

**BAXTER HEALTHCARE LIMITED**

and

**[ ] LIMITED**

**MARKET RESEARCH AGREEMENT**

**[ ] 2010**

## MARKET RESEARCH AGREEMENT

This Agreement ("**Agreement**") is made on [ ] 2010  
("**Effective Date**")

### BETWEEN

**BAXTER HEALTHCARE LIMITED**, a duly incorporated company having its registered office at 33 Vestey Drive, Mt Wellington, Auckland, 1006, New Zealand ("**Baxter**");  
and

[ ] **LIMITED** a duly incorporated company, having its principal place of business at [ ], New Zealand ("**Supplier**").

(Together the "**Parties**" or individually a "**Party**")

**The Supplier is a provider of market research services and Baxter intends to engage the Supplier to provide market research and/or related services, the scope of which may be agreed from time to time between the Parties. Baxter and the Supplier agree to enter into this Agreement on the terms contained below:**

#### 1. **Term**

This Agreement commences on the Effective Date and will continue for the later of **1 year** or the completion of all Services, unless terminated earlier in accordance with clause 9 of this Agreement.

#### 2. **Services**

Supplier will perform the services and deliver those deliverables for Baxter and/or Baxter's affiliates, as described in the Statement of Work attached as Schedule 1 (the "**Initial Services**"). Baxter does not commit to purchase services from the Supplier beyond the Initial Services, however during the term of this Agreement, Baxter and/or its affiliates may request the Supplier to perform additional services as outlined in an additional Statement of Work signed by both parties (in substantially the same form as Schedule 2). Such additional Statement(s) of Work (the "**Additional Services**") shall be subject to the terms and conditions of this Agreement, in addition to any additional terms and conditions set forth in such Statement of Work. The Initial Services and Additional Services, if any, shall be referred to collectively in this Agreement as the "**Services**."

Notwithstanding any other provision of this Agreement, the Supplier agrees to perform the Services in accordance with the requirements of:

- (a) all laws, rules and regulations and generally accepted industry standards that apply to the performance of the Services;
  - (b) the Medicines Australia Code of Conduct and the Code of Practice of the Medical Technology Associations of Australia and New Zealand;
- and

(c) the provisions of Baxter's Interactions With Healthcare Professionals Policy relating to market research.

3. **Compensation**

Baxter will pay the Supplier the fees and expenses, if any, in the amount and on the terms and conditions described in a completed Statement of Work, upon completion of the Service Milestones contained in the Statement of Work.

4. **Privacy Undertakings**

The Supplier confirms that it is a member of the Market Research Society of New Zealand and is legally bound by the obligations contained in the Market Research Society of New Zealand's Code of Practice

The Supplier agrees to adhere to the following guidelines in relation to provision of Services:

- (a) The Supplier will not use the names, contact information or any other details relating to individuals provided to it by Baxter ("**Private Information**") for any purposes other than provision of the Services requested by Baxter.
- (b) Following completion of the Services, the Supplier shall return and/or destroy all Private Information.
- (c) When contacting individuals who are not employees of Baxter, the Supplier shall advise such individuals that their details were provided by Baxter for the sole purposes of providing the Services, and that following completion of the Services, the Supplier will not use their contact or other details for anything else unless requested in writing by Baxter.

5. **Confidentiality**

In the course of performing the Services, the Supplier may receive confidential or proprietary Baxter information, the disclosure of which would not be in Baxter's best interests. The Supplier will keep this information confidential, together with any other information that the Supplier may acquire with respect to Baxter's business, including, but not limited to:

- (a) Information developed by the Supplier for Baxter; and
- (b) Information relating to new products, customers, pricing, know-how, process and practices,

until such time as such knowledge and information otherwise becomes generally available to the public through no fault of the Supplier.

The Supplier will not disclose to others, without Baxter's consent, the fact that it is providing the Services to Baxter, and will not publish any details on the subject of this consulting relationship, without obtaining prior written approval

from Baxter. This undertaking to keep information confidential will survive the termination of this Agreement.

At the termination of this Agreement, the Supplier will return all provided property and information to Baxter.

6. **Conflicts of Interest**

The Parties agree that during the term of this Agreement, it shall be considered a conflict of interest for the Supplier to provide market research services or other services which are reasonably similar to the Services, taking into consideration the segment of the market in which the Services are provided, to any of Baxter's direct competitors in the Australian and New Zealand market ("**Competitor Services**"). Furthermore, individual employees or consultants of the Supplier involved in provision of the Services shall not be engaged in provision of Competitor Services for a period of 12 months following the last date of their active involvement in provision of the Services.

Furthermore, the Supplier shall notify Baxter of any interest the Supplier or its senior executives have with any of Baxter's direct competitors, whether on their own account or jointly, or as a consultant to or as a partner, agent, trustee, employee, shareholder, member or director, or otherwise directly or indirectly interested, engaged or concerned in, or assisting financially or in any other way, any business which is a direct competitor to Baxter. For the avoidance of doubt, Baxter's direct competitors at the time of entry into this Agreement include legal entities trading under the brand or business names of Abbott, Bayer, Biomed, B Braun, CareFusion, Covidien, Fresenius Kabi, Fresenius Medical Care, Hospira, Johnson and Johnson Medical, Pfizer, and any related companies, to the extent that these businesses operate in the Healthcare/Medical Industry in Australia and/or New Zealand.

Should the Supplier breach this clause, Baxter may terminate this Agreement with immediate effect by written notice to the Supplier and without further liability to the Supplier, except to pay for Services actually rendered.

7. **Independent Contractor**

The Contractor is an independent contractor. The Contractor is not an employee of Baxter. The manner in which the Contractor renders the Services will be within the Contractor's sole control and discretion.

Baxter will not be responsible for the Contractor's acts, while performing the Services, whether on Baxter's premises or elsewhere. The Contractor will not have authority to speak for, represent, or obligate Baxter in any way.

The Contractor acknowledges and agrees that it will be responsible for any Accident Compensation Corporation claims made by its employees in relation to the performance of Services under this Agreement. The Contractor

agrees to indemnify Baxter with respect to any claim that may be made for death, loss, damage or suffering relating to the Contractor's employees or agents in relation to the performance of Services under this Agreement.

8. **Ownership of Developments**

All written materials and other works which may be subject to copyright and all patentable inventions, discoveries, and ideas (included but not limited to any computer software) which are made, conceived or written by the Contractor during the term of this Agreement, and for 90 days after it expires, and which are based upon the Services performed by the Contractor for Baxter ("Developments") shall become Baxter's property.

The Contractor agrees to hold all developments confidential in accordance with clause 5 of this Agreement.

9. **Disclosure and Transfer of Developments**

The Contractor will disclose promptly to Baxter each development and, upon Baxter's request and at Baxter's expense, the Contractor will assist Baxter, or anyone it designates, in filing patent or copyright applications in any country in the world. Each copyrightable work, to the extent permitted by law, will be considered a work made for hire and the authorship and copyright of the work shall be in Baxter's name.

The Contractor will execute all papers and do all things, which may be necessary or advisable, in the opinion of Baxter, to prosecute such applications and to vest in Baxter, or its designee, all the right, title and interest in and to the developments. If for any reason the Contractor is unable to effectuate a full assignment of any development, the Contractor will transfer to Baxter, or its designee, its transferable rights, whether they be exclusive or non-exclusive, or as a joint inventor or partial owner of the development.

10. **Disclosures to Baxter**

If during the term of this Agreement, the Contractor discloses any copyrightable works, inventions, discoveries or ideas to Baxter which were conceived or written prior to this Agreement or which are not based upon the Services performed by the Contractor for Baxter under this agreement, Baxter will have no liability to the Contractor because of its use of such works, inventions, discoveries or ideas, except liability for infringement of any valid copyright or patent now or hereafter issued thereon.

11. **Diversity and Sustainability**

For the purposes of this clause, the following definitions apply:

- (a) **“Diverse Activities”** means recruiting, hiring, training, promoting and retaining persons of diverse backgrounds;
- (b) **“Sustainability Activities”** means the use or identification of products and/or services which have a lower impact on the environment or support corporate social responsibility while maintaining quality, functionality and cost competitiveness;
- (c) **“Sustainability Report”** means a report which sets out goals, targets and actions in relation to Sustainability Activities which may include:
  - (i) reducing hazardous materials in products and services;
  - (ii) providing a safe workplace for employees;
  - (iii) reducing waste; and
  - (iv) promoting a diverse and inclusive workplace.

The Contractor agrees to use commercially reasonable efforts to undertake Diverse Activities within its own organisation and in connection with this Agreement and comply with all applicable affirmative action laws.

The Contractor warrants that it prohibits any form of unlawful discrimination in supplying services of the kind contemplated by this Agreement.

The Contractor agrees to support Baxter’s reasonable sustainability initiatives by undertaking Sustainability Activities.

The Contractor must provide Baxter with a written Sustainability Report for each quarter during the Term, identifying all Diverse Activities and Sustainability Activities in which the Contractor participates and in particular which relate to this Agreement during the relevant quarter.

## 12. **Indemnification**

Supplier shall indemnify, defend and hold harmless Baxter, its affiliates, and their respective officers, directors, employees, and agents from any claims, losses, liabilities, damages or expenses (including without limitation reasonable attorney’s fees) directly arising out of or in connection with:

- (a) negligent or wrongful acts or omissions of Supplier or its employees or authorized subcontractors in performing the Services hereunder and with respect to complying with the terms of this Agreement or provision of the Services;
- (b) any third party allegation that the any deliverables, materials or Services provided under this Agreement infringe such third-party's patent, or any copyright, trademark or trade secret; or
- (c) any breach of the terms of this Agreement by Supplier or its employees or authorized subcontractors,

except to the extent that any claim, loss, liability, damage or expense is attributable to act or omission or negligence of Baxter, its affiliates, and their respective officers, directors, employees, and agents.

### 13. **Contract Termination**

Baxter may immediately terminate this Agreement by notice in writing if the Contractor:

- (a) Breaches any provision of this Agreement;
- (b) Wilfully fails to discharge its duties or responsibilities under this Agreement;
- (c) Becomes bankrupt or makes arrangement or composition with creditors.

If Baxter terminates this Agreement under one of the above terms, it will only pay the Consultant Fees for provision of Services up to the effective date of termination.

Either Party may terminate this Agreement by giving one months' written notice, provided that in the case of termination by the Contractor, the Contractor shall continue to provide Services in accordance with this Agreement on all existing Projects where the Contractor has already commenced provision of Services, or where the Parties have already agreed in writing on the terms and budget for the Project.

### 14. **General**

Baxter may assign its rights or obligations under this Agreement, without the Contractor's prior written consent, to any Baxter affiliate or to a successor to the business or operation of Baxter or any affiliate. Baxter may assign its rights or obligations under this Agreement to any other party which agrees to be bound by all terms and conditions of this Agreement, provided that Baxter obtains the Contractor's prior written consent, such consent not to be reasonably withheld. The Contractor may not assign its obligations under this Agreement without Baxter's prior written consent.

This Agreement is the entire agreement between the Parties and supersedes any prior agreement and understandings between the Parties in relation to the subject matter of this Agreement, other than the Supplier's acceptance of Baxter's Standard Terms and Conditions. In the event of any conflict between this Agreement and Baxter's Standard Terms and Conditions, this Agreement shall prevail.

This Agreement may only be amended by agreement of both Parties in writing. If any part, term or provision of this Agreement shall be held illegal, unenforceable or in conflict with any law of a federal or local government having jurisdiction over this Agreement, the validity of the remaining portion or portions shall not be affected thereby.

The waiver of a breach of this Agreement or the failure of a party to exercise any right under this Agreement shall in not event constitute a waiver as to any

other breach, whether similar or dissimilar in nature, or prevent the exercise of any right under this Agreement.

Any dispute that arises under this Agreement shall be dealt with in accordance with the law of New Zealand, and any claim or dispute arising hereunder shall be subject to the jurisdiction of the courts of New Zealand.

**EXECUTED as an agreement**

**EXECUTED by BAXTER  
HEALTHCARE LIMITED:**

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Signature of director

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Signature of Marketing/Procurement  
Manager

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Name

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Name

**EXECUTED by CONSULTANT:** (insert  
appropriate execution format)



## SCHEDULE 1 – STATEMENT OF WORK FOR INITIAL SERVICES

<b>Initial Services:</b>	<b>[Specify:]</b>
<b>If applicable, identify by name specific employees of the Contractor to provide the Services.</b>	<b>[Specify:]</b>
<b>Deliverables, if any (including a process for measuring , accepting and time periods for achievement) :</b>	<b>[Specify:]</b>
<b>Specific Tasks/Milestones with scheduled completion dates:</b>	<b>[Specify:]</b>
<b>Hours of work:</b>	<b>[Specify:]</b>
<b>Fees:</b>	<b>[Specify:]</b>  <b>Hourly rate (if applicable):</b>  <b>Fixed fee (if applicable):</b>  <b>Payment Schedule:]</b>

<b>Expenses:</b>	[Specify agreed out-of pocket expenses which will be paid at cost, without mark-up:]
<b>Conditions of payment of Fees by Baxter:</b>	Baxter will pay the Contractor within 30 days of the month of invoice, upon receipt, review and approval of the Contractor's invoice which must detail the Services rendered, time spent and fees.

### Statement of Work Agreed between the Parties:

Baxter Healthcare Limited:

Supplier:

\_\_\_\_\_

\_\_\_\_\_

Name:

Name:

Position:

Position:

Date:

Date:

## SCHEDULE 2 - STATEMENT OF WORK FOR ADDITIONAL SERVICES

<b>Additional Services:</b>	<b>[Specify:]</b>
<b>If applicable, identify by name specific employees of the Supplier to provide the Services.</b>	<b>[Specify:]</b>
<b>Deliverables, if any (including a process for measuring , accepting and time periods for achievement) :</b>	<b>[Specify:]</b>
<b>Specific Tasks/Milestones with scheduled completion dates:</b>	<b>[Specify:]</b>
<b>Hours of work:</b>	<b>[Specify:]</b>
<b>Fees:</b>	<b>[Specify:]</b>  <b>Hourly rate (if applicable):</b>  <b>Fixed fee (if applicable):</b>  <b>Payment Schedule:]</b>

<b>Expenses:</b>	[Specify agreed out-of pocket expenses which will be paid at cost, without mark-up:]
<b>Conditions of payment of Fees by Baxter:</b>	Baxter will pay the Supplier within 30 days of the month of invoice, upon receipt, review and approval of the Supplier's invoice which must detail the Services rendered, time spent and fees.

#### Statement of Work Agreed between the Parties:

Baxter Healthcare Limited:

Supplier:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

Position:

Position:

Date:

Date:

## **SCHEDULE 3- ETHICS & COMPLIANCE STANDARDS FOR BAXTER SUPPLIERS**

These standards apply to individuals/organizations that provide services, raw material, active ingredients, components, finished goods, or other products ("Suppliers"). Where they exist, the Supplier's own written ethics and compliance standards may replace these Standards if they are consistent with these standards and are incorporated into a written agreement between Baxter and Supplier.

### **ADHERANCE TO APPLICABLE LAWS & REGULATIONS**

- Suppliers must comply with the applicable laws, rules, regulations, and ethical standards of the country in which they operate, applicable U.S. laws, as well as these Standards.

### **PROHIBITION OF BRIBES, KICKBACKS, UNLAWFUL PAYMENTS, AND OTHER CORRUPT PRACTICES**

- Suppliers are prohibited from directly or indirectly paying anything of value to a government official in order to:
  - Win or retain business or to improperly influence the act or decision of any government official, political party, candidate for political office, or official of a public international organization;
  - Gain an improper advantage; or
  - Illegally influence the action of any individual, customer, company, or company representative.
- Suppliers are required to keep accurate and transparent records that reflect actual transactions and payments.
- While Baxter observes local business customs and market practices, neither Baxter nor any Supplier shall participate in any corrupt, unethical or illegal practices.

### **ACCURACY OF BUSINESS RECORDS**

- All financial books and records must conform to generally accepted accounting principles.
- Supplier records must be accurate in all material respects.
  - Records must be legible, transparent, and reflect actual transactions and payments.
  - Do not hide, fail to record, or make false entries.

### **INTERACTIONS WITH HEALTHCARE PROFESSIONALS**

- When engaged with healthcare professionals or patients on behalf of Baxter, all suppliers, dealers, distributors, agents and other third parties are must adhere to any industry standard of conduct that apply to them (such as AdvaMed and EFPIA Code of Practice.)
- Any payment or benefit provided to a healthcare professional on behalf of Baxter must comply with the policy for the country or region in which the healthcare professional resides and/or practices medicine.

### **FAIR COMPETITION AND ANTITRUST**

- Suppliers must comply with all applicable laws and regulations regarding fair competition and antitrust.

### **INTELLECTUAL PROPERTY AND CONFIDENTIAL INFORMATION**

- All Suppliers requiring the exchange of confidential information with Baxter are required to execute a confidentiality agreement with Baxter in advance.
- Exchange of confidential information is limited to that required to fulfill contracted performance requirements.
- Suppliers shall not share Baxter's intellectual property or confidential information or any other information that they acquire with respect to Baxter's business (including information developed by Suppliers and information relating to products, customers, suppliers, pricing, costs, know-how, strategies, programs, processes, and practices).
- Suppliers must immediately report unauthorized disclosure of Baxter's confidential information, whether inadvertent or not, through the Ethics & Compliance Helpline at [www.baxter.com/compliance](http://www.baxter.com/compliance).

### **DATA PRIVACY**

- Supplier must abide by applicable data privacy laws and regulations when handling personal information.
- Suppliers must immediately report unauthorized use, disclosure, or loss of Baxter related personal information through the Ethics & Compliance Helpline at [www.baxter.com/compliance](http://www.baxter.com/compliance).

### **EMPLOYMENT PRACTICES GUIDELINES**

- Suppliers must treat Baxter employees with dignity and respect.
- Suppliers must comply with all applicable Employment laws and regulation including statutes prohibiting discrimination in the workplace.
- Suppliers shall not possess, use or sell illegal drugs on Baxter property or perform their work under the influence of alcohol or illegal drugs.
- Suppliers will not produce or manufacture goods or services using forced or indentured child labor. Regular full-time employees are to be at least 18 years of age. Suppliers must disclose the existence of part-time work, summer jobs, or apprenticeship programs for individuals under the age of 18 to Baxter's management.
- Baxter does not permit intimidation or hostility and will not tolerate any behavior from a supplier that might harass, disrupt or interfere with another person's ability to work.

### **CONFLICTS OF INTEREST**

- A conflict of interest arises when personal interests or activities influence, or appear to influence, the ability to act in the best interests of Baxter. Some situations that could cause a conflict of interest include:
  - Having a significant financial investment in any company

that competes, does business, or seeks to do business with Baxter. A significant financial interest includes voting control, or an ownership of more than 1% of the outstanding capital of a business, or an investment that represents more than 5% of the investor's total assets.

- Providing similar services for direct competitors of Baxter, with access to confidential or competitive information.

- When family members (or domestic partners, or those personally close to you) work for Baxter, another Baxter supplier, Baxter customer or Baxter competitor.

- Suppliers must disclose any apparent or actual conflicts of interest to Baxter's management. If Baxter management approves an apparent or actual conflict, the approval decision must be documented.

#### **MOBILE DEVICES, ELECTRONIC MEDIA, INTERNET AND E-MAIL USE**

In those circumstances where Suppliers have access to Baxter's electronic environment (Intranet, e-mail, voicemail or other), Suppliers shall:

- Protect Baxter's confidential information and electronic media;

- Encrypt or password protect data;

- Keep mobile devices with you or locked while traveling;

- Comply with local data protection laws;

- Use these tools for Baxter business purposes only; and

- Use these tools consistent with Baxter's Global Acceptable Use of Information and Technology Policy including:

- Do not knowingly download, view or forward materials of a discriminatory, harassing, threatening, sexual, pornographic, racist, sexist, defamatory or otherwise offensive nature. Electronic media must be primarily used for business purposes.

- Do communicate protected information (personal or trade secret) in a way that recognizes the sensitivity of the information, possibility of unauthorized access, and compliance to local data protection laws. Suppliers will be responsible for keeping Baxter-given password(s) secret.

- Realize that documents, software, e-mails and other web pages could bring damaging computer viruses into Baxter's network. Do not knowingly detach, decompress, run/launch or install any files or programs on Baxter's systems or open attachments that have damaging computer viruses. Do not download or disseminate any material from the Internet unless the copyright owner has provided consent.

- Adhere to the timing and methods for retention and elimination of Baxter company data stored on electronic media.

#### **TRADE COMPLIANCE**

- Suppliers must comply with the letter and spirit of all applicable import and export controls, sanctions, and other trade compliance laws of the United States and the laws of the applicable country(ies) where the transaction(s) occur(s).

#### **ENVIRONMENT, HEALTH & SAFETY**

- Suppliers are expected to comply with all applicable laws and regulations regarding environment, health and safety.

- Suppliers working with Baxter or onsite at a Baxter location must work in a way that assures their own safety and the safety of others and in compliance with applicable Baxter and governmental environmental, health and safety requirements. Any emergencies that may impact Baxter must be reported promptly.

#### **GIFTS & ENTERTAINMENT**

Gifts and entertainment are not needed in order to conduct business with Baxter and are highly discouraged.

- The following situations are always inappropriate and are expressly prohibited:

- Giving a gift, entertainment, or preferred treatment with the intention of trying to influence the decision-making objectivity of a Baxter employee.

- Offering any gift, entertainment, or preferred treatment while involved in a current purchasing or contracting decision process. (RFI, RFQ, RFP).

- Any gift of currency including "gift cards".

- Offering entertainment where the Supplier will not be present/represented (e.g., sports/event tickets).

- Offering extravagant recreational outings, travel, or lodgings at supplier sponsored events.

- On a rare and infrequent basis Baxter employees may accept very modest gifts, entertainment, or other business courtesies if it helps improve the business relationship and they would be able to reciprocate in equal value.

- Baxter employees are not permitted to solicit suppliers for gifts including gifts to support charitable causes.

- Suppliers shall not offer an opportunity to purchase products, services, or a financial interest to any Baxter employees under terms not available to all Baxter employees.

#### **RESOURCES**

- If you need additional information or guidance on these standards, or wish to report a potential violation, contact Baxter's Ethics & Compliance Helpline

[www.baxter.com/compliance](http://www.baxter.com/compliance).

- Additional supplier information can be found at [Baxter.com](http://Baxter.com)

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