

## LGN Standard Terms and Conditions of Neuroform Licence (June 2022)

### 1. Interpretation

1.1. In these Conditions the following definitions apply, unless the context requires otherwise: **Affiliate** means any person(s) which (i) Controls the relevant other person; or (ii) is Controlled by such relevant other person; or (iii) is Controlled by such person(s) as is referred to in (i), but only whilst such person(s) so Controls or is so Controlled. **Control** means the power over another person (whether by means of holding shares, possessing voting power or exercising contractual powers in or over that or any other person) to ensure that such other person's affairs are conducted in accordance with the wishes of the person holding the power. **Controls** and **Controlled** will be construed accordingly. **Business Day** means a day other than a Saturday, Sunday or bank or public holiday in England, or a day falling between Christmas Day and the following New Year's Day (each on the day as celebrated in England). **Conditions** means LGN's terms and conditions of licence set out in this document. **Confidential Information** means all secret or not generally known information and/or information which is not easily accessible to others and/or of a commercially sensitive nature, disclosed or made available in any way by one party or any of its Affiliates (**Discloser**) to the other party or to any of its Affiliates (**Recipient**) in connection with the Contract, including (in the case of LGN's information) information relating to any and all of Neuroform or any of its constituent parts. and, in relation to each party, the existence and terms of the Contract. **Contract** means the agreement between LGN and Customer for the licence of Neuroform incorporating these Conditions and the Order. **Documents** means any user instructions for Neuroform in human-readable or machine-readable forms supplied by LGN. **IP** means patents, utility patents, trade marks, copyright, database rights, design rights, registered designs, trade secrets, know-how (including inventions), improvements, discoveries and all other intellectual property and/or industrial property rights (in each case whether registered or unregistered or registrable or unregistrable) and including applications or rights to apply for them and together with all extensions and renewals of them (including supplementary protection certificates), and (in each case) all rights and forms of protection having equivalent and similar effect anywhere in the world. **Order** means the order signed by LGN and Customer. **VAT** means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the supply of goods and/or services. Other defined terms referred to in these Conditions but not defined herein have the meanings ascribed to them in the respective Order.

1.2. In these Conditions, unless the context requires otherwise:

- 1.2.1. any terms defined in the Order have the same meaning in these Conditions;
- 1.2.2. any headings to any conditions in these Conditions are included for convenience only and will have no effect on the interpretation of the Conditions;
- 1.2.3. a reference to a **party** includes that party's successors and permitted assigns;
- 1.2.4. a reference to legislation (including any subsidiary legislation) includes any modification, amendment, extension, consolidation, re-enactment and/or replacement of such legislation in force from time to time;
- 1.2.5. a reference to a **person** includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.2.6. a reference to the word **including** and similar words will be construed without limitation and words in any list will be construed independently of each other; and
- 1.2.7. a reference to **writing** or **written** includes any method of reproducing words in a legible and non-transitory form, including email.

1.3. If there is a conflict between the Conditions and the Order, the Order will prevail.

### 2. Application of these Conditions

2.1. These Conditions apply to and form part of the Contract between LGN and Customer. They supersede any previously issued terms and conditions of purchase or supply. No terms or conditions endorsed on, delivered with, or contained in Customer's purchase conditions, order, confirmation of order, specification or other document will form part of the Contract, except to the extent that LGN otherwise agrees in writing.

- 2.2. No variation of these Conditions or to an Order or to the Contract will be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of LGN.
- 2.3. LGN may modify these Conditions from time to time. LGN will notify Customer if LGN makes modifications that materially change Customer's rights. Customer's continued use of Neuroform after the effective date of an updated version of the Conditions will indicate Customer's acceptance of the Conditions as modified.

### **3. Ownership and Licence**

- 3.1. LGN grants, subject to the terms of the Contract, to Customer a limited, non-exclusive, non-sublicensable, non-transferable, worldwide right during the Contract Period to use, for any purpose related to its and its Affiliates' respective businesses, (a) Neuroform solely on Devices; and (b) the Documents in connection with Neuroform and the Devices.
- 3.2. LGN will send Neuroform to Customer by the Delivery Method. Customer will be responsible for the installation of Neuroform on Customer's cloud.
- 3.3. Customer will not, without LGN's prior written approval:
  - 3.3.1. allow any person other than a representative of LGN to modify or maintain any part of Neuroform;
  - 3.3.2. give access to Neuroform through any network of computers to users who are not employees or agents of Customer or its Affiliates;
  - 3.3.3. make adaptations or variations of Neuroform; or disassemble, decompile, reverse translate or in any other manner decode Neuroform, except as permitted by law.
- 3.4. The IP in Neuroform, and the Documents are, and will remain, the property of LGN or the appropriate third-party rights-owner(s), if any, and LGN reserves the right to grant a licence to use Neuroform or the Documents to any other party or parties, and Customer acquires no rights in or to them, other than those expressly granted by the Contract.
- 3.5. Customer may make such copies of Neuroform as are reasonably necessary for use in accordance with the Contract and for the purposes of backup and security. Customer has no right to make, or authorise the making of, any other copies of Neuroform. LGN will at all times own all copies of all or any part of Neuroform. For copies recorded on a tangible medium, Customer will place on each copy of all or any part of Neuroform a clearly visible label indicating that the copy is the property of LGN, and reproducing LGN's proprietary rights notice. For electronic copies, Customer will ensure that all proprietary notices contained in Neuroform will be maintained in such copies and will display, when the software is run, in the same way as in the case of Neuroform as supplied by LGN. Customer will keep all copies of Neuroform in a secure place when not in use and will, at all times, keep all such copies in its possession or control.
- 3.6. Customer will comply with the Open-Source Software Licences and will indemnify and hold LGN harmless against any loss or damage that it may suffer or incur as a result of Customer's or any of Customer's Affiliate's breach of such terms.
- 3.7. Customer will prevent any infringement of the IP in any and all of Neuroform and the Documents and will promptly report to LGN any such infringement that comes to its attention.
- 3.8. Neither party will in any circumstances export, directly or indirectly, any technical data acquired from the other party under the Contract (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations to any country for which any government or any agency of it at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 3.9. During the Contract Period and for a period of six (6) months after its expiry or termination (howsoever terminated) Customer will not, without the prior written consent of LGN, directly or indirectly, solicit, the employment of any person who is employed by LGN and with whom Customer has had contact in connection with the Contract.

### **4. Payment**

- 4.1. Customer will pay the Licence Fees as set out in the Order. At the same time a Licence Fee is due Customer will report to LGN the number of Devices with which any of Customer and its Affiliates are using Neuroform. The Licence Fees and all other payments under the Contract are stated net of tax. Customer

will, in addition, pay to LGN the amount of any tax, duty or assessment, including any applicable VAT, which LGN is obliged to pay and/or collect from Customer in respect of any supply under the Contract (other than tax on LGN's income). Each party is liable for its bank's fees.

4.2. If Customer fails to make any payment due to LGN under the Contract within five (5) Business Days of the due date for payment, then, without limiting LGN's other remedies:

4.2.1. Customer will pay interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time. Such interest will accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. Customer will pay the interest together with the overdue amount;

4.2.2. Customer will, in addition, pay a fixed late payment charge to cover LGN's administrative and recovery costs, calculated as follows:

- £40 for invoices up to £999.99
- £70 for invoices between £1,000 and £9,999.99
- £100 for invoices of £10,000 or more

4.2.3. LGN may suspend its work under the Contract until payment of the overdue amount, interest, and the fixed late payment charge has been made under conditions 4.2.1 and 4.2.2.

4.3. LGN may increase the Licence Fee with effect from day after the end of the Initial Period or any anniversary of such date by giving Customer at least three (3) months' notice before such date.

4.4. Reasonable out-of-pocket expenses may be charged by LGN on production of reasonable evidence of expenditure to Customer.

4.5. Customer will pay all sums that it owes to LGN under the Contract without any set-off, counterclaim, deduction or withholding of any kind, except where Customer is required by law to make such deduction or withholding, in which event Customer will in addition pay to LGN such amount as will result in the net amount received by LGN being equal to the amount which would have been received by LGN had no such deduction or withholding been made.

4.6. Customer will permit and will ensure that each of its Affiliates permits LGN or its agents during the Contract Period and for six (6) months afterwards to access Customer's and/or its Affiliates' premises and records to verify which Devices Neuroform has been used with and the accuracy of the reports provided under condition 4.1. If any audit reveals a discrepancy of more than five percent (5%) in any report supplied under condition 4.1 to the detriment of LGN, Customer will reimburse LGN for the costs of that audit and pay any accrued underpayment, together with any interest accrued.

## 5. Confidentiality and Publicity

5.1. Each party undertakes not to use the Confidential Information otherwise than in the exercise and performance of its rights and obligations under the Contract (**Permitted Purposes**).

5.2. In relation to Customer's Confidential Information, LGN will treat it as confidential and will not divulge any such Confidential Information to any person, except to its own employees and then only to those employees who need to know it for the Permitted Purposes. LGN will ensure that its employees are aware of, and comply with, this condition 5.

5.3. In relation to LGN's Confidential Information:

5.3.1. Customer will treat as confidential all Confidential Information of LGN contained or embodied in Neuroform or Documents, or otherwise supplied to Customer during the performance of the Contract;

5.3.2. Customer will not, without the prior written consent of LGN, divulge any part of LGN's Confidential Information to any person other than employees of Customer or any of its Affiliates who need to know it for the Permitted Purposes.

5.3.3. Customer undertakes to ensure that the persons mentioned in condition 5.3.2 are made aware, before the disclosure of any part of LGN's Confidential Information, that the same is confidential and that they owe a duty of confidence to Customer and that there are restrictions on its use, in terms similar to condition 5.3.1 (which Customer will ensure are adhered to).

5.4. The restrictions imposed by condition 5.1, condition 5.2 and condition 5.3 will not apply to the disclosure of

any Confidential Information which:

- 5.4.1. is now in, or subsequently comes into, the public domain otherwise than as a result of a breach of this condition 5 (except that any compilation of otherwise public information in a form not publicly known will still be treated as Confidential Information);
  - 5.4.2. before any negotiations or discussions leading to the Contract was already known by the Recipient (or, in the case of Customer, any of its Affiliates) and was obtained or acquired in circumstances under which the Recipient was (or, in the case of Customer, Customer and its Affiliates were) not bound by any form of confidentiality obligation; or
  - 5.4.3. is required by law or regulation to be disclosed to any person who is authorised by law or regulation to receive the same (after consultation, if practicable, with the disclosing party to limit disclosure to such authorised person to the extent necessary).
- 5.5. Neither party will make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

## **6. Liability**

6.1. LGN warrants that:

- 6.1.1. Neuroform (other than the Open-Source Software) and Documents are proprietary to LGN and that, as far as it is aware, it has the right to license all UK IP in and to Neuroform and Documents to Customer;
  - 6.1.2. Neuroform conforms with the Specification in all material respects; and
  - 6.1.3. Neuroform is provided on "as is" basis.
- 6.2. The warranties set out in condition 6.1 are in lieu of all other express or implied warranties or conditions, including implied warranties or conditions of satisfactory quality and fitness for a particular purpose, in relation to the Contract. LGN specifically denies any implied or express warranty or representation that Neuroform will be fit to operate in conjunction with any hardware items or software products, or to operate uninterrupted or error-free.
- 6.3. Customer will be liable for all acts and omissions of its Affiliates and will indemnify LGN against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by LGN arising out of or in connection with any act or omission of any its Affiliates which if done or failed to be done by Customer would give rise to a claim by LGN.
- 6.4. The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) will be as set out in conditions 6.5 to 6.10 (inclusive).
- 6.5. LGN will have no liability for any claim:
- 6.5.1. caused or contributed to by Customer's use of Neuroform in combination with devices other than Devices;
  - 6.5.2. based on use of any version of Neuroform (other than the latest version supplied to Customer by LGN), if such claim could have been avoided by the use of such latest version. LGN has no obligation to supply new versions of Neuroform.
- 6.6. Subject to conditions 6.9 and 6.10, neither party will be liable for consequential, indirect or special losses.
- 6.7. Subject to conditions 6.9 and 6.10, LGN will not be liable for any of the following (whether direct or indirect): loss of profit; loss or corruption of data; loss of use; loss of production; loss of contract; loss of opportunity; loss of savings, discount or rebate (whether actual or anticipated); harm to reputation or loss of goodwill.
- 6.8. Subject to conditions 6.9 and 6.10, LGN liability will not exceed in total the Licence Fees (excluding VAT) received by LGN from Customer during the 12 months preceding the date upon which the claim is first notified to LGN.

- 6.9. The limitations of liability set out in conditions 6.6 and 6.7 will not apply in respect of any indemnity given under the Contract.
- 6.10. Notwithstanding any other provision of the Contract, the liability of the parties will not be excluded or limited in any way in respect of any losses which cannot be excluded or limited by the applicable law.

## **7. Termination**

- 7.1. Either party may terminate the Contract with immediate effect by giving notice to the other party if the other party:
- 7.1.1. is in material breach of any provision of the Contract and (if it is capable of remedy) the breach has not been remedied within 30 days after receipt of written notice specifying the breach and requiring its remedy; or
  - 7.1.2. becomes insolvent, or if an order is made or a resolution is passed for the winding up of the other party (except voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed over the whole or any part of the other party's assets, or if the other party makes any arrangement with its creditors; or
  - 7.1.3. ceases to trade or appears, in the reasonable opinion of the other party, to be likely to cease to trade, or is unable to pay its debts as they fall due, or has any distraint, execution or other process levied or enforced on any of its property; or
  - 7.1.4. is the subject of anything analogous to the foregoing under the laws of any applicable jurisdiction.
- 7.2. Expiry or termination of the Contract will not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of expiry or termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of expiry or termination.
- 7.3. The following will continue to be enforceable notwithstanding the expiration or termination of the Contract:
- 7.3.1. conditions 3.3, 3.4, 3.6, 3.9, 4 (to the extent of any unpaid sums and 4.6), 5, 6 (excluding 6.1), 7.2, 7.3 and 7.4; and
  - 7.3.2. any conditions of the Contract not listed in condition 7.3.1 which expressly or impliedly have effect after termination; and
  - 7.3.3. any conditions of the Contract reasonably required for the interpretation of the conditions referred to in conditions 7.3.1 and/or 7.3.2.
- 7.4. Upon the expiration or termination of the Contract howsoever occasioned:
- 7.4.1. Customer will permanently delete Neuroform from its and its Affiliates' clouds, its and its Affiliates' IT networks and any storage means associated with any computer equipment owned or controlled by it or any of its Affiliates; and
  - 7.4.2. the Recipient will return to the Discloser within 30 days of such termination or expiration all Confidential Information of the Discloser and its Affiliates in the Recipient's possession or control and all copies of such material, or, at the Discloser's option, destroy such Confidential Information.

Nothing in the Contract will require a party to modify, alter, delete or destroy computer back-up media made in the ordinary course of business.

## **8. Miscellaneous**

- 8.1. The Contract constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 8.2. Each party acknowledges that it has not entered into the Contract in reliance on, and will have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract. No party will have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract. Nothing in the Contract purports to limit or exclude any liability for fraud.
- 8.3. Neither party may assign, subcontract, sublicense or encumber any right or obligation under the Contract, in whole or in part, without the other party's prior written consent, except that either party may assign the Contract in connection with the transfer or sale of all or substantially all of its assets or business or its

merger or consolidation with another company or corporation, provided that such successor is bound by the terms of the Contract. The assigning party must provide a written notice of such assignment as soon as reasonably practicable.

- 8.4. If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question will apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties will negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.
- 8.5. No failure, delay or omission by the Contract in exercising any right, power or remedy provided by law or under the Contract will operate as a waiver of that right, power or remedy, nor will it preclude or restrict any future exercise of that or any other right, power or remedy.
- 8.6. A person who is not a party to the Contract will not have any rights to enforce any of the provisions of the Contract.
- 8.7. The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed in accordance with, the laws of England. The parties irrevocably agree that the courts of England will have jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims), save that nothing will prevent either party from seeking injunctive relief or enforcing a judgment of the English courts in any appropriate jurisdiction.
- 8.8. LGN's Privacy Policy is located at [[https://lgn.ai/files/LGN\\_privacy\\_policy\\_june\\_2020.pdf](https://lgn.ai/files/LGN_privacy_policy_june_2020.pdf)] and may be updated by LGN from time to time,