

Any account assigned to a Patient, in order to allow him to use the BORA CARE Solution.

#### **Employee Account(s) :**

Any account assigned to an Employee for the purpose of enabling the Employee to use the BORA CARE Solution.

#### **Subscription Agreement :**

A contractual package consisting of the Special Terms and Conditions and these General Terms and Conditions of Subscription and its annexes. A Subscription Contract covers the number of Subscriptions taken out as indicated in the Special Conditions.

#### **General Subscription Conditions :**

The present General Subscription Conditions and its appendix "Quality Assurance Contract" which forms an integral part thereof.

#### **Special Conditions :**

Document consisting of the quotation or any other document agreed and signed by the Parties specifying in particular the number of Subscriptions taken out, the Services and Equipment made available, the duration of the Subscriptions, the method and due date of payment, the delivery conditions and rates and any other special conditions agreed. The Special Conditions take precedence over the General Subscription Conditions.

#### **Quality Assurance Contract :**

The document entitled "Quality Assurance Contract" constitutes an appendix to these General Subscription Conditions.

#### **Material(s) :**

Any medical device(s), Accessory(ies) and equipment associated with the BORA CARE Solution, described in the Subscription Agreement.

#### **Party(ies) :**

BIOSENCY and the CLIENT.

#### **Patient(s) :**

Any patient(s) of the CLIENT to whom the CLIENT provides the BORA CARE Solution for a specific period of time.

#### **Platform / "BORA CONNECT" Platform :**

Medical device corresponding to a web platform in SaaS mode accessible at the address <https://bora-connect.com>, from a computer or from a mobile application by Users with an Account.

#### **Healthcare Professional(s) :**

Any healthcare professional(s) who participates in the care of a Patient, who does not himself carry out the remote monitoring of the Patient but who is entitled to consult in read-only mode via a Healthcare Professional Account the data generated in the context of the remote monitoring provided by the CLIENT.

#### **Services / Associated Service(s) :**

BIOSENCY service(s) associated with the BORA CARE Solution, including (i) training of the CLIENT in the use of the

Platform, (ii) provision of an e-learning training tool, (iii) CLIENT support to respond to the CLIENT's requests (telephone and e-mail), (iv) updating of the BORA BAND software and the Platform and (v) maintenance of the Hardware provided.

#### **Solution / "BORA CARE" Solution :**

The remote monitoring and prevention solution dedicated to chronic respiratory insufficiency and published by BIOSENCY under the name "BORA", described in the user manual, including: a Hardware Kit composed of the Hardware and Accessories made available as well as access and usage rights relating to the BORA CONNECT Platform.

#### **User(s) :**

Any Patient(s), Collaborator(s) and Healthcare Professional(s).

### **1.2 - SUBSCRIPTION CONTRACT TERMS AND CONDITIONS**

1.2.1. All Subscription Contracts must be subscribed to BIOSENCY and materialized by the acceptance of the quotation specifying in particular the number of Subscriptions, the Accessories and the Materials made available, the Services and their price as well as the price and the delivery terms.

1.2.2. Acceptance of the quotation and General Terms and Conditions of Subscription constitutes agreement and signature of the Subscription Contract. No Subscription Contract may be modified or cancelled without the consent of BIOSENCY.

1.2.3. The General Terms and Conditions of Use of the BORA CONNECT Platform must be accepted by the CLIENT at the first connection to the Platform. In the absence of acceptance of the General Terms of Use, the BORA CARE Solution cannot be activated.

1.2.4. The CLIENT undertakes to bring the Quality Assurance Agreement to the attention of the duly authorized regulatory authority.

1.2.5. The Subscription Contract is personal to the CLIENT and cannot be transferred to a third party without the agreement of BIOSENCY.

1.2.6. BIOSENCY reserves the right to refuse any Subscription request and any order from a CLIENT with whom there is a dispute regarding the payment of a previous invoice.

1.2.7. Any modification of a Subscription Contract must be accepted in writing by BIOSENCY.

1.2.8. Only the Services and deliverables explicitly defined and described in the Subscription Contract are included in the agreed price.

### **1.3. – EXECUTION AND DELIVERY TIME**

BIOSENCY will execute the Services and deliverables within the timeframe set forth in the Special Conditions of the Subscription Contract. In any case, the CLIENT may not protest against any delay in execution if it is not up to date with its obligations towards BIOSENCY, notably in terms of payment, or if BIOSENCY has not been in possession of the information necessary for the execution of its corresponding services in due time.

### **1.4. - DURATION OF SUBSCRIPTION-CONTRACTS--RENEWAL - TERMINATION**

1.4.1. The choice of the duration of the Subscription Agreement is indicated in the Special Conditions. The term starts from the date of delivery of the BORA CARE Solution, including the provision of access codes to the Administrator Account(s).

1.4.2 In case of non-performance by the CLIENT of any of its obligations, the Subscription Contract may be immediately and automatically suspended and/or terminated by BIOSENCY after a formal notice notified by any means in writing and remaining unsuccessful for a period of fifteen (15) days.

1.4.3. In the two cases referred to in 1.4.1. and 1.4.2., the CLIENT's rights of use of the BORA CARE Solution shall automatically and immediately terminate on the date of termination of the Subscription Contract.

1.4.4. It is the responsibility of the CLIENT to anticipate in due time, before the end of the Subscription Contract, in order to (i) propose an alternative monitoring solution to the Patients, (ii) ensure the recovery of the Patients' BORA BAND Wristbands and their return to BIOSENCY, and (iii) inform the Healthcare Professionals in charge of the Patients and (iv) ensure that the data required for the continuity of the monitoring of the Patients will have been downloaded from the Platform by the CLIENT. BIOSENCY shall not be held responsible for the CLIENT's lack of anticipation and for the lack of alternative follow-up proposed to the Patients by the CLIENT.

### **1.5. - FINANCIAL –ONDITIONS - TERMS –F PAYMENT - LATE PAYMENT**

1.5.1. The total amount corresponding to the price of the BORA CARE Solution, including the provision of the Wristbands, Materials, Accessories and Services provided for in the Subscription Agreement is payable in advance for the entire duration of the Subscription Agreement on the date of its signature.

1.5.2. Subscriptions, Services, Accessories and Equipment are invoiced at the rates indicated in the Special Conditions. Unless otherwise stipulated, invoices are payable on receipt.

1.5.3. Any granting of payment terms is subject to a prior financial analysis of the CLIENT's situation. No discount is granted for early payment.

1.5.4. In the event of late payment, late payment penalties will be applied by operation of law and calculated from the due date until the day of actual payment at a rate equal to the interest rate applied by the European Central Bank plus ten (10) percentage points under the conditions specified in Article L441-10 of the French Commercial Code. BIOSENCY reserves the right to automatically apply a fixed penalty of forty (40) EUROS per unpaid invoice on its due date, without prejudice to any additional compensation for collection costs upon justification.

1.5.5. Furthermore, BIOSENCY may suspend the execution of its Services and/or deliveries, or even cancel them, until full payment of the sums due to it, without this being considered as a cancellation and without prejudice to the application of penalties, or any other damages, without the CLIENT being able to claim any compensation.

1.5.6. The CLIENT shall reimburse all costs incurred by the failure to pay on the due date resulting in the return of bills of exchange, unpaid cheques, and the recovery of sums due, including the fees of legal officers and auxiliaries of justice.

## **1.6 - BIOSENCY'S COMMITMENTS**

1.6.1. BIOSENCY undertakes to perform its obligations with all the care customary in its profession and to comply with the rules of art in force. However, subject to any imperative legal provision to the contrary, it is expressly specified that BIOSENCY will only be bound by an obligation of means and not of result.

1.6.2. BIOSENCY may freely subcontract all or part of the execution of its interventions after having obtained the prior approval of the CL-ENT.

## **1.7 - RESPONSIBILITIES, GUARANTEES AND EXCLUSIONS**

1.7.1. BIOSENCY guarantees as manufacturer the conformity of the BORA BAND Wristbands and the BORA CONNECT Platform, as medical devices, to the applicable French and European regulations and standards in force.

1.7.2. The BORA CARE Solution has been designed to comply with the regulations applicable in France, including the European regulations applicable in France. If the BORA CARE Solution is to be made available and used outside the French territory, it is the CLIENT's responsibility to ensure in advance that the local regulations and standards allow this.

1.7.3. The BORA CARE Solution must be used in accordance with the instructions for use provided by BIOSENCY, for the purpose specified in the instructions. BIOSENCY shall not be liable for any use that does not comply with the instructions for use. In particular, as indicated in the instructions for use, the BORA CARE Solution must not be used for continuous monitoring: the BORA BAND Wristband is intended to record physiological parameters (SpO<sub>2</sub>, respiratory rate, heart rate, skin temperature as well as the number of steps and activity) in a periodic manner and no alarm is provided to allow continuous monitoring. The BORA CARE Solution is not suitable for emergency or intensive care units.

1.7.4. In any event, the CLIENT uses and makes available the BORA CARE Solution under its sole direction, control and responsibility.

1.7.5. In particular, BIOSENCY shall not be held liable for any damage resulting from :

✓ a non-performance or poor performance by the SERVICE SUPPLIER of the obligations incumbent on him under these General Terms and Conditions and the Specific Terms and Conditions of the Subscription Contract;

✓ a use that does not comply with the instructions for use of all or part of the BORA CARE Solution by the PROVIDER ;

✓ a malfunction of all or part of the BORA CARE Solution which:

o is caused by modifications made to all or part of the components of the BORA CARE Solution, by the PROVIDER or any third party not authorized by BIOSENCY ;

o is not attributable to the BORA CARE Solution.

1.7.6. BIOSENCY shall furthermore not be held liable for:

✓ damage caused to goods distinct from the BORA CARE Solution;

✓ the adequacy of the BORA CARE Solution to the needs of the CLIENT and the Patients and/or the Healthcare Professionals (which is indeed a matter for the latter to assess);

✓ any contamination by a virus of the CLIENT's and/or Patients' and/or Healthcare Professionals' files and the possible harmful consequences of such contamination.

1.7.7. BIOSENCY will not be liable for unforeseeable damages, nor for indirect and/or immaterial damages such as, in particular, loss of earnings, financial damages, commercial damages, loss of clientele, loss of orders, moral or private damages, consecutive to its interventions and services.

1.7.8. Subscriptions do not imply any participation of BIOSENCY in any act pertaining to the CLIENT's activity, BIOSENCY intervening only as a technological third party. BIOSENCY cannot be held responsible for any act related to the activity of the CLIENT and the Health Professionals.

1.7.9. BIOSENCY's responsibility cannot be engaged in the event of force majeure as defined herein.

## **1.8. - OBLIGATIONS OF THE CLIENT**

1.8.1. The CLIENT who makes the BORA CARE Solution available on the market, up to the stage of its commissioning, within the meaning of Regulation (EU) No. 2017/745, is a distributor within the meaning of the same Regulation. In such a case, the CLIENT therefore undertakes to comply with the obligations placed on distributors of medical devices, in particular the obligations referred to in Article 14 of Regulation (EU) 2017/745, in particular traceability, market surveillance and information to the competent authorities.

The CLIENT also undertakes to comply with the provisions of the Public Health Code regarding medical devices.

The CLIENT also undertakes to comply with the obligations set out in the Quality Assurance Contract, the signature of which between the Parties is an essential and determining condition for the supply of the BORA CARE Solution.

1.8.2. The CLIENT shall comply with the General Terms and Conditions of Use of the BORA CONNECT Platform in order to be able to use it and make it available to Employees, Patients and Healthcare Professionals.

1.8.3. The CLIENT undertakes to collaborate with BIOSENCY and to communicate to it the information and/or documents necessary for the execution of the Subscription Contracts.

## **1.9. - FORCE MAJEURE**

The following are considered as cases of force majeure with regard to BIOSENCY's obligations: events of force majeure as defined by article 1218 of the Civil Code and more broadly cases of war, epidemics, pandemics, explosions, acts of vandalism, riots, popular movements, acts of terrorism, machine breakdown, fire, storms, water damage, total or partial strikes, acts of government, legislative or regulatory provisions, blockages and failures of the means of transport or supply of the telecommunications networks, blockages and failures of the computer networks (including the switched networks of the telecommunications operators), failures of the public electricity distribution network, loss of Internet connectivity, which would be of such a nature as to delay or prevent the execution of BIOSENCY's commitments.

## **1.10. - INTELLECTUAL PROPERTY**

1.10.1. The BORA CARE Solution, including the BORA BAND Wristbands and the Platform, as well as the Accessories and Materials and Services, are protected by intellectual property rights of BIOSENCY.

1.10.2. The General Terms of Subscription, the General Terms of Use and the Subscription Contract have neither the purpose nor the effect of conferring intellectual property rights of BIOSENCY, of any nature whatsoever (in particular patents, trademarks, copyrights, drawings and models, notably relating to inventions that may or may not be patented, knowledge, know-how, logos, etc.), to the CLIENT.

1.10.3. The CLIENT is not authorized to file patent applications or claim other intellectual property rights on the basis of the information communicated by BIOSENCY in execution of the Subscription Contract.

1.10.4. The CLIENT is not authorized to use the intellectual property rights of BIOSENCY other than what is expressly provided for in the General Subscription Conditions and the General Conditions of Use. The CLIENT is forbidden to do anything that may infringe upon this property right.

## **1-11. - APPLICABLE LAW - JURISDICTION**

These General Terms and Conditions and the Subscription Contracts are governed by French law. In the event of a dispute, unless otherwise provided for by applicable public policy, any dispute relating to these General Terms and Conditions, as well as to the Subscription Contracts, SHALL BE UNDER THE SOLE JURISDICTION OF THE COMMERCIAL COURT (FRANCE) OF THE REGION OF THE HEADQUARTERS OF BIOSENCY, EVEN IN THE EVENT OF A REFERRAL, AN APPEAL FOR GUARANTEE, AN INCIDENTAL CLAIM OR A MULTIPLE DEFENDANT.

## **II - CONDITIONS SPECIFIC TO THE PROVISION OF WRISTBANDS BORA BAND, ACCESSORIES AND EQUIPMENT**

The terms and conditions for the provision of BORA BAND Wristbands, Accessories and Equipment are set out in the Special Conditions.

### **2.1. - ACCEPTANCE - REPORT**

2.1.1. The quality and condition of the BORA BAND Wristbands, Accessories and Equipment (external and operational condition, absence of defects, number...) must be verified by the CLIENT upon receipt, in the presence of the carrier if applicable.

2.1.2. Any reservation or dispute regarding the conformity of the BORA BAND Wristbands, Accessories and Materials must be noted on the delivery slip and confirmed to the carrier under the conditions of Article L133-3 of the French Commercial Code, as well as to BIOSENCY, by registered letter with acknowledgement of receipt sent within three (3) days (not including holidays) following the delivery of the BORA BAND Wristbands, Accessories and Materials. By the effect of this receipt, BIOSENCY shall be discharged from all apparent defects.

### **2.2. - OWNERSHIP**

2.2.1. The rental of BORA BAND Wristbands, Accessories and Materials to the CLIENT does not confer upon the CLIENT any right of ownership over them. The CLIENT shall not sell, pledge or hypothecate the BORA BAND Wristbands, Accessories and Materials provided to him/her, nor shall he/she grant or allow the

acquisition of any rights over them.

2.2.2. If a third party should claim rights to the BORA BAND Wristbands, Accessories and Materials, in particular by way of seizure, the CLIENT shall oppose this and immediately notify BIOSENCY. The CLIENT shall allow BIOSENCY and its agents to inspect the rented BORA BAND Wristbands, Accessories and Materials as often as it pleases.

### **2.3 - USE OF BORA BAND WRISTBANDS, ACCESSORIES AND MATERIALS**

The CLIENT agrees to use the BORA BAND Wristbands, Accessories and Materials in accordance with their normal purpose, as well as with the regulations in force, respecting in particular the instructions and advice given by BIOSENCY, as well as the corresponding user and maintenance manual. The CLIENT shall refrain from making any modification or transformation, however minor, to the BORA BAND Wristbands, Accessories and Materials.

### **2.4. - WARRANTY - MAINTENANCE - REPAIRS**

2.4.1. In accordance with the provisions of the Quality Assurance Contract, the CLIENT shall inform BIOSENCY, by any appropriate means and in a timely manner, of any damage, breakdown or significant malfunction and, if necessary, shall suspend the use of the BORA BAND Wristbands, Accessories and Materials until their repair. The CLIENT shall describe, in as much detail as possible, the conditions under which the failure occurred and its consequences.

2.4.2. Warranty for BORA BAND Wristbands: BIOSENCY offers the CLIENT a warranty to repair or replace free of charge any BORA BAND Wristband that proves to be defective. This warranty is the sole and exclusive remedy available to the CLIENT for any BORA BAND Wristband delivered to the CLIENT and found to be defective, whether such remedies are provided in contract, tort or at law.

2.4.3. This warranty does not include the cost of sending the Hardware or Accessory to be repaired or replaced to BIOSENCY. The return shipment of the replacement Hardware or Accessory is at the expense of BIOSENCY. BIOSENCY reserves the right to invoice a request for repair under warranty for a Hardware or Accessory that proves to be defective.

2.4.4. The BORA BAND Wristband is an electronic precision instrument that should only be repaired by competent and specially trained BIOSENCY personnel. Therefore, any sign or evidence of opening of the BORA BAND Wristband, repair by persons other than BIOSENCY, as well as any alteration or misuse of the BORA BAND Wristband will void the warranty in its entirety.

2.4.5. All non-warranty work shall be performed according to BIOSENCY's standard rates in effect at the time of delivery.

2.4.6. The stated warranties are exclusive and no other warranties, whether statutory, written, oral or implied, shall apply.

2.4.7. Repair of Accessories and Materials: BIOSENCY alone may carry out, or have carried out by a third party, the necessary repairs on the Accessories and Materials.

2.4.8. BIOSENCY shall be responsible for the maintenance of

the Accessories and Equipment when it is due to a hidden defect or to normal wear and tear under the conditions of use provided for in the user manual.

## **2.5. - TRANSFER OF RISKS –DISAPPEARANCE - DESTRUCTION - RETURN**

2.5.1. The CLIENT alone shall bear the risks that the BORA BAND Wristbands, Accessories and Materials may undergo or cause, from the time of delivery until their complete return.

2.5.2 In case of disappearance or destruction of all or part of the BORA BAND Wristbands, Accessories and Materials, in particular in case of theft, even for reasons of force majeure, the corresponding BORA BAND Wristbands, Accessories and Materials will be invoiced in case of replacement or in case of failure to return them by BIOSENCY on the basis of its current rates.

2.5.3. Upon termination of the Subscription Contract for any reason whatsoever, the CLIENT shall return the BORA BAND Wristbands, Accessories and Materials on the date and at the location agreed upon with BIOSENCY, in good working order taking into account normal wear and tear and cleaned in accordance with the user manual.

2.5.4. The BORA BAND Wristbands, Accessories and Materials shall be deemed "returned" upon their complete return and after signature by BIOSENCY and the CLIENT of a return note noting the condition of the BORA BAND Wristbands, Accessories and Materials and the necessary repairs. The costs incurred by a possible repair of the BORA BAND Wristbands, Accessories and Materials shall be borne by the CLIENT, excluding normal wear and tear.

## **III - CONDITIONS SPECIFIC TO THE PROVISION OF THE BORA CONNECT PLATFORM**

### **3.1 - TERMS AND CONDITIONS FOR MAKING THE PLATFORM AVAILABLE**

#### **3.1.1. Pre-requisites :**

To be able to use the BORA CONNECT Platform, the CLIENT, the Patients and the Healthcare Professionals must have at their own expense, an Internet access subscription and ensure that the configuration of their computer equipment is suitable and compatible.

The CLIENT is personally responsible for setting up the IT and telecommunications resources needed to access the Platform. The SERVICE SUPPLIER retains the telecommunication costs for accessing the Internet and using the Platform.

The use of the BORA CARE Solution by the Users, i.e. the Patient, the Collaborators, the Healthcare Professionals, requires the acceptance by the latter of the General Conditions of Use and the knowledge by the latter of the Personal Data Protection Policy of the BORA CARE Solution.

These documents will be brought to their attention when they first connect to the Platform. In the event that the User does not accept the General Terms and Conditions of Use and/or objects to the Privacy Policy of the BORA CARE Solution, the BORA CARE Solution may not be used by such Users.

#### **3.1.2. Extent of the provision of the Platform:**

For any Subscription to the BORA CARE Solution, the

provision of the Platform includes, under the conditions described in these General Terms and Conditions: the Associated Services, the rights to use the Platform under the conditions of the Subscription Contract and the General Terms and Conditions of Use, the updating of the Platform, the hosting of the data.

#### **3.1.3. Access codes:**

Once the Subscription Contract is concluded by the CLIENT, BIOSENCY will communicate to the CLIENT an identifier for the designated Administrator, whose email address and mobile phone number will have been provided to BIOSENCY. This identifier will allow the Administrator, under his responsibility, to create the required Collaborator and Patient accounts.

The CLIENT will be solely responsible for the use of the Administrator Accounts and Collaborator Accounts thus created.

The CLIENT undertakes to ensure that the provisions of these Terms and Conditions are respected by all his Collaborators. The Collaborators must accept the General Conditions of Use to use the Platform.

The CLIENT will immediately inform BIOSENCY of any fraudulent use of an account of which it is aware.

#### **3.1.4. Access to the Platform:**

The Platform and its services are accessible 24 hours a day and 7 days a week, subject to suspensions due to breakdowns, failures or paralysis of the network, the system and/or the means of communication, as well as maintenance and correction interventions required for the updating and proper functioning of the Platform.

#### **3.1.5. Reversibility:**

BIOSENCY undertakes to ensure the reversibility of the data uploaded to the Platform by the CLIENT, the Administrators, the Collaborators and the Patients in a usable format.

#### **3.1.6. Support function:**

BIOSENCY will carry out curative maintenance operations (diagnosis of defects and correction of incidents, programs and applications).

The CLIENT shall notify BIOSENCY by any appropriate means of the existence of anomalies that occurred as a result of its use or that of a Patient and/or Health Professional. The CLIENT will describe, with as much precision as possible, the conditions in which the failure occurred and its consequences. Maintenance will apply only to reproducible incidents.

BIOSENCY will receive the incident reports, recording the date and time of the call. BIOSENCY will carry out an analysis of the incident, following a procedure of questioning the CLIENT. Depending on the information received and the details it contains, BIOSENCY may at its discretion:

- either give the CLIENT, by telephone, a solution likely to remedy the incident ;
- or intervene remotely to carry out a reproduction test to analyze the incident ;
- or decide on any other solution that it deems appropriate to the circumstances.

BIOSENCY will endeavor to restore the Platform to working order as soon as possible. If the incident is not resolved within five (5) working days from the receipt of the CLIENT's call, BIOSENCY shall implement a replacement solution that allows it to ensure the vital functions of the Platform, for t–e time necessary to resolve the incident.

### **3.2 - SCOPE OF THE RIGHTS OF USE GRANTED**

3.2.1. For each Subscription Contract, BIOSENCY grants CLIENT the non-exclusive right to use the Platform, (i) for the sole purpose of providing the BORA CARE Solution to Patients and their remote monitoring, free of charge or for a fee, in accordance with the user manual and (ii) for the duration of the Subscription Contract.

3.2.2. Unless otherwise agreed in writing by BIOSENCY, the CLIENT and the Collaborators shall use the Platform in accordance with the General Terms and Conditions of Use of the BORA CARE Solution, which shall be accepted at the first connection to the Platform.

3.2.3. Unless otherwise agreed in writing by BIOSENCY, the SERVICE SUPPLIER shall refrain from any type of use not expressly authorized by the present General Terms and Conditions.

3.2.4. The CLIENT, the Collaborators as well as the Patients and/or Health Professionals are solely and entirely responsible for the content that they post, emit, upload and/or transmit, by electronic mail or in any other way, on the Platform, and BIOSENCY cannot be held liable for this.

3.2.5. The CLIENT undertakes to ensure the respect of the present General Conditions by all its personnel, Administrators and Collaborators.

3.2.6. In the event that the CLIENT fails to fulfil any of its obligations under the Subscription Contract, its rights to use the Platform may be suspended and/or terminated, under the conditions set out in these General Conditions.

## **IV - DATA PROTECTION**

BIOSENCY and the CLIENT undertake to respect their respective obligations under the regulations applicable in France relating to the protection of personal data and in particular the provisions of the European Regulation (EU) 2016/679 of the 27<sup>th</sup> of April 2016, GDPR ("RGPD") and of Law n°78-17 of the 6<sup>th</sup> of January 1978 as amended (loi Informatique et Libertés). Each Party warrants to the other Party that it complies with this regulation and that it takes, inter alia, appropriate technical and organizational measures to preserve the integrity, availability and confidentiality of personal data, as well as to protect them against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to personal data transmitted, stored or otherwise processed in order to ensure, taking into account the state of the art, a level of security and confidentiality appropriate to the risks represented by the processing and the nature of the personal data processed.

For the purposes of this section on the protection of personal data, the definitions of "personal data" and "controller" are those defined in Article 4 of the GDPR.

In the context of the performance of the Subscription Agreement, each Party may collect and process the personal data of the other Party's employees, and/or any other person

relevant to the performance of this Agreement.

Each Party acknowledges that it is acting as a data controller with respect to the collection and processing of such personal data in the context of the Subscription Agreement for the part that concerns it. Each Party undertakes to comply with all the requirements imposed on a data controller by the provisions of the regulations on the protection of personal data.

BIOSENCY is the controller for the processing of personal data relating to the Employees, for the following purposes and on the following legal bases :

- 1) For the purposes of the execution of the Subscription Contract and on the basis of the legal obligations to which BIOSENCY is subject when pursuing the following purposes:
  - the production, management and follow-up of the SERVICE SUPPLIERS' files;
  - the management and follow-up of the Platform allowing the delivery of the remote monitoring service, including the creation of CLIENT Account Administrator accounts and technical support, as well as the allocation of BORA BAND Wristbands;
  - the management and follow-up of the training delivered on site and of the e-learning for the SERVICE SUPPLIERS and their Collaborators;
  - for the purposes of material vigilance, monitoring and traceability which are its responsibility according to the regulations applicable to medical devices;
  - collection ;
  - invoicing;
  - accounting and reporting;
  - where applicable, the management of disputes.
- 2) On the basis of BIOSENCY's legitimate interest in developing and maintaining its relationship with Clients and prospects when pursuing the following purposes:
  - commercial prospecting and animation ;
  - management of the commercial relationship with Clients;
  - management of the relationship with its prospects;
  - organization, registration and invitation to BIOSENCY events.

BIOSENCY is also responsible for the processing of personal data relating to Patients, for the purposes of the administration and operation of the Platform and the provision of maintenance and hosting services for the Platform. The hosting of the data is entrusted to a certified health data host, the company COREYE in application of the provisions of article L1111-8 of the Public Health Code.

Access to personal data collected and processed by BIOSENCY is reserved to authorized persons of BIOSENCY.

Moreover, these personal data are also accessible to BIOSENCY's IT service providers in charge of the authentication and identity management service for users, the email sending solution for sending business information from the platform, and the SMS sending service used for double authentication purposes.

BIOSENCY only keeps the personal data it processes for the time necessary for the operations for which they were collected and in compliance with the regulations in force.

In this respect, the personal data of the Collaborators are kept for the duration of the contractual relationship plus five (5) years, without prejudice to the conservation obligations or prescription periods.

As regards accounting, it is kept for ten (10) years from the end of the accounting period.

The personal data of prospects collected for the purposes of animation and prospection are kept for a period of three (3) years if no participation or registration to BIOSENCY events has taken place.

BIOSENCY reserves the right to process the personal data of Patients, as data controller, for the purpose of health research, in particular to develop an artificial intelligence algorithm, under the conditions provided for by the GDPR and the Data Protection Act, subject to the information of the persons concerned and their consent when required.

**The CLIENT is responsible for the processing of personal data relating to its Employees, for whom it opens an account on the Platform, and for the processing of personal data relating to Patients, who are subject to remote monitoring via the BORA CARE Solution.**

**It is the CLIENT's responsibility, in the context of the monitoring of Patients, to ensure compliance with the rules governing the exchange and sharing of Patient data between the health professionals in charge of their monitoring, within the meaning and conditions of Article L1110-4 of the Public Health Code.**

The Parties undertake to comply with this Article IV throughout the duration of the Subscription Contract and beyond when the obligations set out in this Article survive the end of this Contract in application of the provisions of the regulations relating to the protection of personal data and, among others, the obligations relating to the security and confidentiality of personal data.

For information purposes, BIOSENCY provides a web page describing the security measures of the Platform for the users of the BORA CARE Solution:  
<https://doc.bora-connect.com/>

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