

CONTRACT AGREEMENT

THIS AGREEMENT is made on the day of 2016

Between:

- (1) **ENERGY SYSTEMS CATAPULT LIMITED** incorporated and registered in England and Wales with company number 8705784 whose registered office is at Cannon House, 7th Floor, 18 Priory Queensway, Birmingham, B4 6BS (the “**Catapult**”); and

- (2) [.....], a company incorporated and registered in England and Wales with company number [.....] whose registered office is at [.....] (the “**Consultant**”).

Background

The Catapult wishes to contract the Consultant to provide the Services to it, as described in the Works Information. The Consultant wishes to provide Services to the Catapult through the Personnel.

It is agreed that:

The Consultant will carry out the Services and provide the Deliverables in accordance with this Agreement

The Catapult will carry out their duties in accordance with this Agreement and pay the Consultant the amount due as identified in the Fee Information.

Contract Documents

The documents forming part of this contract are (in order of precedence)
this Contract Agreement
the Contract Data including Works Information and Fee Information
the Conditions of Contract as identified in the Contract Data
the Consultant’s Tender as identified in the Contract Data
together the “**Agreement**”.

This Agreement has been entered into on the date stated at the beginning of this Agreement

Signed by: (Print Name) (Signature)

for and on behalf of **ENERGY SYSTEMS CATAPULT LIMITED** onday of 2016

Signed by: (Print Name) (Signature)

for and on behalf of [.....] **LIMITED** onday of 2016

CONTRACT DATA

WORKS INFORMATION

Conditions of Contract The Catapult's "Terms and Conditions for the Provision of Services" set out in Annex 1

Commencement Date []

Expiry Date []
(or such earlier date as notified in accordance with condition 12 of the Conditions)

Catapult email address for notices jim.owen@es.catapult.org.uk copying procurement@es.catapult.org.uk

Liability Cap Amount One million pounds (£1,000,000)

Minimum Insurance Professional Indemnity: One million pounds (£1,000,000)
Employers Liability Five million pounds (£5,000,000)
Public/Products Liability Five million pounds (£5,000,000)

Tender The document submitted by the Consultant to the Catapult entitled "[]" dated []

Personnel []
plus such other personnel as the Catapult may reasonably agree.

Deliverables []

Acceptance of Deliverables - any Deliverables that are written reports or other written outputs must satisfy the following criteria:

- i. such Deliverable contains appropriate technical detail to enable a person having a general engineering / management background who possesses suitable qualifications, experience and a general technical knowledge working in the field of ICT and energy systems to gain an appreciation and commensurate understanding of the details being presented;
- ii. such Deliverable is a well-structured and well written report, with clearly documented sources, assumptions and conclusions.
- iii. such Deliverable is a standalone document that includes the following: organisation cover page, document control details, contents page, executive summary, main body text or data providing commentary on all salient points, conclusions, recommendations and any references or in such format as reasonably requested by the Catapult;
- iv. such Deliverable must be provided in in such electronic format as the Catapult may reasonably specify (including without limitation MS Word, PowerPoint and PDF formats); and
- v. such Deliverables do not include any Background IP except where permitted under this Agreement (or where consent has been provided under this Agreement).

Services The Consultant shall provide [] services to the Catapult]and the Catapult's subsidiary the Energy Systems Catapult Services Limited] as further described below.

The Services will include (but will not be limited to) as reasonably required:

Scope and quality of the Services to be in accordance with the Consultant's Tender.

FEE INFORMATION

The fees shall be paid in accordance with the Fee Table upon successful completion of each event as listed below.

Fee Table:

Event	% of total contract value invoiceable
Project commencement	20%
On attendance of technical review meeting 1	30%
Submission and Acceptance of Deliverables (as defined in the Contract Data)	50%

The fees shall be exclusive of VAT.

Notes

The Catapult shall confirm in writing if expenses are to be paid to the Consultant.

Expenses such as travelling, accommodation and subsistence will be paid in connection with this Agreement and in accordance with condition 3.5 of the Conditions.

ANNEX 1: TERMS AND CONDITIONS FOR THE PROVISION OF SERVICES

1. DEFINITIONS

- 1.1. In this Agreement the following expressions shall, unless the context otherwise requires, have the following meanings:
- 1.1.1. **Agreement:** has the meaning set out in the Contract Agreement;
 - 1.1.2. **Background IP:** means any Intellectual Property Rights which a Party makes available for the performance of this Agreement, other than Foreground IP;
 - 1.1.3. **Catapult:** means the Energy Systems Catapult Limited;
 - 1.1.4. **Commencement Date:** means the date set out in the Contract Data;
 - 1.1.5. **Conditions:** means these Terms and Conditions for the Provision of Services, which form part of the Agreement;
 - 1.1.6. **Confidential Information:** means any information (whether or not recorded in documentary form, or stored on any magnetic or optical disk or memory) relating to the business, services, affairs and finances of a Party, for the time being confidential to that Party and trade secrets, including (by way of illustration only and without limitation) technical data and know-how relating to the business of a Party or any of its business contacts, project plans, records of planned and actual expenditure, details of projects and experiments, proposals, applications and prospectuses, graphs, charts, presentations and documents, company financial information, details of intellectual properties (whether registered or unregistered) and applications for them, technical summaries, reports, details of organisations and their business processes, names and other contact details of individuals and organisations, and any information which a Party or the Personnel is told is confidential and information treated as confidential by either Party and any information which has been given to a Party, in confidence, by customers, suppliers or other persons;
 - 1.1.7. **Consultant:** means the organisation named in the Contract Agreement providing Services to the Catapult;
 - 1.1.8. **Contract Data:** means the particulars as amended and agreed by the Parties from time to time to which these Conditions are annexed or otherwise referenced;
 - 1.1.9. **Deliverables:** means those deliverables, if any, to be provided by the Consultant to the Catapult as product of the Services and as specified in the Contract Data;
 - 1.1.10. **Expiry Date:** means the date set out in the Contract Data;
 - 1.1.11. **Fee Information:** the section of the Contract Data setting out the rates and our prices payable to the Consultant for the provision of works and Service;
 - 1.1.12. **Fees:** means the fees payable by the Catapult to the Consultant as set out in the Fee Information;
 - 1.1.13. **Foreground IP:** means any Intellectual Property Rights which are created during the provision of the Services;
 - 1.1.14. **Intellectual Property Rights:** means **any** patents, rights to inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;
 - 1.1.15. **Invention:** means any invention, idea, discovery, development, improvement or innovation made in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium;
 - 1.1.16. **Parties:** means the Catapult and the Consultant and "Party" shall be construed accordingly;
 - 1.1.17. **Personnel:** means any named individual who shall provide the Services on behalf of the Consultant as listed in the Contract Data;
 - 1.1.18. **Purchase Order:** means any purchase order for the Services submitted by the Catapult to the Consultant;
 - 1.1.19. **Results:** means all results which arise from or relate to the Services including the Deliverables and any Invention or Works;
 - 1.1.20. **Services:** means the services provided by the Consultant to the Catapult as more particularly detailed in the Works Information;

- 1.1.21. **Substitute:** means a substitute for the Personnel appointed to provide the Services;
 - 1.1.22. **Term:** means the term of this Agreement, commencing on the Commencement Date and expiring on the Expiry Date unless otherwise terminated in accordance with this Agreement;
 - 1.1.23. **Termination Date:** means the date of the termination of this Agreement howsoever occasioned;
 - 1.1.24. **Time Sheet:** means the Catapult's time sheet;
 - 1.1.25. **Week:** means Monday to Friday (inclusive) excluding public and bank holidays;
 - 1.1.26. **Works:** means all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programmes, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant or the Personnel in connection with the provision of the Services;
 - 1.1.27. **Works Information:** the section of the Contract Data setting out the works and Services to be provided by the Consultant.
- 1.2. References to conditions are, unless otherwise stated, to conditions of these Conditions.
 - 1.3. The headings to the conditions are for convenience only and shall not affect the construction or interpretation of this Agreement.
 - 1.4. In this Agreement references to statutory provisions shall be construed as references to those provisions as amended or re-enacted or modified by other provisions, from time to time, (whether before or after the date of this Agreement) and shall include references to any provisions of which they are re-enactments (whether with or without modification).
 - 1.5. Words expressed in the singular shall, where the context so requires or permits, include the plural and vice versa.
 - 1.6. Where any Party is more than one person:
 - 1.6.1. that Party's obligations in this Agreement shall take effect as joint and several obligations;
 - 1.6.2. anything in this Agreement, which applies to that Party, shall apply to all of those persons collectively and each of them separately; and
 - 1.6.3. the benefits contained in this Agreement, in favour of that Party, shall take effect as conferred in favour of all of those persons collectively and each of them separately.
 - 1.7. Reference to a "**person**" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
 - 1.8. References in this Agreement to anything which any Party is required to do or not to do shall include their acts, defaults and omissions, whether:
 - 1.8.1. directly or indirectly
 - 1.8.2. on their own account; or
 - 1.8.3. for or through any other person; and
 - 1.8.4. those which they permit or suffer to be done or not done by any other person.
 - 1.9. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
 - 1.10. References to the "approval" or "consent of the Parties" means a prior approval or consent which is in writing and which has been signed by the Parties and "approved" shall mean that written approval has been given by or on behalf of the Parties.

2. TERM

- 2.1. This Agreement shall commence on the Commencement Date and shall continue thereafter, for the Term.

3. FEES AND EXPENSES

- 3.1. Subject to the terms of this Agreement, the Catapult shall pay to the Consultant the Fees.
- 3.2. Unless otherwise specified in the Contract Data, the Consultant shall render monthly invoices in arrears to the Catapult, in respect of the Fees and where it is registered for VAT shall show any VAT separately on such invoices, together with a Time Sheet detailing the Services provided in accordance with the Contract Data. Provided the Catapult approves the Time Sheet as an accurate reflection of the Services provided; the Services have been properly performed in accordance with the Agreement and that invoices have been submitted in the required format with all required supporting documentation, the Fees will be transferred by direct bank transfer into the Consultant's nominated bank account within 30 days of the first working

day following receipt by the Catapult of the appropriate and correctly submitted invoice. All Fees shall be payable to the Consultant without deductions of any kind, save in respect of any monies owed by the Consultant to the Catapult.

- 3.3. The Consultant acknowledges that:
 - 3.3.1. if it performs services which have not been agreed pursuant to the Contract Data that it does so at its own risk;
 - 3.3.2. where the Services have not been properly performed it will be required to promptly perfect the Services and any Results arising; and
 - 3.3.3. the Catapult is not obliged to pay any further fee in respect of the services performed outside the Contract Data or time spent perfecting the Services in accordance with 3.3.2.
- 3.4. The Consultant agrees to comply with all relevant laws and requirements relating to income tax, VAT, National Insurance and any other taxes and charges that apply to the Services which it provides under this Agreement. The Consultant agrees to account for any taxes or charges due in respect of the Fees which the Consultant earns for provision of the Services. The Consultant agrees to indemnify the Catapult in full if it has to pay any taxes or charges in relation to the Services or any other aspect of this Agreement.
- 3.5. Expenses such as travelling, accommodation, subsistence or any other expense are expressly excluded unless agreed in the Contract Data. Where it is agreed that such expenses will be paid then upon receipt of an appropriate invoice rendered by the Consultant to the Catapult together with evidence of such expenses being incurred, the Catapult shall repay to the Consultant all reasonable expenses incurred by the Consultant or its Personnel in accordance with the Contract Data provided the same have been incurred with the prior written consent of the Catapult or in accordance with the Catapult's travel policy.
- 3.6. The Consultant shall quote the Purchase Order number notified in writing by the Catapult on all invoices. Any invoices received by the Catapult without a relevant Purchase Order number being quoted will be rejected and returned to the Consultant and, in such event, the Catapult will not be liable to the Consultant for late payment or any consequence arising as a result of late payment of the Fees.

4. PERFORMANCE OF SERVICES

- 4.1. The Catapult shall engage the Consultant and throughout the Term the Consultant shall provide to the Catapult the Services and to do so shall provide the Personnel to perform the Services.
- 4.2. The Consultant undertakes to the Catapult to procure, to the best of its ability, the performance and observance by the Personnel of all obligations under this Agreement and hereby acknowledges that any breach by the Personnel of any such obligations shall constitute a breach by the Consultant for which the Consultant shall be liable.
- 4.3. The Consultant shall procure that the Personnel dedicate the number of Days as set out in the Contract Data together with such attention and abilities as is necessary to ensure the proper provision of the Services.
- 4.4. If in the event the Consultant does not provide the Services for the maximum number of Days set forth in the Contract Data in any one Week or month it will be unable to roll over those remaining Days to another period during the Term without the prior written agreement of the Catapult and, further, the Consultant shall not provide the Services for any additional Days to those set out in the Contract Data without the prior written agreement of the Catapult.
- 4.5. If, in the reasonable opinion of the Catapult, any of the Personnel are failing to perform the Services in accordance with this Agreement, then, without prejudice to the other rights conferred within this Agreement, the Catapult may request the Personnel be replaced with another suitably skilled employee of the Consultant and the Consultant shall make such replacement within 5 days of written notice being received from the Catapult.
- 4.6. The Consultant may, with the prior written agreement of the Catapult appoint a suitably qualified and skilled Substitute to perform the Services instead of the Personnel, provided that the Substitute may, at the Catapult's discretion, be required to enter into direct undertakings with the Catapult, on terms no less favourable than these Conditions. If the Catapult accepts the Substitute, the Consultant shall continue to invoice the Catapult in accordance with condition 3.2 for time spent by the Substitute and shall be responsible for the remuneration of the Substitute.
- 4.7. The Consultant shall carry out (and shall procure the Personnel shall carry out) the Services from such location and shall undertake such travel in the UK and abroad as is reasonably necessary for the proper performance of the Services.

- 4.8. Subject to the Consultant being able to satisfy the Catapult in relation to security and associated concerns, the Consultant shall be required to provide any office equipment (including computing, telephone and other office equipment and facilities) required for the provision of the Services.
- 4.9. The Consultant shall supply and shall procure that the Personnel supplies the Services in a good, efficient and proper manner using reasonable skill and care with any Results being of satisfactory quality. While the Consultant's method of work is its own, the Consultant shall procure that the Personnel shall comply with the reasonable requests of the Catapult, with the Catapult's policies and procedures, as from time-to-time in force and shall use its reasonable endeavours to promote the interests of the Catapult.
- 4.10. The Consultant shall maintain adequate and suitable insurance cover in respect of the Services to be provided pursuant to this Agreement to the reasonable satisfaction of the Catapult and, in any event, of no less than the Minimum Insurance set out in the Contract Data and shall provide, promptly upon request, such evidence as the Catapult may reasonably request in this regard.
- 4.11. The Consultant undertakes with the Catapult:
 - 4.11.1. to perform such duties and exercise such powers as the Catapult assigns to and vests in the Consultant;
 - 4.11.2. to comply with all reasonable requests given by the Catapult;
 - 4.11.3. to do all other things, in the ordinary course of business, which the Catapult reasonably considers necessary or proper in its interests; and
 - 4.11.4. not to do anything which is harmful to the Catapult.
- 4.12. The Consultant warrants that it or its Personnel have not been convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed; or, those "spent" pursuant to the Rehabilitation of Offenders Act 1974); and the Personnel have the right to work within the United Kingdom and the Consultant shall provide promptly, on demand, such evidence as the Catapult may reasonably request in this regard.
- 4.13. The Consultant shall, if so reasonably required, perform the Services, or some of them, jointly with one or more other persons, as the Catapult from time to time directs.
- 4.14. The Consultant shall immediately communicate the Results to the Catapult.
- 4.15. The Results and all rights in them shall be and remain the property of the Catapult.
- 4.16. The Consultant shall execute all documents and do all acts and things agreed within the scope of the project which the Catapult, at any time during or after the termination of this Agreement requires in order to vest the Results in the Catapult or as the Catapult directs provided that:
 - i) where such acts are reasonably required for the completion of the project and/or enjoyment of the outputs of the project, the Catapult shall pay for any costs of expenses arising from such acts but shall not be required to pay further remuneration; else
 - ii) where such acts are not reasonably required for the completion of the project and/or enjoyment of the outputs of the project, the Consultant will be entitled to the agreed remuneration.
- 4.17. The Consultant shall comply and shall procure that the Personnel complies with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010, and shall comply with the Catapult's policies and procedures as from time to time in force. Breach of this condition 4.17 shall be deemed a material breach of this Agreement.

5. INDEPENDENT STATUS

- 5.1. The Consultant is an independent contractor and confirms that the Personnel would also be independent contractors were they to provide the Services directly to the Catapult and the Parties agree that the Consultant and/or the Personnel are not and shall not be deemed to be an employee, director, agent or partner of the Catapult, and nor shall they hold themselves out as such, for any purpose whatsoever. The termination of this Agreement shall not, in any circumstances, constitute or be deemed to constitute a dismissal for any purposes.
- 5.2. The Consultant agrees to indemnify the Catapult in full in relation to any liability arising from any employment-related claim (including reasonable costs and expenses) brought by the Consultant, any Personnel or any Substitute against the Catapult arising out of or in connection with the Services.

6. AUTHORITY

- 6.1. Neither Party nor the Personnel shall have power to nor shall they purport to have the power to bind the other in any way whatsoever, unless so directed in advance in writing.

- 6.2. Unless otherwise agreed in writing between the Consultant and the Catapult, during the provision of the Services, in all dealings and transactions with any and all third parties, nothing shall render either Party the partner or agent of the other.

7. PERSONAL DATA

- 7.1. Additional definitions within this condition have the meaning set out in the Data Protection Act 1998.
- 7.2. The Consultant shall procure that the Personnel consent to the Catapult holding and processing Personal Data relating to them for legal, personnel, administrative and management purposes and in particular to the processing of any Sensitive Personal Data relating to the Personnel including, as appropriate:
- 7.2.1. information about the Personnel's physical or mental health or condition in order to take decisions as to fitness for work;
- 7.2.2. the Personnel's racial or ethnic origin or religious or similar beliefs in order to monitor compliance with equal opportunities legislation; or
- 7.2.3. information relating to any criminal proceedings, in which the Personnel have been involved, for insurance purposes and in order to comply with legal requirements and obligations to third parties.
- 7.3. The Consultant consents, and shall procure that the Personnel consents, to the Catapult making Personal Data relating to Personnel available to those who provide services to the Catapult, regulatory authorities, governmental or quasi governmental organisations.
- 7.4. The Consultant consents and shall procure that the Personnel consents to the transfer of the Personnel's Personal Data to the Catapult's business contacts outside the European Economic Area provided that, prior to such transfer, the Catapult complies with the requirements of the Data Protection Act 1998 in respect of transfers and gives details of such compliance to the Consultant, if so requested in writing.
- 7.5. In the event the Consultant processes Personal Data belonging to the Catapult's employees, or such other Personal Data whereby the Catapult is the Data Controller, then the Consultant shall act as Data Processor and shall process such Personal Data in accordance with the Catapult's instructions and shall promptly comply with all reasonable requests given.

8. INTELLECTUAL PROPERTY

- 8.1. Subject to this condition 8, all Background IP is and shall remain the exclusive property of the Party owning it or, where applicable, the third party from which its right to use the Background IP has derived.
- 8.2. In the event the Consultant has Background IP which it will incorporate into the Results and does not intend for the Catapult to have any proprietary interest in such Background IP, the Consultant shall obtain the prior written consent of the Catapult to use such Background IP in the Results.
- 8.3. Each Party grants the other a royalty free, non-exclusive, non-transferrable, sub-contractable, world-wide licence to use its Background IP for the purpose of performing this Agreement.
- 8.4. In the event the Consultant's Background IP is used within the Results, the Consultant shall grant the Catapult a royalty free, non-exclusive, transferrable, sub-licensable irrevocable, world-wide licence to use the Consultant's Background IP for the exploitation of the Results, provided that, in using such Results, the Catapult agrees, where reasonably possible, to attribute the Consultant's Background IP.
- 8.5. The Consultant warrants to the Catapult that it has obtained from the Personnel a written and valid assignment of all Foreground IP in the Results and of all materials embodying such rights and a written irrevocable waiver of all the Personnel's statutory moral rights in the Results to which the Personnel are now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, to the fullest extent permissible by law, and that the Personnel has agreed to hold on trust for the Consultant any such rights in which the legal title has not passed (or will not pass) to the Consultant. The Consultant agrees to provide to the Catapult a copy of this assignment on or before the date of this Agreement, if requested.
- 8.6. The Consultant hereby assigns to the Catapult all Foreground IP in the Results and all materials embodying such rights to the fullest extent permitted by law. Insofar as they do not so vest automatically by operation of law or under this Agreement, the Consultant holds legal title in such rights on trust for the Catapult.
- 8.7. The Consultant undertakes to the Catapult:
- 8.7.1. to notify to the Catapult, in writing, full details of all Results promptly on their creation;
- 8.7.2. to keep confidential the details of all Results;
- 8.7.3. whenever requested to do so by the Catapult and in any event on the termination of the Agreement, promptly to deliver to the Catapult all correspondence, documents, papers and records on all

- media (and all copies or abstracts of them), recording or relating to any part of the Results and the process of their creation which are in its possession, custody or power;
- 8.7.4. not to register nor attempt to register any of the Foreground IP in the Results, unless requested to do so by the Catapult; and
 - 8.7.5. not to give permission to any third party to use any of the Results, nor any of the Foreground IP in the same
 - 8.7.6. to do all acts necessary to confirm that absolute title in all Foreground IP in the Results has passed, or will pass, to the Catapult,
- and confirms that the Personnel have given written undertakings in the same terms to the Consultant.
- 8.8. The Consultant warrants that:
 - 8.8.1. it is unaware of any use by any third party of any of the Results or Foreground IP in the same; and
 - 8.8.2. the use of the Results by the Catapult will not infringe the rights of any third party,and confirms that the Personnel have given written undertakings in the same terms to the Consultant
 - 8.9. The Consultant undertakes to execute all documents, make all applications, give all assistance and do all acts and things, at the expense of the Catapult and at any time either during or after the Agreement, as may, in the opinion of the Catapult be necessary or desirable to vest the Foreground IP in, and register or obtain patents or registered designs in, the name of the Catapult and otherwise to protect and maintain the Foreground IP in the Results. The Consultant confirms that the Personnel have given written undertakings in the same terms to the Consultant
 - 8.10. The Consultant acknowledges that no further remuneration or compensation other than that provided for in this Agreement is or may become due to the Consultant in respect of the performance of its obligations under this condition 8.
 - 8.11. The Consultant agrees to indemnify the Catapult and keep it indemnified at all times against any losses, damages, claims, costs or expenses (including reasonable legal expenses) incurred by the Catapult, or for which the Catapult may become liable, with respect to any intellectual property infringement claim or other claim relating to the Results supplied by the Consultant in the course of providing the Services. The Company's liability under this condition 8.11 is not limited by the provisions of condition 14.

9. CONFIDENTIAL INFORMATION

- 9.1. The Parties shall not and the Consultant shall procure that the Personnel shall not, either during the Term (except in the proper performance of its or their duties) or at any time after the termination of this Agreement:
 - 9.1.1. divulge or communicate to any person, company, business entity or other organisation;
 - 9.1.2. use for their own purposes or for any purpose other than those of the Catapult; or
 - 9.1.3. through any failure to exercise due care and diligence cause any unauthorised disclosure of any Confidential Information relating to the other or the Services.
- 9.2. These restrictions shall cease to apply to any information which becomes available to the public generally, otherwise than through the default of a Party or the Personnel; which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party, and the disclosing Party is not under any obligation of confidence in respect of that information; or where the disclosing party has given prior written consent that the information may no longer be considered confidential; or where the Confidential Information is otherwise required to be disclosed by law (in which case, where legal to do so, the disclosing party shall give the owning party as much notice as possible to the disclosure of the Confidential Information).
- 9.3. The provisions of this condition 9 shall survive for a period of five years from termination of this agreement.

10. STATE AID

- 10.1. The Parties acknowledge that the Catapult is a 'Research Organisation' as defined under European Union legislation and has an obligation to ensure, and is subject to audits to demonstrate, that all activities it undertakes is compliant with State aid rules including are activities under this Agreement. The Parties therefore agree that, notwithstanding any other provision of this Agreement:
 - 10.1.1. the Catapult shall be able to cooperate with any investigation by any grant funder or the European Commission with respect to this Agreement to the extent reasonably necessary to satisfy such investigation and the Consultant shall provide all reasonable assistance to the Catapult to satisfy such investigation.

- 10.1.2. the Catapult shall use all reasonable endeavours to protect the confidentiality of the Consultant's Confidential Information under this condition and shall only disclose such Confidential Information as is strictly necessary for the purpose of the investigation and put in place obligations of confidentiality as restrictive as those within this Agreement insofar as it is able;
- 10.1.3. the Catapult shall keep the Consultant informed of any active and specific investigation into this Agreement and, where possible, liaise with the Collaborator concerning any response to the European Commission; and
- 10.1.4. the Parties shall comply with any ruling of the European Commission.

11. OTHER ACTIVITIES

- 11.1. Nothing in this Agreement shall prevent the Consultant or the Personnel from being engaged, concerned or having any financial interest as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity, in any other business, trade, profession or occupation during the Term provided that:
 - 11.1.1. such activity does not cause a breach of any of the Consultant's obligations under this Agreement; and
 - 11.1.2. the Consultant shall not, and shall procure that the Personnel shall not, engage in any activity which amounts to a conflict of interest with the Services or from which it is reasonably foreseeable that a conflict of interest could arise.

12. TERMINATION

- 12.1. Either Party may at any time terminate this Agreement by giving written notice to the other of not less than 30 days.
- 12.2. The Catapult may, at any time and without prejudice to any rights or claims it may have against the Consultant, by notice in writing, terminate this Agreement immediately and without any liability to pay any remuneration, compensation or damages if:
 - 12.2.1. the Consultant or the Personnel commit any material or persistent breach of their obligations hereunder;
 - 12.2.2. the Consultant is placed into receivership or administration or liquidation or enters into an arrangement with its creditors;
 - 12.2.3. there is any change in the legal status or the actual or effective ownership or control of the Consultant;
 - 12.2.4. the Consultant and/or the Personnel have been guilty of conduct which in the opinion of the Catapult brings the Consultant or the Catapult into material disrepute;
 - 12.2.5. the Consultant and/or Personnel is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);
 - 12.2.6. the Personnel lose the right to work within the United Kingdom;
 - 12.2.7. the Consultant and/or the Personnel have been guilty of any serious negligence which has or is likely to have an adverse effect on the Catapult; or
 - 12.2.8. the Consultant and/or the Personnel breach condition 4.15.
- 12.3. Any delay by the Catapult in exercising such rights of termination detailed in condition 12.2 shall not constitute a waiver of them.
- 12.4. The Consultant may, at any time and without prejudice to any rights or claims it may have against the Catapult, by notice in writing, terminate this Agreement immediately and without any liability to pay any remuneration, compensation or damages if:
 - 12.4.1. the Catapult fails to pay any invoice properly submitted by the Consultant within 30 days following the first working day after receipt by the Catapult and following notice from the Consultant to the Catapult of such failure to pay, payment is not transferred by the Catapult to the Consultant within 14 days of receipt of such notice;
 - 12.4.2. the Catapult, after warning, commits any material or persistent breach of this Agreement;
 - 12.4.3. the Catapult is guilty of conduct tending to bring the Consultant or its Personnel into material disrepute; or
 - 12.4.4. the Catapult acts or enters into a course of action which prevents the Consultant (through no fault of the Consultant) from providing the Services.

13. EFFECTS AND CONSEQUENCES OF TERMINATION

- 13.1. The Consultant's engagement shall not continue at any time after it has been terminated by the Catapult, notwithstanding that the termination is before the expiry of the Term.
- 13.2. The expiration or earlier termination of this Agreement shall not affect:
 - 13.2.1. such of its provisions as are expressed to operate or have effect afterwards (including any licence granted); or
 - 13.2.2. any right of action already accrued to either Party, in respect of any breach of this Agreement, by the other party.
- 13.3. In the event of termination under condition 12 , the Catapult shall be liable for the payment of the Fees properly due to the Consultant for Services and Deliverables completed in accordance with this Agreement up to the date of actual termination.
- 13.4. All records in any medium (whether written, computer readable or otherwise) including accounts, documents, emails, drawings and private notes about the Catapult and/or the Services and all copies and extracts of them made or acquired by the Consultant, in the course of its engagement together with the Catapult's Confidential Information shall be:
 - 13.4.1. the property of the Catapult;
 - 13.4.2. used for the purpose of the Catapult only;
 - 13.4.3. returned to the Catapult on demand at any time; and
 - 13.4.4. returned to the Catapult without demand promptly following the termination of the Consultant's engagement, save that the Consultant may retain one copy for audit or compliance requirements.
- 13.5. The Consultant shall return to the Catapult on or before the Termination Date, in good repair and condition, all other property belonging to the Catapult, in its possession or control.
- 13.6. Following the return of the Catapult's property, the Consultant shall and shall procure that the Personnel irretrievably delete any Confidential Information and any other information relating to the business of the Catapult stored on any magnetic or optical disk or memory and all matters derived from such sources which is in its possession or under its control. Any Fees owing to the Consultant on the Termination Date may be withheld until it has complied with this condition 13.6.

14. WARRANTIES AND LIABILITIES

- 14.1. Neither Party shall limit its liability to the other for death or personal injury resulting from negligence, fraud or fraudulent misrepresentation or anything for which a Party cannot legally limit or exclude or attempt to limit or exclude.
- 14.2. The Consultant shall indemnify and keep indemnified the Catapult against all liabilities, costs, expenses, damages and losses (including but not limited to 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 incurred by the Catapult as a result of or in connection with the negligence or wilful default of the Consultant, its officers, agents or sub-contractors.
- 14.3. Save as set out in conditions 14.1 and 14.2 neither Party shall be liable to the other for any indirect, special or consequential loss, damage, profit, costs, expenses (including reasonable legal expenses) or claim (whether caused by the negligence of a Party, its employees or agents or otherwise) which arise out of or in connection with the provision of the Services or its use or implication.
- 14.4. Subject to conditions 14.1 and 14.3, the Catapult limits its liability under this Agreement to payment of the properly due Fees.
- 14.5. Subject to conditions 14.1, and 14.3, the liability of the Consultant under this Agreement other than that arising under condition 8.11 shall be limited to the liability cap amount set out in the Contract Data.

15. ANTI-BRIBERY

- 15.1. The Consultant shall comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010. Breach of this condition shall be deemed a material breach of this Agreement that cannot be remedied and shall entitle the Catapult to terminate this Agreement with immediate effect.

16. NOTICES

- 16.1. Any notice given under this Agreement shall be in writing and may be served:
 - 16.1.1. personally;

- 16.1.2. to the other's registered office, and in the case of the Catapult addressed to the Catapult's "Legal Counsel";
 - 16.1.3. by email to the Catapult at both the email addresses for notices set out in the Contract Information;
or
 - 16.1.4. by any other means which any Party specifies by notice to the others.
- 16.2. Each Party's address for the service of notice shall be its above mentioned address or such other address as it specifies, by notice, to the other.
- 16.3. A notice shall be deemed to have been served:
- 16.3.1. if it was served in person, at the time of service;
 - 16.3.2. if it was served by post, 48 hours after it was posted;
 - 16.3.3. if sent by email, only on acknowledgement of receipt, such acknowledgement not being an automated message.

17. DISPUTE RESOLUTION PROCEDURE

- 17.1. The Parties will attempt to resolve a dispute in good faith, whereby:
- 17.1.1. either Party shall give to the other written notice of the dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents;
 - 17.1.2. the Party's respective senior managers responsible for the Services shall attempt in good faith to resolve the dispute;
 - 17.1.3. if the Party's respective senior managers are unable to resolve the dispute within 30 days of receipt of the Dispute Notice, the dispute may be referred to the Party's respective senior partner or finance director who shall attempt in good faith to resolve the dispute;
 - 17.1.4. if the Party's respective senior partner/finance director are unable to resolve the dispute within 30 days of it being referred to them, the Parties may initiate court proceedings in respect of the dispute unless both Parties agree to an alternative dispute resolution process.
- 17.2. Condition 17 shall be without prejudice to the Party's other rights and remedies.

18. GENERAL

- 18.1. Neither Party shall publish notice of the appointment of the Consultant without the other Party's prior consent, such consent not to be unreasonably withheld or delayed.
- 18.2. This Agreement embodies the entire understanding of the Parties in respect of subject matter and there are no promises, terms, conditions or obligations, oral or written, express or implied, other than those contained in this Agreement.
- 18.3. The Consultant may not assign, transfer, sub-contract, or in any other way make over to any third party any of its rights or obligations under this Agreement without the consent of the Catapult, not to be unreasonably withheld.
- 18.4. No variation or amendment of this Agreement, or oral promise or commitment related to it, shall be valid, unless committed to writing and signed by or on behalf of both Parties.
- 18.5. Neither Party will be under any liability to the other in any way whatsoever for destruction, damage, delay or any other matters whatsoever of that nature arising out of war, rebellion, civil commotion, strikes, lock-outs and industrial disputes, fire, power shortage, explosion, earthquake, acts of God, flood, drought, or bad weather or the requisitioning or other act or order by any Government department, council or other constituted body ("Force Majeure Event"). If the Force Majeure Event prevents, hinders or delays the Parties performance of its obligations for a continuous period of more than 30 days, the other may terminate this Agreement immediately by giving written notice to the other.
- 18.6. This Agreement and the documents referred to in it are made for the benefit of the Parties and their permitted successors and assigns and are not intended to benefit, or be enforceable by, anyone else without the prior written approval of the Parties.
- 18.7. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

- 18.8. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 18.9. The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).