



Government
Legal Department

Non disclosure agreement (unilateral - CORPORATE)

Ministry of Defence
TacSys Delivery Team
Defence Digital
MOD Abbey Wood
Ash 0A, #3008
Bristol
BS34 8JH

and

Bramble Hub Limited
9e Albert Embankment
London
SE1 7SP

THIS AGREEMENT is made on 18th July 2022 (the "**Agreement**")

BETWEEN:

(1) Ministry of Defence, (acting on behalf of the crown) of MOD Abbey Wood, Bristol BS34 8JH (the "**Authority**"); and

Bramble Hub Limited a company registered in England and Wales under registered number 04136381 whose registered office is at Bramble Hub Limited, 9e Albert Embankment, London, SE1 7SP (the "**Receiving Party**").

together, the "**Parties**" and each a "**Party**".

BACKGROUND:

- A. The Receiving Party wishes to receive Confidential Information from the Authority for the purpose of fulfilling 703610452-TacSys Organisation Design Contract (the "**Permitted Purpose**").

IT IS AGREED as follows:

1 INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

- | | |
|----------------------------------|--|
| "Affiliate" | means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time; |
| "Authority's Group" | means the Authority and any Government Body with which the Authority interacts in connection with the Permitted Purpose |
| "Authority Personal Data" | has the meaning given to it in Clause 6.2 of the Agreement; |
| "Confidential" | means, irrespective of whether it is marked as being confidential or not: |

Information”

- a) Information, including all personal data within the meaning of the Data Protection Legislation, provided by the Authority in connection with the Permitted Purpose (whether before or after the date of this Agreement) that relates to:
 - (i) the Authority;
 - (ii) the Authority’s Group; or
 - (iii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Authority or the Authority’s Group;
- b) other Information: (i) provided by the Authority or the Authority’s Group to the Receiving Party in connection with the Permitted Purpose (whether before or after the date of this Agreement) or (ii) that ought reasonably to be considered to be confidential which comes (or has come) to the Receiving Party’s attention or into the Receiving Party’s possession in connection with the Permitted Purpose;
- c) discussions, negotiations, and correspondence between the Authority or the Authority’s Group and/or any of its directors, officers, employees, consultants or professional advisers and the Receiving Party and/or any of their employees, consultants and/or professional advisers in connection with the Permitted Purpose and all matters arising therefrom; and
- d) Information or analysis derived from any of the above;

but not including any Information that:

- (i) was in the possession of the Receiving Party without obligation of confidentiality prior to its disclosure by the Authority or the Authority's Group;
- (ii) the Receiving Party obtained on a non-confidential basis from a third party who is not, to the Receiving Party's knowledge or reasonable belief, bound by a confidentiality agreement with the Authority or any member of the Authority's Group or otherwise prohibited from disclosing the information to the Receiving Party;
- (iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
- (iv) the Receiving Party evidence to the reasonable satisfaction of the Authority was independently developed without access to the Confidential Information.

"Control"

means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company and "**Controls**" and "**Controlled**" shall be interpreted accordingly;

“Copies”	means copies, reproductions, summaries, extracts, analyses, memoranda, notes or compilations (in any form or medium, including electronic or digital files of any kind) of Confidential Information, or any other documents, electronic files or records containing, reflecting or derived from the Confidential Information;
"DPA"	means the Data Protection Act 2018;
“Data Protection Legislation”	means (i) the UK GDPR as amended from time to time; (ii) the Data Protection Act 2018 as amended from time to time; (iii) Regulations made under the Data Protection Act 2018; (iv) all applicable Law about the Processing of Personal Data;
“Effective Date”	means the date of this Agreement as set out above;
“UK GDPR”	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 (and see section 205(4));
“Government Body”	means a body listed in one of the following subcategories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> a) Government Department; b) Non-Departmental Public Body or Assembly

Sponsored Public Body (advisory, executive, or tribunal);

c) Non-Ministerial Department; or

d) Executive Agency;

“Information” means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);

“Information Return Notice” has the meaning given to it in Clause 5.1;

“Permitted Purpose” has the meaning given to it in the recital to this Agreement;

“Representatives” means the Receiving Party's officers, directors, employees, advisers and agents and, where the context admits, providers or potential providers of finance to the Receiving Party;

“Specified Scope” has the meaning given to it in Clause 5.1;

“Working Day” means any day other than Saturday, Sunday and any bank or public holiday.

1.2 In this Agreement:

1.2.1 a reference to any gender includes a reference to other genders;

1.2.2 the singular includes the plural and vice versa;

1.2.3 the word “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;

1.2.4 references to any statutory provision include a reference to that

provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;

1.2.5 the expressions "subsidiary", "holding company" and "subsidiary undertaking" shall have the meanings given to them in the Companies Act 2006;

1.2.6 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and

1.2.7 references to Clauses are to clauses of this Agreement.

2 CONFIDENTIALITY OBLIGATIONS

2.1 In consideration of the Authority providing Confidential Information, at its discretion, to the Receiving Party, the Receiving Party shall:

2.1.1 treat all Confidential Information as secret and confidential;

2.1.2 have in place and maintain proper security measures and procedures which shall be at least as stringent as the measures and procedures it applies to its own confidential information to protect the confidentiality of the Confidential Information, having regard to its form and nature (including any reasonable measures that the Authority may propose from time to time;

2.1.3 not disclose or permit the disclosure of, nor otherwise make available, any of the Confidential Information in whole or in part to any other person without obtaining prior written consent from the Authority (which the Authority shall have the express right to grant or deny) or except as expressly set out in this Agreement;

2.1.4 not transfer any of the Confidential Information outside the United Kingdom.

2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than the Permitted Purpose;

- 2.1.6 not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Permitted Purpose;
- 2.1.7 keep a written record of any document or other Confidential Information received from the Authority in tangible form, and of any copy made of the Confidential Information, and make the same available to the Authority promptly upon request;
- 2.1.8 immediately notify the Authority in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- 2.1.9 not use, reproduce, transform or store the Confidential Information in an externally accessible computer or electronic information retrieval system.

3 PERMITTED DISCLOSURES

- 3.1 The Receiving Party may only disclose the Authority's Confidential Information to those of its Representatives who need to know the Confidential Information for the Permitted Purpose, provided that:
 - 3.1.1 it informs these Representatives of the confidential nature of the Confidential Information before disclosure and obtains from its Representatives enforceable undertakings to keep the Confidential Information confidential in terms at least as extensive and binding upon the Representatives as the terms of this Agreement are upon the parties; and
 - 3.1.2 at all times, it is responsible for these Representatives' compliance with the obligations set out in this agreement.
- 3.2 The Receiving Party shall be entitled to disclose Confidential Information only to the minimum extent that they are required to do so by applicable law or by order of a court or as required by the rules and regulations of any regulatory body or any enquiry or investigation by any governmental, parliamentary or official body which has the power to compel disclosure.

3.3 Before making a disclosure pursuant to Clause 3.2, the Receiving Party shall at the earliest opportunity and, to the extent that is legally permitted to do so:

3.3.1 notify the Authority in writing of the proposed disclosure; and

3.3.2 ask the court or other public body if applicable, to treat the Confidential Information as confidential.

3.4 Where notice of disclosure under Clause 3.3:

3.4.1 is legally permitted, the Receiving Party shall take into account the reasonable requests of the Authority in relation to the proposed disclosure; or

3.4.2 is prohibited, the Receiving Party shall notify the Authority of the disclosure as soon as possible following the disclosure when it is legally able to do so.

4 **TERM**

4.1 Each party's obligations under this Agreement shall continue in full force and effect for a period of as long as the confidential information remains confidential.

4.2 Without prejudice to the obligations set out in Clause 6.4.4, the obligations set out in Clause 6 shall survive termination of this Agreement and/or the Termination Date for as long as the Receiving Party is processing or controlling Authority Personal Data (as per the meaning given to it in Clause 6.2).

5 **RETURN OF INFORMATION**

5.1 The Authority may serve a notice (an "**Information Return Notice**") on the

Receiving Party at any time under this Clause 5.1. An Information Return Notice must specify whether it relates to (i) all Confidential Information provided by the Authority which is protected by this Agreement or (ii) only specified Information or categories of Confidential Information so protected (in either case, the “**Specified Scope**”). On receipt of an Information Return Notice, the Receiving Party shall:

- 5.1.1 at the Authority’s option, securely destroy or return and provide to the Authority documents and other tangible materials that contain any of the Confidential Information within the Specified Scope, including in any case all Copies of the relevant documents and other materials made by the Receiving Party;
 - 5.1.2 ensure, so far as reasonably practicable, that all Confidential Information within the Specified Scope that is held in electronic, digital or other machine-readable form is permanently and securely erased from any computer, word processor, voicemail system or any other device containing such Confidential Information; and
 - 5.1.3 make no further use of any Confidential Information which falls within the Specified Scope.
- 5.2 Following any secure destruction or return of Confidential Information to the Authority pursuant to Clause 5.1, the Receiving Party’s obligations under this Agreement (including in relation to any Confidential Information which falls outside the Specified Scope) shall otherwise continue in force until this Agreement has expired.
- 5.3 The Receiving Party's obligation to comply with an Information Return Notice in respect of any Confidential Information which falls within the Specified Scope shall not apply in respect of Confidential Information:
- 5.3.1 whose retention is required by any applicable law, rule, regulation or requirement of any competent judicial, governmental, supervisory or regulatory body, or for the purposes of any audit.

5.4 The Receiving Party's obligations under this Agreement in respect of the Confidential Information referred to in Clause 5.3 continue to be in force until this Agreement expires.

6 **Data protection**

6.1 In this Clause 6

6.1.1 the terms "controller", "processor", "data subject", and "processing" shall have the meaning given to those terms in Data Protection Legislation, and "process" and "processed" shall be construed accordingly;

6.1.2 "personal data" has the meaning set out in the Data Protection Legislation and for the purposes of this Agreement, includes special categories of personal data (as set out in Article 9(1) of the UK GDPR) and personal data relating to criminal convictions and offences (as set out in Article 10 of the UK GDPR); and

6.1.3 "Data Protection Regulator" means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Legislation, including (where applicable) in the UK, the UK Information Commissioner's Office, or any successor or replacement body from time to time.

6.2 The Receiving Party acknowledges that the Confidential Information may include personal data which is subject to the Data Protection Legislation ("**Authority Personal Data**"). The Receiving Party acknowledges that factual circumstances dictate the role of responsibility of a person under the Data Protection Legislation, but the Parties anticipate each will act as a controller (in common) in respect of the Authority Personal Data. The Receiving Party undertakes not to process any such Authority Personal Data other than in accordance with the Data Protection Legislation and any relevant codes of practice issued by the Data Protection Regulator.

- 6.3 The details of the transfer and in particular the Permitted Purpose, details of the data being shared, the lawful basis for sharing and if special category data, criminal offence data or sensitive data (within the meaning of Parts 2 and 3 of the Data Protection Act 2018) is being shared are specified in the Data Protection Particulars as set out in Appendix 1, which forms an integral part of this Agreement.
- 6.4 The Receiving Party undertakes to the Authority to:
- 6.4.1 only process the Authority Personal Data in connection with the Permitted Purpose;
 - 6.4.2 implement and maintain appropriate technical and organisational measures sufficient to comply at least with the security, integrity and confidentiality obligations imposed on a controller by the Data Protection Legislation, and shall take reasonable steps to ensure the reliability of any of its Representatives who shall have access to the Authority Personal Data (such steps to include entering into appropriate contractually binding confidentiality undertakings with such Representatives);
 - 6.4.3 not transfer any of the Authority Personal Data, whether on-line or off-line, to any country outside the United Kingdom without the prior written consent of the Authority and shall (i) ensure that such transfer is in compliance with the Data Protection Legislation and (ii) provide the Authority with evidence of the compliance safeguard implemented;
 - 6.4.4 once the Permitted Purpose has been completed, cease processing any of the Authority Personal Data and return or upon request securely destroy all the Authority Personal Data provided or made available to the Receiving Party under, or in connection with, the Permitted Purpose, and ensure that all personal data belonging to the Authority is securely and permanently deleted from its systems;
 - 6.4.5 notify the Authority promptly, and in any event within 24 hours of

becoming aware of, any unauthorised, accidental or unlawful processing of the Authority Personal Data or any actual or suspected loss, leak, destruction of, alteration, access or damage to, the Authority Personal Data;

- 6.4.6 if and to the extent that the Receiving Party receives:
 - 6.4.7 a request or notice from a data subject exercising his rights under the Data Protection Legislation which should properly be dealt with by the other Party under the Data Protection Legislation; and/ or
 - 6.4.8 (ii) any correspondence from a Data Protection Regulator,
 - 6.4.9 in either case in relation to the processing of the Authority Personal Data in connection with the Permitted Purpose, notify the Authority promptly and in any event within 48 hours of receipt of any such request or correspondence; and
 - 6.4.10 use reasonable endeavours to notify the Authority if it is obliged to make a disclosure of the Authority Personal Data under any statutory requirement, such notification to be made in advance of such disclosure or immediately thereafter, unless prohibited by law.
- 6.5 To the extent that one Party is acting as processor for and on behalf of the other Party, then the parties shall agree and execute a contract which as a minimum meets the mandatory contractual requirements of Article 28 of the UK GDPR (the Receiving Party acknowledging that such contractual requirements are incorporated herein mutatis mutandis).
- 6.6 For the avoidance of doubt, each Party acknowledges that the Authority Personal Data may include the other party's contact data (being the contact information of each Party's representatives) (which each Party shall process in its capacity as a controller) in order to (a) administer, manage and facilitate this Agreement and resolve any disputes relating to the same; (b) respond and/or raise general queries relating to this Agreement; and (c) comply with their respective obligations. Each Party shall process this contact data solely

for these purposes and in accordance with that Party's own relevant privacy policy. Each Party may be required to share the other Party's contact data with its affiliates and other relevant parties, within or outside the country of origin, in order to carry out these activities but in doing so, each Party will ensure that the sharing and use of the contact data complies with the applicable Data Protection Legislation.

7 SECURITY

- 7.1 The Receiving Party undertakes to respect and observe all regulations and restrictions relating to any security classification marked on the Confidential Information, both during the term of, and following the expiry of, this Agreement.
- 7.2 Nothing in this Agreement shall replace or prejudice any security classification marked on any of the Confidential Information.

8 GENERAL

- 8.1 The Receiving Party acknowledges and agrees that all rights, including intellectual property rights, in Confidential Information disclosed to it by the Authority shall remain with and be vested in the Authority or the relevant member of the Authority Group.
- 8.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
- 8.2.1 to grant the Receiving Party any licence or rights other than as may be expressly stated in this Agreement;
 - 8.2.2 to require the Authority to disclose, continue disclosing or update any Confidential Information; or
 - 8.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided in connection with the Permitted Purpose.
- 8.3 The rights, powers and remedies provided in this Agreement are cumulative

and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

8.4 Without prejudice to any other rights or remedies that either Party may have, each Party acknowledges and agrees that damages alone may not be an adequate remedy for any breach by a Receiving Party of the provisions of this Agreement. Accordingly, each Party acknowledges that the Authority shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.

8.5 Each Party will be responsible for all costs incurred by it or on its behalf in connection with this Agreement.

8.6 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

9 **SEVERANCE**

9.1 If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.

9.2 If any provision of this Agreement (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 shall 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 shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

10 THIRD PARTY RIGHTS

10.1 A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 (as amended, updated, or replaced from time to time) to enforce any term of this Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

11 NOTICES

11.1 Any notices sent under this Agreement must be in writing.

11.2 The following table sets out the method by which notices may be served under this Agreement and the respective deemed time and proof of service:

Manner of Delivery	Deemed time of service	Proof of service
Email	9.00am on the first Working Day after sending.	Dispatched as a pdf attachment to an email to the correct email address without any error message.
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day. Otherwise, delivery will occur at 9.00am on the next Working Day.	Properly addressed and delivered as evidenced by signature of a delivery receipt.
Prepaid, Royal Mail Signed For™ 1 st Class or other prepaid, next working day service providing proof of	At the time recorded by the delivery service, provided that delivery is between 9.00am and 5.00pm on a Working	Properly addressed, prepaid and delivered as evidenced by signature of a delivery receipt.

delivery.	Day. Otherwise, delivery will occur at 9.00am on the same Working Day (if delivery before 9.00am) or on the next Working Day (if after 5.00pm).	
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11.3 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement:

	Receiving Party	Authority
Contact	(REDACTED)	(REDACTED)
Address	Bramble Hub Limited 9e Albert Embankment London SE1 7SP	MOD Abbey Wood Ash 0A, #3008 Bristol BS34 8JH
Email	contact@bramblehub.co.uk	(REDACTED)

11.4 This Clause 11 does not apply to the service of any proceedings or other documents in any legal action or other method of dispute resolution.

12 ENTIRE AGREEMENT

12.1 This Agreement constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or

oral.

12.2 Neither Party has been given, nor entered into this Agreement in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Agreement.

12.3 Nothing in this Clause 12 shall exclude any liability in respect of misrepresentations made fraudulently.

13 GOVERNING LAW AND JURISDICTION

13.1 This Agreement and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

13.2 The Parties agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of or in connection with this Agreement or its subject matter or formation.

Signed by the Authority

Name: (REDACTED)

Signature: (REDACTED)

Position in Authority: (REDACTED)

Signed by the Receiving Party

Name: (REDACTED)

Signature: (REDACTED)

Position in the Receiving Party:
(REDACTED)

APPENDIX 1

Data Protection Particulars

Permitted Purpose	To fulfil the requirements in accordance with Attachment 3 – Statement of Requirements for the TacSys Organisation Design contract.
Categories of data to be shared	The following categories of personal data may be shared with the Contractor: <ul style="list-style-type: none">• Names• Email addresses• Roles• Grades• Phone numbers
Special categories of data/ criminal offence or sensitive data to be shared	N/A
Lawful basis for sharing	Statutory Obligation