

1. INTRODUCTION

Thank you for agreeing to participate in our 90-minute focus group on Tuesday June 27th 2023, 11 AM – 12:30 PM, during the APIC 2023 Conference (the **Services**).

These terms and conditions cover your participation in the focus group discussion.

The **Commencement Date** and the **End Date** referred to in these terms and conditions shall be June 27th 2023.

The focus group discussion will be held at the Orlando, Florida Convention Center (**Site**). There are no other **Deliverables**.

We will be sharing various information and documents with you as part of this exercise and these would be regarded as **Nanosonics Materials**.

2. INTERPRETATION

Unless the context otherwise requires:

Background IP means in relation to a party, all Intellectual Property rights in existence at the Commencement Date owned by or licensed to that party and which are necessary or desirable for the provision of the Services or the development or supply of the Deliverables, and in the case of Nanosonics includes such rights as subsist in Nanosonics Materials.

Benefit means a direct or indirect transfer of anything of value, whether in cash, in kind or otherwise and includes but is not limited to money, financial or other advantage, travel expenses, entertainment, business or investment opportunities, gifts, charitable donations and other courtesies.

Confidential Information means the terms of this agreement and all know-how, technical and financial information, Nanosonics Materials, Project Documents, Project IP, Results and any other commercially valuable or sensitive information in whatever form, including inventions (whether or not reduced to practice), trade secrets, formulae, graphs, drawings, samples, devices, models and any other materials or information of whatever description, which Nanosonics regards as confidential, proprietary or of a commercially sensitive nature that may be in the possession of Nanosonics' employees, management, subcontractors or agents. The following are exceptions to such information:

- (a) information which is lawfully in the public domain prior to its disclosure by Nanosonics;
- (b) information which enters the public domain otherwise than as a result of an unauthorised disclosure;
- (c) information which is or becomes lawfully available to the Participant from a third party who has the lawful power to disclose such information to the Participant on a non-confidential basis; and
- (d) information which is rightfully known by the Participant (as shown by its written record) prior to the date of disclosure.

Force Majeure means any act of God, strike, lockout, or other industrial disturbance, act of public enemy, war, blockade, public riot, lightning, fire, storm, flood, pandemic, epidemic, earthquake, explosion, governmental restraint, or any other event whether of the kind specifically enumerated above or otherwise which is not reasonably within the control of a party relying on the event.

Intellectual Property means statutory and other proprietary rights in respect of copyright and neighbouring rights; all rights in relation to database, software, discoveries, inventions, patents, know-how,

plant varieties, registered and unregistered trademarks, registered and unregistered designs, circuit layouts and rights to maintain the confidentiality of information, but does not include Moral Rights that are not transferable.

Moral Rights means any moral rights including the rights described in Article 6*bis* of the *Berne Convention for Protection of Literary and Artistic Works 1886* (as amended and revised from time to time) being "droit moral" or other analogous rights arising under any statute (including the *Copyright Act 1968* (Cth) or any law of the Commonwealth of Australia), that exist or that may come to exist, anywhere in the world.

Project Documents means all documents and other materials created or developed by or on behalf of the Participant in the course of performing the Services, whether in tangible or electronic form, including the Deliverables.

Project IP means all Intellectual Property created, conceived, developed or reduced to practice in the course of the performance of the Services or the creation of the Project Documents or Deliverables, including the Results.

Results mean the data, information, results and Deliverables generated by or on behalf of the Participant in the course of providing the Services.

Terms and Conditions means these terms and conditions.

3. THE SERVICES AND DELIVERABLES

3.1 The Participant must perform the Services and supply the Deliverables in accordance with this agreement. The Services must be performed at the Site(s).

3.2 The Participant must perform the Services with a high standard of care and diligence in accordance with any relevant best practice industry standards and in accordance with all applicable laws, regulations, and applicable ethics and other regulatory approvals. The Participant must comply with the terms of this agreement and all safety, environmental, security, quality and other directions or procedures applying at each location where Services are supplied or Deliverables are produced or tested.

3.3 The parties acknowledge that the rendering of Services and the supply of Deliverables by the Participant under this agreement is not conditional upon:

- (a) any obligation on the Participant to recommend, use or purchase Nanosonics' products or services now or in the future; or
- (b) the volume or value of any recommendations, purchases or business between Nanosonics and the Participant nor on any past, present or future recommendations, purchases or business of Nanosonics' products or services.

4. COMPENSATION

4.1 Participants will be compensated for their time and inconvenience with an Amazon Gift Card to the value of US\$150 (**Gift Card**). This will not be redeemable for cash under any circumstances.

4.2 The parties acknowledge that:

- (a) the value of the Gift Card is consistent with fair market value;
- (b) the value of the Gift Card is appropriate and proportionate to the Services and Deliverables contemplated by this agreement; and
- (c) the Gift Card does not form any kind of bribe or facilitation payment or any other payment that may cause Nanosonics or any of its related

entities to breach any anti-bribery or anti-corruption law.

4.3 The parties acknowledge that provision of the Gift Card is not conditional upon any obligation of the Participant to recommend, use, or purchase Nanosonics' products or services and has not been determined in any manner which takes into account the volume or value of any recommendations, purchases or business between Participant and Nanosonics nor on any past, present or recommendations, purchases or business of Nanosonics' products or services.

5. SUPPLY OF NANOSONICS MATERIALS

5.1 If it has not already done so, Nanosonics will provide the Participant with Nanosonics Materials (if any) that Nanosonics considers to be necessary or desirable as soon as reasonably practicable after the Commencement Date or at such other times as may be agreed by the parties.

5.2 Nanosonics Materials must only be used as required to perform the Services, and not for any other purpose. Nanosonics Materials must not be provided to third parties, without Nanosonics' prior written consent.

5.3 The Participant acknowledges that all Nanosonics Materials remain the property of Nanosonics. Within 10 days following the expiry or termination of this agreement, or a written request from Nanosonics to the Participant, the Participant must, at Nanosonics' option, either return all unused Nanosonics Materials or destroy such Nanosonics Materials as requested by Nanosonics.

6. INTELLECTUAL PROPERTY

6.1 Each party acknowledges that all Background IP remains the sole property of its owner and that it acquires no right, title or interest in or to the Background IP of the other party by virtue of this agreement, other than as expressly set out in this agreement.

6.2 Nanosonics grants to the Participant a royalty-free, non-exclusive, non-transferable revocable licence during the term of this agreement to use Nanosonics' Background IP and Project IP, for the sole purpose of providing the Services and developing and supplying the Deliverables.

6.3 All Project IP is solely owned by Nanosonics, and vests in and is hereby assigned (free from any encumbrances) to Nanosonics upon its creation. Upon request, the Participant must at its cost sign all documents (including assignment agreements) and do all things (including requiring and procuring that personnel, subcontractors and agents do likewise, if applicable) as may be necessary to vest, confirm, perfect and record ownership by Nanosonics in accordance with this clause.

6.4 The Participant must promptly and fully disclose to Nanosonics all Project IP and Results on completion of the Services or earlier termination of this Agreement.

6.5 The Participant must not, whether directly or indirectly or through any third party, take any action or assist any other person to take any action which may challenge the validity or ownership of the Confidential Information or the Project IP.

6.6 The Participant must provide (and, if applicable, must procure that each of its current and former directors, officers, personnel, agents and subcontractors provide), all assistance and documents required or reasonably requested by Nanosonics in connection with:

- (a) assuring title to and ownership of the Project IP;
- (b) applying for registration of Project IP (including patent applications); or
- (c) enforcing, defending or otherwise protecting the Project IP.

6.7 The Participant must not make any Deliverable (in whole or part) available to third parties, or use any Deliverable for any purpose not related to the Services, without Nanosonics' prior written consent.

7. CONFIDENTIALITY

7.1 The Participant must keep the Confidential Information confidential at all times, and only use the Confidential Information to the extent necessary for compliance with this agreement. If applicable, the Participant may only disclose the Confidential Information to those of the Participant's officers, directors, employees, subcontractors and agents who need to have access for the supply of Services or Deliverables, who have been made aware of the terms on which the Confidential Information is to be maintained and who have entered into legally binding confidentiality obligations on terms substantially equivalent to those set out in this agreement.

7.2 The Participant must use best endeavours to ensure none of its confidential information is incorporated in the Deliverables or otherwise disclosed to Nanosonics. To the extent (a) the Participant's confidential information is incorporated into or forms part of the Deliverables, or (b) the Participant discloses its confidential information, the Participant is deemed to have waived confidentiality in such information.

7.3 The Participant may disclose Confidential Information if legally compelled to do so by any judicial or administrative body, in which case the Participant must promptly inform Nanosonics and take all reasonably available legal measures to avoid such disclosure.

7.4 The Participant must deliver to Nanosonics or destroy, at Nanosonics' option, all documents, Nanosonics Materials and other materials in any medium in its possession or under its control which contain or refer to any Confidential Information on the earlier of demand by Nanosonics, expiry or termination of this agreement for any reason, or the time such documents and other materials are no longer required to provide the Services or create, use or supply the Deliverables in accordance with this agreement.

7.5 The Participant may not use Nanosonics' name in any press release, advertising or other promotional material without the prior written consent of Nanosonics.

7.6 The Participant must keep the provisions of this Agreement confidential.

8. WARRANTIES

The Participant represents and warrants that on from the Commencement Date and up to and including the End Date:

- (a) it has obtained all third party consents, approvals and authorisations and has made all disclosures (including to their employing institution) required to enter into this agreement and to carry out the obligations under this agreement;
- (b) in undertaking the obligations under this agreement it will not be in breach of or conflict with any obligation owed to any other person, nor infringe any intellectual property right, nor is it involved in any litigation, arbitration or proceeding, that prevent or limit Participant's ability to perform its obligations under this Agreement; and
- (c) the Project Documents, Deliverables and Project IP arise from the original work of the Participant, and upon delivery or creation Nanosonics will obtain absolute and unencumbered legal and beneficial ownership of the Project Documents, Deliverables and Project IP.

(d) it has not been disqualified, debarred or banned from practice or from providing the Services by any regulatory authority or professional association. The Participant shall notify Nanosonics as soon as practical after becoming aware of such disqualification, debarment or ban; and

(e) it has not offered, promised or paid, either directly or indirectly, any Benefit to a government official (including, but not limited to, a healthcare professional employed by a government-owned healthcare facility) to induce such government official to act in any way in connection with his or her official duties with respect to services performed under this agreement or to otherwise obtain an improper advantage for themselves or for Nanosonics (**Improper Payment**), and has not received an Improper Payment, and will not offer, promise, pay, authorise or receive any Improper Payment in the future.

9. TERM AND TERMINATION

9.1 This agreement commences on the Commencement Date and ends on the End Date. Where the Participant has not supplied a Service or Deliverable by the End Date, this agreement remains in force until all Services and Deliverables are supplied, but Nanosonics may after the End Date terminate this agreement by giving 1 day's written notice.

9.2 Either party may terminate this agreement by giving written notice to the other party if the other party is in breach (other than a trivial breach causing no material harm) of any provision of this agreement and (where the breach is capable of remedy) has failed to remedy the breach within 30 days of receipt of written notice from the first party describing the breach and calling for it to be remedied.

9.3 Nanosonics may terminate this agreement at any time by giving 14 days' written notice to the Participant.

9.4 On termination or expiry of this agreement for any reason:

(a) the Participant must provide all Deliverables to Nanosonics, whether completed or incomplete, at Nanosonics' option; and

(b) where the Participant has not yet rendered a particular Service to Nanosonics' satisfaction and at Nanosonics' option, the agreement will continue until such time as the Participant has performed the Services to Nanosonics' satisfaction.

10. GENERAL

10.1 This agreement contains the entire agreement between the parties in relation to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter. Any terms that may be subsequently presented by the Participant to Nanosonics in respect of the supply of the Services or Deliverables (on an invoice or otherwise) do not form part of this agreement unless specifically agreed by authorised representatives of the parties in writing.

10.2 This agreement may only be amended by agreement of the parties in writing, unless this agreement expressly provides otherwise.

10.3 The Participant's obligations under this agreement are personal and the Participant must not sub-contract or assign any of its rights or obligations under this agreement without Nanosonics' prior written consent, which may be granted or withheld in Nanosonics' sole discretion. Nanosonics may assign its rights or obligations under this agreement provided it gives written

notice to the Participant as soon as practicable afterwards.

10.4 This agreement does not constitute either party the agent of the other or imply that the parties intend constituting a partnership, joint venture or other form of association in which any party may be liable for the acts or omissions of the other.

10.5 Any notice under this agreement may be served by hand delivery or by being forwarded by prepaid post to the address of the party or to such other address as may be notified in writing by the party from time to time and in the case of service by post is deemed to have been received within four days after posting (seven days if sent to or from a place outside of Australia). Notices may be served by facsimile transmission or e-mail and are valid when sent, as demonstrated by a valid transmission report or notification of delivery to the recipient's computer systems.

10.6 Within a reasonable time of request each party, at its own expense, must do all things reasonably necessary to give full effect to this agreement, including the execution of documents.

10.7 No delay or indulgence by a party in enforcing this agreement will prejudice or restrict the rights of that party, nor will a waiver of those rights operate as a waiver of a subsequent breach.

10.8 Clauses 1 to 3, 5 to 8, 9.4 and 10 survive termination or expiry of this agreement for any reason.

10.9 This agreement may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one agreement. An executed counterpart may be delivered by facsimile or other electronic means.

10.10 The provisions of this agreement are severable. If any provision in this agreement is found or held to be invalid or unenforceable or capable of termination by a party in any jurisdiction in which this agreement is performed, then the meaning of that provision will be construed, to the extent feasible, to render the provision enforceable. If no feasible interpretation would save such provision, it is to be severed from the remainder of this agreement which will remain in full force and effect and to be interpreted so as to achieve the commercial intentions of the parties.

10.11 This agreement is governed by the laws of New South Wales, and the parties submit to the non-exclusive jurisdiction of the courts of that State.

10.12 Upon the occurrence of a Force Majeure event:

(a) each party releases the other from any liability for any failure to perform its obligations under this agreement which is due to the occurrence of any Force Majeure event;

(b) neither party is liable for any delay or failure to perform its obligations under this agreement if the delay is due to Force Majeure;

(c) if a delay or failure of a party to perform its obligations is caused or anticipated due to Force Majeure, the performance of that party's obligations will be suspended; and

(d) If a delay or failure by a party to perform its obligations due to Force Majeure exceeds 60 days, either party may immediately terminate this agreement on providing written notice to the other party.