

Terms of business (UK)

1 Scope and interpretation

- 1.1 This Agreement is made between Leatherhead Research Limited (company number 9528674) whose registered office is at Harston Mill, Harston, Cambridge, CB22 7GG, UK ("Leatherhead") and the person, company or organisation ("Client") specified in the proposal attached to these Terms ("Proposal").
- 1.2 These Terms and the Proposal collectively comprise the "Agreement". If there is any conflict or ambiguity between these Terms and the Proposal, the Proposal shall take precedence. No terms and conditions referred to or set out in any purchase order, confirmation of order, specification or other document provided by the Client shall form part of this Agreement or apply to the provision of the Services.
- 1.3 In these terms of business:
 - i) "Business Days" are Monday to Friday excluding public holidays in England;
 - ii) "Deliverables" means all deliverables and other results of the Services (whether tangible, intangible, verbal or written) including, but not limited to, samples, substances, prototypes, products, equipment, materials, conclusions, advice, forecasts, recommendations, reports, letters and other items or communications provided and/or made available by Leatherhead to the Client as part of the Services;
 - iii) "Fees" means Leatherhead's professional fees for the provision of the Services;
 - iv) "Group Company" means a company which controls, is controlled by or is under common control with the relevant party to this Agreement;
 - v) "IP" means patents, utility models, rights in inventions, conceptual solutions, discoveries and improvements, copyright, rights in computer software, typographical rights, registered designs, design rights, semiconductor chip topography rights, database rights, registered and unregistered trademarks, and any other industrial or intellectual property right subsisting in any country in the world and including applications and the right to apply for any of the same in any country in the world; and
 - vi) "Services" means the relevant services described in the Proposal.

2 Performance of Services

- 2.1 Leatherhead shall perform the Services in good faith using reasonable care and skill. However, due to the nature of the work involved, Leatherhead cannot guarantee specific outcomes or results when undertaking the Services.
- 2.2 Leatherhead's services often consider subjective and complex areas of science, regulation, consumer opinion and general advice where literal translations between languages fail to articulate the required sentiment, or the subject matter itself is controversial and open to interpretation. As a consequence of this, where the Services and/or the Deliverables include the provision of any language translations, Leatherhead will use reasonable endeavours to provide an accurate translation but cannot guarantee this and accepts no liability for any errors, omissions or ambiguities in any translations provided.
- 2.3 Leatherhead does not represent itself as a supplier of those services usually provided by lawyers, insurance brokers and other professional advisors and the Client acknowledges that the Services and/or the Deliverables shall not constitute such services.
- 2.4 The Client agrees to indemnify Leatherhead and its Group Companies for all costs and expenses incurred in the event that Leatherhead and/or its Group Companies are compelled by law, regulation, court order or similar directive to provide information, evidence or have other involvement in any dispute, investigation or enquiry involving the Client or its Group Companies.
- 2.5 Leatherhead does not provide, and the Deliverables, will not constitute, financial or investment advice. Nor is Leatherhead authorised to provide financial or investment advice under any regulatory body in the United Kingdom, the USA or the rest of the world. All findings and recommendations will therefore always be technical in nature only and should not be used by the Client as the final arbiter in determining whether it should enter into a contractual relationship with, or invest in, a third party. All decisions of this nature are the Client's alone and it should consult its own financial, legal

and/or tax advisors (as appropriate) in determining whether to invest in or contract with a third party.

- 2.6 The performance of the Services is subject to any assumptions referred to in the Proposal. Leatherhead shall not be liable for any failure to perform the Services in accordance with the Proposal or any additional work required resulting from the inaccuracy or non-fulfilment of such assumptions.

3 Personnel

- 3.1 Leatherhead may sub-contract the performance of parts of the Services to its Group Companies and other third parties as Leatherhead deems necessary. Leatherhead will be responsible for the performance of the Services by such third parties.

4 Timescales

- 4.1 Leatherhead shall use reasonable endeavours to meet any timescales set out in the Proposal or provided subsequently in the course of the Services. However, the Client acknowledges that all such timescales are estimates and not guaranteed.

5 Client Obligations

- 5.1 The Client warrants that:
 - i) the Client's staff (and others over whom the Client may have control) shall fully co-operate with Leatherhead;
 - ii) information supplied by the Client will be accurate and complete, and
 - iii) the Client has the authority to commission the Services and to enter into this Agreement.
- 5.2 If the Client, or anyone acting on the Client's behalf, provides to Leatherhead any samples, products, prototypes, equipment, materials, substances or other items ("Input Materials") in connection with the Services, the Client shall comply with Leatherhead's reasonable health and safety requirements in respect of the same including but not limited to providing any applicable documentation required by Leatherhead.

6 Fees and payment

- 6.1 The Client shall pay to Leatherhead all Fees, expenses and other charges set out in or calculated in accordance with this Agreement. All such sums are exclusive of any applicable VAT, sales and similar taxes.
- 6.2 Unless otherwise specified in the Proposal, Fees, expenses and other charges shall be invoiced monthly in arrears and the Client shall pay the same within 30 days of the date of the invoice. Project materials and travel and subsistence expenses shall be charged to the Client at cost plus 12.5%.
- 6.3 Unless otherwise specified in the Proposal, all Fees, expenses and other charges specified in the Proposal are estimates and the Client will be charged the actual sums incurred on a time and materials basis.
- 6.4 Without prejudice to any other right or remedy Leatherhead may have, if the Client fails to pay any sums due under this Agreement by the relevant due date, Leatherhead reserves the right to suspend the performance of the Services until such time as payment of such sums is received in full and to charge interest on the outstanding amount (both before and after any judgement) at the rate of 4% per annum above the base rate from time to time of the Bank of England. Such interest shall accrue on a daily basis from the due date until the outstanding amount is paid in full. Leatherhead also reserves its rights under the Late Payment of Commercial Debts (Interest) Act 1998.
- 6.5 If any deduction or withholding is required by law in relation to any payments due under this Agreement, the Client will gross up the payment such that after deduction or withholding of the appropriate amount Leatherhead receives the full amount of the invoice. Without prejudice to its other rights, the Client shall make all payments under this Agreement free of set off or counterclaim.
- 6.6 Leatherhead reviews its Fee rates annually. Unless otherwise specified in the Proposal, any Fee rates specified in the Proposal shall be deemed to be varied accordingly with effect from 1 January of the following year.

7 Confidentiality

- 7.1 In this Agreement "Confidential Information" means the proprietary or confidential information of a party, its Group Companies or a third party which is disclosed by the relevant party ("Disclosing Party") or its Group Companies to the other party ("Receiving Party") or its

- Group Companies in connection with this Agreement but excluding any information which the Receiving Party can show:
- i) was in the public domain at the time of disclosure or was subsequently published or made available to the public generally otherwise than through a breach of confidentiality owed to the Disclosing Party or its Group Companies;
 - ii) was at the time of disclosure already known to or in the possession of the Receiving Party or its Group Companies free from any obligation of confidence;
 - iii) is subsequently received by the Receiving Party or its Group Companies from a third party who does not owe any duty of confidence to the Disclosing Party or its Group Companies; or
 - iv) was subsequently independently developed by the Receiving Party's employees, agents or sub-contractors or those of its Group Companies without use of the Disclosing Party's Confidential information
- 7.2 The Receiving Party shall, for a period of 2 years from the date of disclosure, treat the Disclosing Party's Confidential Information as confidential and, in particular, shall not, without the specific prior written consent of the Disclosing Party:
- i) use or copy any of the Disclosing Party's Confidential Information for any purpose other than the purposes of this Agreement or as part of its electronic archiving procedures;
 - ii) disclose or, through any failure to exercise reasonable care, cause any unauthorised disclosure of any of the Disclosing Party's Confidential Information except to those of its employees, officers, consultants, agents, sub-contractors or advisors, or those of its Group Companies, ("Representatives") who may need to have such Confidential Information in connection with the purposes of this Agreement and who are bound by obligations of confidentiality no less stringent than those in this clause 7; or
 - iii) commercially exploit the Disclosing Party's Confidential Information in any way.
- 7.3 Each party shall ensure that its Representatives and its Group Companies comply with this clause 7, and each party shall be liable for the acts and omissions of its Representatives and its Group Companies as if they were its own under this Agreement.
- 7.4 Nothing in this Agreement shall restrict the Receiving Party or its Group Companies from disclosing any of the Disclosing Party's Confidential Information to the extent required by any applicable law, regulation or court order or the rules of any relevant listing authority provided that, to the extent it is legally permitted to do so, the Receiving Party gives the Disclosing Party as much notice of such disclosure as possible.
- 7.5 Following termination of this Agreement, the Receiving Party shall, at the Disclosing Party's request, return or destroy the Disclosing Party's Confidential Information in the Receiving Party's or its Group Companies possession or control except that the Receiving Party shall not be required to return or destroy any Confidential Information stored in its archived electronic files, provided that such files are accessible only to those persons engaged by the Receiving Party or its Group Companies to be responsible for the safe and secure storage of such files. The Receiving Party shall continue to be responsible for any such Confidential Information it retains electronically.
- 7.6 The Client may not, without the prior written consent of Leatherhead, in any external communication that is intended for consumers or the public domain (including, but not limited to, any advertising, publicity or news release):
- (i) disclose details of the Services and/or Deliverables;
 - (ii) include references to or extracts from the Deliverables; and/or
 - (iii) name, quote as a source or otherwise refer to Leatherhead.
- 7.7 The Client may disclose details of the Services and/or the Deliverables internally and to its Group Companies, suppliers or other business contacts for business purposes and to regulatory authorities. However the Client may not name, quote as a source or otherwise refer to Leatherhead in any legal proceeding or dispute with a third party without the prior written consent of Leatherhead.
- 8 Intellectual property rights**
- 8.1 Notwithstanding any other provision of this Agreement, all rights in generic methodologies, ideas, processes, tools, know-how and business methods created by or on behalf of Leatherhead or its Group Companies at any time shall be owned by Leatherhead or its Group Companies.
- 8.2 All IP, other than Foreground IP as defined in clause 8.5, owned by either party or its Group Companies ("Background IP") will remain the exclusive property of the relevant party or its Group Companies.
- 8.3 Subject to clause 8.4, neither party grants any right to or licence of its Background IP to the other party.
- 8.4 The Client hereby grants to Leatherhead a world-wide, royalty-free, non-transferable, non-exclusive licence to use, and to permit its employees and sub-contractors and those of its Group Companies to use, that part of the Client's Background IP which is necessarily required by Leatherhead solely for the performance of the Services. For the avoidance of doubt this licence shall expire upon completion of the Services or termination of this Agreement, whichever is the earlier.
- 8.5 Subject to payment of all Fees, expenses and other charges due to Leatherhead by the Client under this Agreement, the Client will exclusively own the IP developed by or on behalf of Leatherhead for the Client in the course of the provision of the Services ("Foreground IP").
- 8.6 Leatherhead does not provide legal or patent attorney advice or services and cannot guarantee freedom to operate. Leatherhead does not warrant that the Foreground IP or its use by the Client will not infringe the IP of any third party and recommends that the Client seeks advice from its IP attorney in relation to freedom to operate and any concerns relating to patentability or IP infringement.
- 9 Liability**
- 9.1 Nothing in this Agreement shall limit the liability of either party for death or personal injury caused by that party, for any fraudulent misrepresentation of that party or in other circumstances where liability cannot be limited by law.
- 9.2 Subject to clause 9.1, neither party shall be liable to the other, whether in contract, tort, negligence, breach of statutory duty or otherwise, for any loss of profit, revenue, goodwill or business opportunity, for any pure economic loss or for any indirect or consequential loss, damage, costs or expenses arising out of or in connection with this Agreement and/or the provision of the Services.
- 9.3 Leatherhead has no control over the use of the Deliverables and frequently delivers prototype or experimental equipment to clients for further development. Subject to clause 9.1, Leatherhead shall not be liable for any losses, liabilities, claims, demands, damages and expenses (including all interest, penalties and reasonable legal and other professional costs and expenses) ("Loss") suffered or incurred by the Client caused by modifications, developments, adjustments, repairs or remedial work carried out to the Deliverables without Leatherhead's prior written approval.
- 9.4 Subject to clauses 9.1 to 9.3, Leatherhead's total aggregate liability to the Client, whether in contract, tort, negligence, breach of statutory duty or otherwise, arising out of or in connection with this Agreement and/or the provision of the Services, shall be limited to the total Fees paid or payable by the Client to Leatherhead under this Agreement.
- 9.5 The Client shall indemnify and hold harmless Leatherhead and its Group Companies from any Loss arising out of or in connection with:
- i) the possession, use or operation of any products, samples, prototypes, substances, equipment, materials or other items provided by or on behalf of the Client;
 - ii) any food, beverage or consumer products obtained or created by Leatherhead for the purposes of the Services; and/or
 - iii) any third party claim or action against Leatherhead, the Client or either party's Group Companies arising out of, or in connection with, the possession, use or operation (whether by the Client or by any third party) of the Deliverables and/or the Services.
- 10 Disclaimer**
- 10.1 Except as expressly set out in this Agreement, each party hereby excludes all warranties, conditions, terms and undertakings, express or implied, whether by statute, common law, trade practice, custom, course of dealing or otherwise (including without limitation as to quality, performance or fitness or suitability for purpose) to the fullest extent permitted by law.
- 11 Termination**
- 11.1 This Agreement will terminate automatically upon completion of the Services unless terminated earlier in accordance with this clause 11.

- 11.2 Either party can terminate this Agreement with immediate effect at any time on written notice to the other if:
- i) the other party commits a material or persistent breach of this Agreement and that breach is either irremediable or if capable of remedy is not remedied within 15 days of written notice to do so; or
 - ii) an interim order is made, or a voluntary arrangement approved in respect of the other party, or if the other party passes a resolution for winding up or a court of competent jurisdiction makes an order for its winding up or dissolution, or if a notice is served of intention to appoint and administrator or an administrator is appointed by Court order or by any other means, or a receiver or administrative receiver is appointed, over any of the other party's assets or undertaking, or if a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if the other party applies to the court for protection from its creditors, or if any circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding up petition or make a winding up order, or if any analogous event occurs in any jurisdiction in respect of the other party.
- 11.3 The Client may terminate this Agreement at any time for any reason on one month's written notice to Leatherhead.
- 11.4 Upon termination of this Agreement, however arising, Leatherhead shall invoice the Client, and the Client shall pay in accordance with clause 6:
- i) subject to paragraph (ii) below, all Fees, expenses and other charges incurred but not previously invoiced under this Agreement; and
 - ii) where the Proposal indicates a fixed Fee for all or any part of the Services, the balance of any such fixed Fee not yet paid and/or invoiced, whether or not such Services have been undertaken or not.
- 11.5 As Leatherhead does not provide long-term storage of its clients' information or deliverables, the Client should not rely on Leatherhead as its archive or as a repository of any data or documentation. Upon termination of this Agreement, Leatherhead may, unless otherwise agreed in the Proposal or subsequently in writing, at its sole discretion destroy or securely dispose of any Input Materials and/or copies of Deliverables that it is not required to retain by law or government authority.
- 11.6 Upon termination of this Agreement, the provisions of clauses 1, 6, 7, 8, 9, 10, 11.4, 11.5 and 12 shall continue in force. Termination will not affect any accrued rights and liabilities arising out of this Agreement.
- 12 General**
- 12.1 Leatherhead is a science-based consultancy business whose assets are its people. Leatherhead invests heavily in their on-going training and development in order to maximise the value provided to its clients. Leatherhead is not a recruitment agency nor a placement company and it does not consent to the recruitment of its personnel by clients. Accordingly if, during the term of this Agreement or the 12 month period thereafter, the Client or any of its Group Companies, partners, associates, contractors or other related parties, directly or indirectly solicits, employs, engages or entices away any Leatherhead or Leatherhead Group Company employee, consultant or contractor who has directly or indirectly been involved in the provision of the Services, the Client shall pay to Leatherhead a recruitment fee equal to two times Leatherhead's annual fee rate for the relevant individual calculated on the basis of two times the daily fee rate of the individual multiplied by 220.
- 12.2 Neither party may assign any of its rights or obligations under this Agreement save that Leatherhead may assign this Agreement to any of its Group Companies or to a purchaser of the whole or any part of its business.
- 12.3 This Agreement contains the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, discussions and negotiations relating to the same. Each party confirms that, in entering into this Agreement, it has not relied on and shall have no remedy in respect of any representation, statement, assurance or warranty not expressly set out in this Agreement. Each party agrees that its only remedy in respect of those representations, statements, assurances and warranties that are set out in this Agreement will be for breach of contract in accordance with the terms of this Agreement.
- 12.4 Variations or additions to these terms of business shall only be valid if agreed in writing and signed by an authorised signatory of each party.
- 12.5 Leatherhead may publicly name the Client as one of its clients.
- 12.6 Subject at all times to the Client's prior written consent and Leatherhead's obligations of confidentiality under clause 7, Leatherhead may refer to the Services in a case study and/or press release.
- 12.7 A delay or omission by a party in exercising its rights or remedies hereunder shall not be deemed to be a waiver of such right or remedy on that or any future occasion.
- 12.8 No third party shall have any right to enforce any term of this Agreement.
- 12.9 The parties are independent contractors and nothing in this Agreement shall constitute or imply any partnership, joint venture, agency or fiduciary relationship between the parties.
- 12.10 Neither party shall be liable for any delay in the performance of its obligations under this Agreement resulting from circumstances beyond its reasonable control. The party affected will as soon as reasonably possible give notice to the other party of the occurrence of such circumstances.
- 12.11 Notices served under this Agreement will be validly served if delivered by
- i) courier and will be deemed received on the delivery; or
 - ii) first class or registered post (or registered international mail) and will be deemed received 2 Business Days after posting (or 5 Business Days after posting in the case of registered international mail).
- 12.12 If any provision of this Agreement is judged to be invalid, illegal or unenforceable, such provision shall be severed from this Agreement and the remainder of the provisions shall so far as possible continue in full force and effect. The parties shall attempt to substitute for any severed provision a valid and enforceable provision which achieves to the greatest extent possible the objectives of the severed provision.
- 12.13 This Agreement is governed by and shall be construed in accordance with English law. The parties irrevocably submit to the exclusive jurisdiction of the English courts.