THIS AGREEMENT IS DATED 2018

(1) TRANSPORT SYSTEMS CATAPULT LIMITED

(2) [PARTY 2]

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| **SUPPLY OF SERVICES AGREEMENT**  |



**THIS AGREEMENT** is made on the day of 2018

**Parties**

1. TRANSPORT SYSTEMS CATAPULT LIMITED incorporated and registered in England and Wales with company number 8041919 whose registered office is at 170 The Pinnacle, Midsummer Boulevard, Milton Keynes, MK9 1BP (the “Catapult”); and
2. [INSERT NAME], a company incorporated and registered in England and Wales with company number [ XXXXXX]whose registered office is at [insert address] (the “Supplier”).

**Background**

1. The Supplier has experience, skills and expertise in………….
2. The Catapult wishes to contract the Supplier to provide the Services detailed within Schedule 1.
3. The Supplier wishes to provide Services to the Catapult on the terms of this Agreement.

**Agreed Terms**:

1. **DEFINITIONS**
	1. In this Agreement the following expressions shall, unless the context otherwise requires, have the following meanings:
		1. **Background IP:** means any Intellectual Property Rights which a Party makes available for the performance of this Agreement, other than Foreground IP;
		2. **Catapult:** means Transport Systems Catapult Limited, more particularly described above;
		3. **Commencement Date:** means the date set out in Schedule 1;
		4. **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 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;
		5. **Supplier:** means the organisation providing Services to the Catapult, more particularly described above and such term shall include any Key Person if named in Schedule 1 and any Substitute;
		6. **Day:** means 7.5 hours whether incurred during any one period or aggregate of periods;
		7. **Fees:** means the fees payable by the Catapult to the Supplier as set out in Schedule 2;
		8. **Foreground IP:** means any Intellectual Property Rights which are created during the provision of the Services;
		9. **Intellectual Property Rights:** means any patents, rights to inventions, copyright and related rights, trademarks, 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;
		10. **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;
		11. **Key Person:** means any individual named in Schedule 1 who shall provide the Services on behalf of the Supplier;
		12. **Milestones:** means those milestones set out in the Schedule 1,
		13. **Parties:** means the Catapult and the Supplier and “Party” shall be construed accordingly;
		14. **Purchase Order:** means any purchase order for the Services submitted by the Catapult to the Supplier;
		15. **Results**: means all results which arise from or relate to the Services
		16. **Schedules:** means Schedules 1, 2 and 3 of this Agreement;
		17. **Services:** means the services provided by the Supplier to the Catapult as more particularly detailed in Schedule 1;
		18. **Substitute:** means a substitute for the Key Person, if any, appointed to provide the Services;
		19. **Supplier:** means the organisation providing Services to the Catapult, more particularly described above and such term shall include any Key Person if named in Schedule 1 and any Substitute;
		20. **Term:** means the term of this Agreement as set out in clause 2 below;
		21. **Termination Date:** means the date of the termination of this Agreement howsoever occasioned;
		22. **Time Commitment:** means the time commitment set out in the Schedule 1 required of the Supplier to provide the Services;
		23. **Week:** means Monday to Friday (inclusive) excluding public and bank holidays;
	2. The headings to the clauses are for convenience only and shall not affect the construction or interpretation of this Agreement.
	3. 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).
	4. Words expressed in the singular shall, where the context so requires or permits, include the plural and vice versa.
	5. Where any Party is more than one person:
		1. that Party’s obligations in this Agreement shall take effect as joint and several obligations;
		2. anything in this Agreement, which applies to that Party, shall apply to all of those persons collectively and each of them separately; and
		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.
	6. Reference to a “**person”** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
	7. 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. directly or indirectly
		2. on their own account; or
		3. for or through any other person; and
		4. those which they permit or suffer to be done or not done by any other person.
	8. 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.
2. **TERM**
	1. This Agreement shall commence on the Commencement Date and shall continue thereafter until the earliest of the following:
		1. termination of this Agreement as provided by the terms of this Agreement,
		2. termination of this Agreement by either Party giving to the other not less than [XX] [days] prior written notice, or
		3. completion of the provision of the Services in accordance with Schedule 1 and 2
3. **FEES AND EXPENSES**
	1. Subject to the terms of this Agreement, the Catapult shall pay to the Supplier the Fees as detailed in Schedule 2.
	2. TSC will issue a Purchase Order (PO) based upon those fees identified. The Supplier will submit an invoice for the amount agreed in the PO and which bears the correct Purchase Order number. The Fees will be transferred by direct bank transfer into the Supplier’s nominated bank account within 30 days of the first working day following receipt by the Catapult of an appropriate and correctly submitted invoice. All Fees shall be payable to the Supplier without deductions of any kind, save in respect of any monies owed by the Supplier to the Catapult.
	3. The Supplier acknowledges that:
		1. if it performs services which have not been agreed pursuant to the Agreement that it does so at its own risk;
		2. where the Services have not been properly performed it will be required to promptly perfect the Services and any Results arising; and
		3. the Catapult is not obliged to pay any further fee in respect of the services performed outside the Agreement or time spent perfecting the Services in accordance with 3.3.2.
	4. The Supplier 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 Supplier agrees to account for any taxes or charges due in respect of the Fees which the Supplier earns for provision of the Services. The Supplier 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.
	5. The Supplier shall bear its own travelling, accommodation and subsistence expenses incurred in the course of providing the Services unless agreed with the Catapult in advance of them being incurred.
	6. The Supplier 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 Supplier and, in such event, the Catapult will not be liable to the Supplier for late payment or any consequence arising as a result of late payment of the Fees.
4. **PERFORMANCE OF SERVICES**
	1. The Catapult shall engage the Supplier for the Term and the Supplier shall perform the Services and if a Key Person is named in the Schedules shall provide such Key Person to provide the Services.
	2. The Supplier undertakes to the Catapult to procure, to the best of its ability, the performance and observance by the Key Person, if such is named in Schedule 1, of all obligations under this Agreement and hereby acknowledges that any breach by the Key Person, if such is named in the Schedule 1, of any such obligations shall constitute a breach by the Supplier for which the Supplier shall be liable.
	3. The Supplier shall dedicate such time and resources as necessary to meet any deadlines with such due care, skill, attention and abilities as necessary to ensure the proper provision of the Services.
	4. The Supplier agrees that time shall be of the essence to deliver the services by the agreed timescales..
	5. In the case of illness or accident, the Supplier shall notify the Catapult immediately and shall provide such evidence as to the illness or accident as the Catapult shall reasonably require. The Supplier shall provide a Substitute, in accordance with Clause 4.7, to complete the work. For the avoidance of doubt, the Supplier will not be entitled to receive the Fees if the Supplier is unable to perform the Services due to illness or accident.
	6. If, in the reasonable opinion of the Catapult, any employee of the Supplier is 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 such employee be replaced with another suitably skilled employee of the Supplier and the Supplier will use reasonable endeavours to make such replacement within 5 days of written notice being received from the Catapult.
	7. The Supplier may, with the prior written agreement of the Catapult appoint a suitably qualified and skilled Substitute to perform the Services, provided that the Substitute may, at the Catapult’s discretion, be required to enter into direct undertakings with the Catapult, on terms no less onerous than this Agreement. If the Catapult accepts the Substitute, the Supplier shall continue to invoice the Catapult in accordance with clause 3.2 for time spent by the Substitute and shall be responsible for the remuneration of the Substitute.
	8. The Supplier shall perform the Services from such location and shall undertake such travel in the UK as is reasonably necessary for the proper performance of the Services.
	9. Subject to the Supplier being able to satisfy the Catapult in relation to security and associated concerns, the Supplier shall be required to provide any office equipment (including computing, telephone and other office equipment and facilities) required for the provision of the Services.
	10. The Supplier shall supply the Services in a good, efficient and proper manner using reasonable skill and care with any Results being of satisfactory quality. While the Supplier’s method of work is its own, the Supplier 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.
	11. The Supplier shall maintain adequate and suitable insurance cover (to the reasonable satisfaction of the Catapult) and, in any event, to a minimum of £500,000 in respect of the Services to be provided pursuant to this Agreement and shall provide, promptly upon request, such evidence as the Catapult may reasonably request in this regard.
	12. The Supplier undertakes with the Catapult:
		1. to perform such duties and exercise such powers as the Catapult assigns to and vests in the Supplier with all reasonable skill and care as can be expected of a skilled professional providing similar services;
		2. to comply with all reasonable requests given by the Catapult to deliver the Services; and
		3. not to do anything which is harmful to the Catapult.
	13. The Supplier 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.
	14. The Supplier shall immediately communicate the Results to the Catapult.
	15. The Results and all rights in them shall be and remain the property of the Catapult.
	16. The Supplier shall, without further remuneration, but at the Catapult’s expense, execute all documents and do all acts and things 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.
5. **INDEPENDENT STATUS**
	1. The Parties agree that the Supplier is not and shall not be deemed to be an employee, director, agent or partner of the Catapult, and shall not hold itself out as such, for any purpose whatsoever.
	2. The Supplier 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 Supplier, any Key Person or any Substitute against the Catapult arising out of or in connection with the Services.
6. **AUTHORITY**
	1. Neither Party 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.
	2. Unless otherwise agreed in writing between the Supplier 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**
	1. The Parties agree that the Catapult is a Controller and that [Insert Supplier Name] is a Processor for the purposes of Processing Controller Personal Data pursuant to this Agreement.
	2. The Processor shall:
	3. implement appropriate technical and organisational measures to protect Controller Personal Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data Processed by it.
	4. preserve so far as possible the security of Controller Personal Data and prevent any loss, disclosure, theft, manipulation or interception of Controller Personal Data; and
	5. ensure that its anti-malware controls are deployed and maintained in accordance with Good Industry Practice and any of the Processor’s IT policies, check for and delete any malicious materials from its systems and not intentionally or negligently transfer any malicious materials onto any of the Controller’s IT systems or onto any media containing Controller Personal Data.
	6. The Processor shall provide to the Controller at any time on request a detailed written description of such technical and organisational measures in place.
	7. The Processor shall:
		* + 1. not permit any Processing of Controller Personal Data by any agent or subcontractor or other third party (“Sub-Processor”) without the prior written authorisation of the Controller and only then subject to the Processor informing the Controller of any changes it has made and permitting the Controller to object to those, as well as such conditions as the Controller may require and provided that the Processor remains fully liable for all the actions and omissions of the Sub-Processor and that any Sub-Processor agrees in writing to comply with obligations the same as those imposed on the Processor in this clause 7.

The Processor and any of its employees, staff, workers, agents or consultants (“Processor Personnel”) shall:

(a) only Process the Controller Personal Data for the purposes of supplying the Services (and for no other purpose whatsoever), and at all times in accordance with Good Industry Practice, the Controller’s documented instructions from time to time, the Controller’s Data Protection Policies, the Description of Processing and all applicable Data Protection Laws; and

(b) not transfer, or otherwise directly or indirectly disclose, any Controller Personal Data to countries outside the European Economic Area (EEA) without the prior written consent of the Controller (which may be refused or granted subject to such conditions as the Controller deems necessary) except where the Processor is required to transfer the Controller Personal Data by the laws of the member states of the EU or EU law (and shall inform the Controller of that legal requirement before the transfer, unless those laws prevent it doing so). If, at any time, the United Kingdom is not in the EEA, the Processor may transfer any Controller Personal Data to the United Kingdom provided that the United Kingdom has been deemed an adequately protective jurisdiction for the purposes of the applicable Data Protection Law and until and unless the United Kingdom has been deemed adequately protective, the Processor shall only transfer Controller Personal Data to or Process such data in the United Kingdom provided it enters into all further terms (whether with the Controller or any other Party) and completes, maintains and implements (as applicable) all other actions, measures and safeguards as required to ensure that such transfers and Processing do not breach the obligations of the Processor or the Controller or the Controller’s Affiliates under Data Protection Law, including, if applicable, the valid execution of the EU model contractual clauses as set out in Decision 2010/87/EU (or, at the Controller’s option, any alternative version of those clauses issued by the European Commission or a supervisory authority from time to time).

* 1. The Processor shall:

(a) ensure that access to Controller Personal Data is limited to the Processor Personnel and authorised Sub-Processors who need access to it to supply the Services, and that all Processor Personnel and authorised Sub-Processors are:

(i) informed of the confidential nature of Controller Personal Data, and that they must not disclose the Controller Personal Data;

* + 1. are subject to an enforceable obligation of confidence with regards to the Controller Personal Data; and
		2. are assessed by the Processor or authorised Sub-Processor prior to any Processing of Controller Personal Data to ensure their reliability, and that they receive training on data protection matters.
	1. The Processor shall implement appropriate technical and organisational measures to protect Controller Personal Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data Processed by it, including (inter alia) where appropriate:
		+ - 1. the pseudonymisation and encryption of the Controller Personal Data;
				2. guaranteeing the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
				3. restoring the availability and access to the Controller Personal Data in a timely manner in the event of a physical or technical incident; and
				4. regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing.

The Processor shall provide to the Controller at any time on request a detailed written description of such technical and organisational measures in place.

* 1. The Processor and any of its Processor Personnel shall:

(a) promptly provide such information and assistance (at no cost to the Controller) as the Controller may require in relation to:

(i) any request from or on behalf of any Data Subject for access, rectification or erasure of Controller Personal Data, or any complaint, objection to Processing, or other correspondence. In no event shall the Processor or any of the Processor Personnel respond directly to any such request, complaint or correspondence without the Controller’s prior written consent unless and to the extent required by law;

* 1. The Processor and any of its Processor Personnel shall:
1. immediately (and in any event within 2 calendar days) and fully notify the Controller in writing if any Controller Personal Data has been disclosed in breach of this clause or if it is lost, becomes corrupted, is damaged or is deleted in error
	1. The Processor shall notify the Controller immediately if it suspects or becomes aware of any actual, threatened or potential breach of security of Controller Personal Data and any personal data breach (as defined in the GDPR) and shall ensure all such notices include full and complete details relating to such breach, in particular:
	2. the nature and facts of such breach including the categories and number of Controller Personal Data records and, if applicable, Data Subjects concerned;
	3. the contact details of the data protection officer or other representative duly appointed by the Processor from whom the Controller can obtain further information relating to such breach;
	4. the likely consequences or potential consequences of such breach; and
	5. the measures taken or proposed to be taken by the Processor and/or any Processor Personnel to address such breach and to mitigate any possible adverse effects and the implementation dates for such measures.

9. The Processor or any of its Processor Personnel shall:

(a) promptly provide such information and assistance (at no cost to Controller) as the Controller may require in relation to:

(i) the Controller’s decision to undertake a data protection impact assessment where the Controller considers (in its sole discretion) that the type of Processing may result in a high risk to the rights and freedoms of Data Subjects;

(ii) any approval of the Information Commissioner or other data protection supervisory authority to any Processing of Controller Personal Data, or any request, notice or investigation by such supervisory authority.

10. The Processor or any of its employees, staff, workers, agents or consultants (“Processor Personnel”) shall:

(a) on request at any time and on the expiry or termination of this Agreement [(and/or specific services within it)], (at no cost to the Controller) at the Controller’s option either return all of the Controller Personal Data, and/or Confidential Information, and copies of it in such format as the Controller may require or securely dispose of the Controller Personal Data and/or Confidential Information, except to the extent that any applicable law requires the Processor to store such Controller Personal Data and the Processor has promptly demonstrated their legal requirements to the Controller

* 1. The Processor shall permit the Controller (and any of its authorised representatives) and the Information Commissioner (or its authorised representatives), at the Processor’s cost, access to any of the Processor’s premises, personnel, IT systems and relevant records as may be reasonably required by the Controller upon reasonable notice at any time for the purposes of conducting an audit in order to verify the Processor’s compliance with this clause and Data Protection Laws.
	2. The Processor shall, on demand, provide the Controller and the Information Commissioner (and/or their authorised representatives) with all reasonable co-operation, access and assistance in relation to each audit.
	3. The Processor shall permit and contribute to all audits or inspections conducted by the Controller and/or the Information Commissioner (or their authorised representatives) for the purpose of confirming the Processor’s compliance with this clause and the Data Protection Laws.
	4. In the Processor’s reasonable opinion, to the extent that it believes that any instruction received by it is likely to infringe the Data Protection Law or any other applicable law, the Processor shall promptly inform the Controller.
1. The Processor shall adhere to:

(a) [relevant approved code of conduct];

1. [approved certification mechanism];
2. [Controller Data Protection Policy]; and
3. [Controller Data Security Policy].
4. The Parties shall consider whether any applicable standard clauses once published under Articles 28(7) or 28(8) could replace these provisions, and if so, adopt them by a variation to this Agreement.
5. The parties shall adhere to the description of processing as set out in Schedule 3.
6. Processor shall indemnify the Controller against: (i) all losses, claims, damages, liabilities, fines, interest, penalties, costs, charges, expenses, demands and legal and other professional costs (calculated on a full indemnity basis) arising out of or in connection with any breach by the Processor and/or any Sub-Processor (as applicable) of this clause including where the Processor’s breach then places the Controller in breach or subject to regulatory action, which the parties agree is foreseeable and a direct loss; and (ii) all amounts paid or payable by the Controller to a third party which would not have been paid or payable if the Processor’s breach of this clause had not occurred including in both cases where the Processor’s breach then places the Controller in breach or subject to regulatory action, which the parties agree is foreseeable and a direct loss].
7. **INTELLECTUAL PROPERTY**
	1. Subject to this clause 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.
	2. In the event the Supplier 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 Supplier shall obtain the prior written consent of the Catapult to use such Background IP in the Results.
	3. Each Party grants the other a royalty free, non-exclusive, non-transferrable, sub-licensable, world-wide licence to use its Background IP for the purpose of performing this Agreement.
	4. In the event the Supplier’s Background IP is used within the Results and it is reasonably impracticable to separate the same without adversely affecting the utilisation of the Results; or the Supplier has not prohibited a licence in writing within 3 months of commencement of the creation of the Results or 3 months from the Termination Date (whichever is earlier), the Supplier shall grant the Catapult a royalty free, non-exclusive, transferrable, sub-licensable irrevocable, world-wide licence to use the Supplier’s Background IP for the exploitation of the Results, provided that, in using such Results, the Catapult agrees, where reasonably possible, to attribute the Supplier’s Background IP.
	5. The Supplier warrants to the Catapult that it has obtained from the its employees providing the Services 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 their statutory moral rights in the Results to which those employees 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 its employees have agreed to hold on trust for the Supplier any such rights in which the legal title has not passed (or will not pass) to the Supplier. The Supplier agrees to provide to the Catapult a copy of this assignment on or before the date of this Agreement, if requested.
	6. The Supplier 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 Supplier holds legal title in such rights on trust for the Catapult.
	7. The Supplier undertakes to the Catapult:
		1. to notify to the Catapult, in writing, full details of all Results promptly on their creation;
		2. to keep confidential the details of all Results;
		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 clause of the Results and the process of their creation which are in its possession, custody or power;
		4. not to register nor attempt to register any of the Foreground IP in the Results, unless requested to do so by the Catapult;
		5. not to give permission to any third party to use any of the Results, nor any of the Foreground IP in the same; and
		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,
		7. and confirms that its employees providing the Services have given written undertakings in the same terms to the Supplier.
		8. The Supplier warrants that:
		9. it is unaware of any use by any third party of any of the Results or Foreground IP in the same; and
		10. the use of the Results by the Catapult will not infringe the rights of any third party,

and confirms that its employees providing the Services have given written undertakings in the same terms to the Supplier.

* 1. The Supplier 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 Supplier confirms that its employees providing the Services have given written undertakings in the same terms to the Supplier
	2. The Supplier acknowledges that no further remuneration or compensation other than that provided for in this Agreement is or may become due to the Supplier in respect of the performance of its obligations under this clause 8.
	3. The Supplier 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 Supplier in the course of providing the Services.
1. **CONFIDENTIAL INFORMATION**
	1. The Parties 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:
		1. divulge or communicate to any person, company, business entity or other organisation;
		2. use for their own purposes or for any purpose other than those of the Catapult; or
		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.

* 1. These restrictions shall cease to apply to any information which becomes available to the public generally, otherwise than through the default of a Party; 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).
1. **OTHER ACTIVITIES**
	1. Nothing in this Agreement shall prevent the Supplier from being engaged, concerned or having any financial interest as agent, Supplier, director, employee, owner, partner, shareholder or in any other capacity, in any other business, trade, profession or occupation during the Term provided that:
		1. such activity does not cause a breach of any of the Supplier’s obligations under this Agreement; and
		2. the Supplier 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.
2. **TERMINATION**
	1. Either Party may at any time terminate this Agreement by giving written notice to the other of not less than (…..) days.
	2. The Catapult may, at any time and without prejudice to any rights or claims it may have against the Supplier, by notice in writing, terminate this Agreement immediately and without any liability to pay any remuneration, compensation or damages if:
		1. the Supplier commits any material or persistent breach of their obligations hereunder;
		2. the Supplier is placed into receivership or administration or liquidation or enters into an arrangement with its creditors;
		3. there is any change in the legal status or the actual or effective ownership or control of the Supplier;
		4. the Supplier has been guilty of conduct which in the opinion of the Catapult brings the Supplier or the Catapult into material disrepute;
		5. the Supplier 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);
		6. the Supplier loses the right to work within the United Kingdom;
		7. the Supplier has been guilty of any serious negligence which has or is likely to have an adverse effect on the Catapult;
		8. the Supplier breaches clause 14.1;
		9. Security Clearance for any employees of the Supplier providing the Services cannot be obtained within a reasonable time, such time to be at the absolute discretion of the Catapult or the Security Clearance for such an employee is revoked; or
		10. the results of the Disclosure and Barring Services Check are not acceptable to the Catapult.
	3. Any delay by the Catapult in exercising such rights of termination detailed in clause 11.2 shall not constitute a waiver of them.
	4. The Supplier 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:
		1. the Catapult fails to pay any invoice properly submitted by the Supplier within 30 days following the first working day after receipt by the Catapult and following notice from the Supplier to the Catapult of such failure to pay, payment is not transferred by the Catapult to the Supplier within 14 days of receipt of such notice;
		2. the Catapult, after warning, commits any material or persistent breach of this Agreement;
		3. the Catapult is guilty of conduct tending to bring the Supplier into material disrepute; or
		4. the Catapult acts or enters into a course of action which prevents the Supplier (through no fault of the Supplier) from providing the Services.
3. **EFFECTS AND CONSEQUENCES OF TERMINATION**

20.1 The Supplier’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.

* 1. The expiration or earlier termination of this Agreement shall not affect:

20.2.1 such of its provisions as are expressed to operate or have effect afterwards (including any licence granted); or

20.2.2 any right of action already accrued to either Party, in respect of any breach of this Agreement, by the other Party.

20.3 In the event of termination under clause 19 , the Catapult shall be liable for the payment of the Fees, on a proportionate basis, up to the date of actual termination.

20.4 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 Supplier, in the course of its engagement together with the Catapult’s Confidential Information shall be:

20.4.1the property of the Catapult;

20.4.2used for the purpose of the Catapult only;

20.4.3returned to the Catapult on demand at any time; and

20.4.4returned to the Catapult without demand promptly following the termination of the Supplier’s engagement, save that the Supplier may retain one copy for audit or compliance requirements.

20.5 The Supplier 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.

20.6 Following the return of the Catapult’s property, the Supplier shall 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 Supplier on the Termination Date may be withheld until it has complied with this clause 12.6.

**21 LIMIT OF LIABILITY**

21.1 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.

21.2 The Parties shall not be liable to each other for:

21.2.1 any representation or misrepresentation;

21.2.2 any implied warranty, condition or other implied term;

21.2.3 any duty at common law; or

21.2.3 any loss of profit, indirect, special or consequential loss or damages

which arise out of or in connection with this Agreement.

21.3 Subject to clause 21.1 and 21.2, the Catapult limits its liability under this Agreement to payment of the properly due Fees.

21.4 Subject to clause 21.1.1 and 21.2, the liability of the Supplier under this Agreement shall be limited to five (5) times the total Fees or £500,000 whichever is greater.

**22STATE AID**

22.1 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 all activities under this Agreement. The Parties therefore agree that, notwithstanding any other provision of this Agreement:

22.1.2 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 Supplier shall provide all reasonable assistance to the Catapult to satisfy such investigation.

22.1.3 the Catapult shall use all reasonable endeavours to protect the confidentiality of the Supplier’s Confidential Information under this clause 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;

22.1.4 the Catapult shall keep the Supplier 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

* + 1. the Parties shall comply with any ruling of the European Commission.

 **23 ANTI-BRIBERY**

23.1 The Supplier 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 clause 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.

 **24 NOTICES**

 24.1Any notice given under this Agreement shall be in writing and may be served:

24.1.1personally;

24.1.2to the other’s registered office, and in the case of the Catapult addressed to the Catapult’s “Company Secretary”;

24.1.3by email to the Catapult at the following address procurement@ts.catapult.org.uk; or

* + 1. by any other means which any Party specifies by notice to the other.

 24.2A notice shall be deemed to have been served:

24.2.1 if it was served in person, at the time of service;

24.2.2 if it was served by post, 48 hours after it was posted;

24.2.3 if sent by email, only on acknowledgement of receipt, such acknowledgement not being an automated message.

 **25 DISPUTE RESOLUTION PROCEDURE**

 25.1 The Parties will attempt to resolve a dispute in good faith, whereby:

25.1.1either 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;

25.1.2the Party’s respective Senior Project Managers shall attempt in good faith to resolve the dispute;

25.1.3if the Party’s respective Senior Project 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 Chief Executive Officers who shall attempt in good faith to resolve the dispute;

25.1.4if the Party’s respective Chief Executive Officers 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.

* 1. Clause 17.1 shall be without prejudice to the Party’s other rights and remedies.

 **26 GENERAL**

 26.1 Neither Party shall publish notice of the appointment of the Supplier without the other Party’s prior consent, such consent not to be unreasonably withheld or delayed.

 26.2 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.

 26.3 The Supplier 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.

 26.4 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.

 26.5 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.

 26.6This 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.

 26.7This 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.

 26.8The 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).

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

|  |  |  |
| --- | --- | --- |
| Signed by:for and on behalf of | ...................................................(Print Name)**TRANSPORT SYSTEMS CATAPULT LIMITED** | ......................................................(Signature)on ……day of .........…………… 2018 |
| Signed by:for and on behalf of | ...................................................(Print Name)**[insert Supplier Name]** | ......................................................(Signature)on ……day of .........…………… 2018 |

**SCHEDULE 1**

**The Services**

**Definitions as referenced in in clause 1.1 of the Agreement**

Commencement Date: [Insert Date]

Key Person(s): [Insert name]

Services: as detailed in the ITT.

The Supplier will be required to dedicate such time to the Services as it considers necessary to deliver the Services to the Catapult as required.

**SCHEDULE 2**

**Prices & Payment**

The Catapult will issue a Purchase Order (PO) number using the pricing details contained in this Schedule 2.

 The Supplier will submit an invoice for the amount agreed in the PO and which bears the correct PO number.

The Supplier will receive payment thirty days thereafter.

**SCHEDULE 3**

**Description of Processing**

**The processing of personal data is as follows** *(provide a description of the subject matter and nature of the processing, including any systems used to store and process personal data, obligations of the processor and any rights of the controller with regards to the personal data)*:

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………………………………………………………………………………………………………………………

**Data subjects**

The personal data concern the following categories of data subjects (please specify):

……………………………………………………………………………………………………………………..

……………………………………………………………………………………………………………………..

**Purposes of the Processing**

The processing is necessary for the following purposes (please specify):

……………………………………………………………………………………………………………………..

………………………………………………………………………………………………………………………

**Categories of data**

The personal data processed fall within the following categories of data (please specify):

……………………………………………………………………………………………………………………..

……………………………………………………………………………………………………………………..

**Sensitive data** (if appropriate)

The personal data processed fall within the following categories of sensitive data (please specify):

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……………………………………………………………………………………………………………………..

**Instructions with regards to the processing of personal data**:

The Processor shall process the Personal Data only in accordance with the instructions of the Controller.