



Transport Systems Catapult Ltd

Invitation to Tender  
For

Absorptive Capacity for Intelligent Mobility - Initial Study

September 2016

**REFERENCE TSC/TS03-01**

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**1. SECTION 1 - INTRODUCTION & BACKGROUND**

## **1.1. Company background & information**

The Transport Systems Catapult forms part of a network of technology and innovation centres established and overseen by Innovate UK Ltd. Together, they represent a £1billion public and private sector investment over the next five years.

Efficient transport systems are essential to the health and wealth of the UK, its businesses, its economy and its people. The Transport Systems Catapult will support UK industry in exploiting the massive global market for new products and services that will drive the integration of transport and its systems.

**The key challenge is how to increase mobility: the efficient and cost effective movement of people and goods.**

The Transport Systems Catapult will enable UK industry to generate economic growth, playing a transformational role in transport systems technology and innovation.

Building this centre of excellence will enable the UK to become globally recognised as the leading place to find expertise when exploiting opportunities or managing risk in a transport systems environment.

### **Vision**

The Transport Systems Catapult's integrated approach will generate substantial and long term economic benefit to the UK. It will position the UK as the leading provider of innovative and integrated transport solutions to the rest of the world, exploiting a market estimated to be worth around £900bn by 2025.

### **Mission**

To help UK businesses to create products and services that meet the needs of the world's transport systems as they respond to ever stretching demands. It will help sell UK capability on the global stage, using the UK as a test bed. It will bring together organisations in a way that has not happened before, breaking down barriers and providing a unique capability to develop innovative transport systems.

## **1.2. Approach**

This Invitation to Tender (ITT) is being issued to a list of potential suppliers as part of the procurement of "Absorptive Capacity for Intelligent Mobility - Initial Study" (referred to hereafter as the products and services) to be provided to Transport Systems Catapult Ltd (TSC).

The objective of this ITT is to provide sufficient information for Respondents to:

- Understand TSC requirements and proposed procurement approach;
- Understand the scope and nature of the products and service that they will contract to provide;
- Assess and confirm their ability and interest in bidding to provide this service;
- Provide agreement and/or feedback on proposed approach to the management and governance of this service;
- Provide agreement and/or feedback on proposed contractual terms and commercial approach;

- Develop and price a proposed solution based on currently available information in the format specified.

Respondents' compliance with the requirements and submission in the required format will enable TSC to carry out a fair and thorough evaluation of the responses. Please see section 2 for details of the instructions. Failure to comply with these instructions will invalidate the Respondents submission.

Prior to reading this ITT the Respondents attention is drawn to the principles and terms set out in Appendix 3 and the acknowledgement letter in Appendix 1. Appendix 1 requires written approval by a suitably authorised member of the Respondents organisation and returned to TSC in accordance with the instructions for acknowledgement of bidding set out in Section 2.

Each Respondent must perform its own appraisal of all information and data provided by TSC in this ITT. The products and services that form the basis of this document have been documented to the best of TSC's knowledge and are not warranted.

### **1.3. Scope**

In April 2016, the TSC completed the development of and published the [Technology Strategy for Intelligent Mobility](http://tsctechstrategy.co.uk) (<http://tsctechstrategy.co.uk>) in order to champion the Intelligent Mobility (IM) vision for the benefit of all organisations interested in this fast growing market. The Technology Strategy is available as a high-level overview brochure and a body of information within an online repository. The latter is a powerful visualisation and always-on discussion tool which has been developed to allow the TSC, industry and academia to continue to lead a debate with everyone who shares an interest in Intelligent Mobility.

The Technology Strategy for Intelligent Mobility defines the IM goals; provides market sizing and segmentation identifying IM global opportunity; identifies technical and commercial competencies that provide a competitive advantage in IM market segments; provides a platform for linking the end-user / traveller need with future transport products and services through roadmapping; and sets out a strategic implementation plan for the TSC to help capture maximum value from the IM opportunity for the UK. The development and maintenance of the Technology Strategy for Intelligent Mobility is one of the core functions of the TSC. The TSC needs to ensure that this strategy remains fresh and relevant in order to continue building its reputation, thought leadership position and ability to influence government, academia and industry on topics of importance in IM. As such, the Technology Strategy for Intelligent Mobility is an ever evolving and living body of information and knowledge.

An absorptive capacity is an ability of organisations to recognise the value of new information, assimilate it and apply it to commercial ends. It is an important feature in successful innovation and is notoriously difficult to establish and measure for any given market sector. The absorptive capacity for Intelligent Mobility has not yet been investigated as part of the TSC's work. It is, however, a natural extension of the analysis carried out so far as part of the Technology Strategy for Intelligent Mobility. Absorptive capacity has been highlighted as an area for development by an independent [report from Oxford Economics](#) which assessed the TSC Technology Strategy framework.

The TSC is now looking for a suitable partner to help deliver a small scale but high-impact analysis and report on absorptive capacity in selected segments of the Intelligent Mobility market in the UK, building on the work carried out to date on the Technology Strategy for Intelligent Mobility. It is expected that this piece of work will establish the feasibility of the approach, which needs to be modular and allow for easy expansion in the future. The TSC will select two sectors of the IM market (e.g. Autonomous Vehicles and Data Collection & Communications Platforms or similar) in order to

confine the scope of the initial study. Relevant market players within these two market sectors will be identified and contacted as part of the absorptive capacity survey.

#### **1.4. Required professional services**

This ITT refers explicitly to the “Absorptive Capacity for Intelligent Mobility - Initial Study”. The professional services, based on the Respondent’s expertise in economic analysis and previous experience of investigating absorptive capacity and running surveys, shall address the following requirements:

1. Provision of advice with regards to measuring absorptive capacity. This shall address all those aspects considered pertinent by the Respondent, including as a minimum:
  - a. Best practice and lessons learnt from other similar studies
  - b. Relevant sources of data on the indicators used to measure absorptive capacity (e.g. Community Innovation Survey)
  - c. Means of linking the absorptive capacity study to UK growth and jobs as well as skills required in the future
  - d. Sources of information about market players and ways of engaging with them
2. The design of the absorptive capacity survey, which should be sufficiently modular such that it can be readily applied to additional market sectors if required, and non-exhaustively include:
  - a. Question selection and wording, balancing the depth of the study versus respondent survey fatigue
  - b. Order of questions and their format
  - c. Mode of data collection (face-to-face interviews versus online surveys)
  - d. Management of bias in responses
  - e. Commercial sensitivity issues
3. The delivery of the absorptive capacity survey including data analysis:
  - a. Implementation of the online survey and / or interviews
  - b. Data collection and analysis, including dashboards if appropriate
  - c. Outcomes of the survey in a format that lends itself to sharing with relevant 3<sup>rd</sup> parties.
4. A single report that brings together all the outputs from this work and which presents, in a clear and succinct fashion, the approach and outcomes of the study as well as recommendations with respect to the suitability of the approach and possible future improvements and benefits
5. The absorptive capacity study must build on the work carried out by the TSC thus far and presented in the [Technology Strategy for Intelligent Mobility \(http://tsctechstrategy.co.uk\)](http://tsctechstrategy.co.uk).

Respondents must also address the requirements regarding the format of their response listed in Appendix 2, and must include in their tender a separate breakdown of the costs for professional services, including:

- The job roles and associated day rate for staff expected to form the project team;
- The number of days’ work expected for each job role.

It is anticipated that the duration of the project will be around three months. Given that some aspects of the project will be delivered by the TSC team, it is essential that the successful Respondent’s team is able to work in the Milton Keynes office. Respondents should indicate how they propose to achieve this, e.g. by collocating with the TSC team when required. Other meetings and contact between the TSC and successful bidder will be as required but shall, as a minimum, consist of bi-weekly update meetings between TSC and the nominated team leader from the successful bidder.

## **2. SECTION 2 - TENDER PROCESS & INSTRUCTIONS**

You are invited to tender for the supply of the “Absorptive Capacity for Intelligent Mobility - Initial Study” in line with the requirements stated in section 1 of this document. All information in this document is confidential and should not be transmitted in any form to third parties without the prior written consent of TSC. Similarly, TSC will regard the tender responses as commercial in confidence.

### 2.1. Due date and confirmation of compliance and bidding

The tender response should be received by no later than 12.00 p.m. GMT on 23/09/2016.

Respondents should, within three (3) working days of receipt, acknowledge receipt of the ITT documents, confirm their intention to submit a bid and identify their contact person for all matters relating to the submission of their bid. This should be carried out by completing and sending the “Letter of Acknowledgement” in Appendix 1.

In the event that a Respondent does not wish, or is unable, to submit a bid it shall so notify TSC, by completing and sending the “Letter of Acknowledgement” in Appendix 1. Furthermore, the Respondent must destroy all paper copies of the ITT and erase all electronic copies in their entirety.

### 2.2. Tender submission

An electronic copy of the Respondents’ proposal should be submitted to the individual(s) named below.

Lauren McDonald  
 Contracts & Procurement Manager  
[procurement@ts.catapult.org.uk](mailto:procurement@ts.catapult.org.uk)

Responses will not be opened until the closing time and date for receipt of tenders. Tenders that are received late will not be considered.

Respondents must format their response using the structure and numbering sequences as documented in Appendix 2 with the appropriate responses to each item listed numerically by section and paragraph. Where it is necessary to refer to other documents such as brochures, charts/graphs etc, Respondents should collate this information into appendices and detail where this information may be found within their response.

Tender responses must be submitted in English.

### 2.3. Tender process

The expected approach and timetable for this project is set out in the table below and each section is then discussed in more detail below.

Activity	Date
<b>ITT issue</b> ITT issued to Respondents	02/09/2016
<b>Confirmation of compliance and bidding</b> Respondents’ statement of compliance and intent to bid returned to TSC (Appendix 1)	07/09/2016
<b>Respondents proposals</b> TSC to receive responses to ITT	23/09/2016

<b>Evaluation of proposals</b> Review, score and evaluate proposals, including a credit check of potential suppliers	26/09/2016 - 28/09/2016
<b>Respondent telephone interviews</b> Respondent interviews of proposals	29/09/2016 - 30/09/2016
<b>Shortlist respondents &amp; inform all respondents of results of selection process i.e.: successful and unsuccessful</b>	03/10/2016
<b>Contract negotiation and supplier selection</b> - review and recommend preferred supplier	03/10/2016 - 07/10/2016
<b>Supplier appointed</b>	10/10/2016
<b>Contract commences</b> (with Respondent fully accountable for ongoing service)	17/10/2016

**All Respondents will be advised of any alteration to the dates outlined above.**

#### **2.4. Respondent enquiries and clarification**

The Respondents will be able to raise clarification questions. All questions concerning the tender must be made in writing via email and must reference the tender page number and section number. Questions should be concisely stated and be numbered in sequential order.

Questions must be submitted by email and addressed to Lauren McDonald on [procurement@ts.catapult.org.uk](mailto:procurement@ts.catapult.org.uk). Questions will be responded to within two days of receipt, by circulation of anonymised responses to all Respondents.

Any approaches to other members of staff, direct or otherwise in direct relation to this tender will result in exclusion from this process.

#### **2.5. Respondent responses**

Respondents are invited to respond to this ITT by submitting a detailed bid that addresses all the requirements set out in this document and appendices. This includes a formal response in the format requested in Appendix 2.

Each response should be submitted in the name of the Respondent who will be entering into any resultant contract with TSC. The bid must apply from the closing date for ITT bid submission and be valid for a period of twelve months. TSC may require the Respondent to extend the validity of its bid at any time prior to the contract award.

All proposals should use the same numbering system, structure and sequence set out in the Response Format in Appendix 2 of this ITT and follow the format of completion of responses in the space below the stated question / requirement.

Appendix 2 also details the minimum requirements of each section of the required ITT response. Additional data, explanation or clarifications can be included at the Respondents discretion, within the response to specific requests where relevant, or as further appendices to their proposal.

#### **2.6. Telephone interviews**

A potential shortlist of Respondents may be invited to clarify their response by telephone interview.

TSC will provide guidance where it considers it appropriate to do so to each Respondent ahead of this telephone interview as to any specific queries or issues to be covered in respect of that specific Respondents proposal.

Specific dates and times for interviews will be advised later on in the selection process and if possible notified at least a week in advance. For now, Respondents should assume a one-hour slot on either 29 or 30 September. Respondents may be requested to provide a formal presentation for around thirty minutes followed by questions and answers. If a presentation is required, TSC will arrange video conferencing facilities.

For each Respondent the senior manager that would be responsible for the contract is required to attend the interview.

Respondents may also be required to make themselves available to attend additional meetings if required.

## **2.7. Selection**

All contact with TSC regarding this project during the period between the issue of the ITT and notification of selection should be via Lauren McDonald. Email is the preferred method of communication and the relevant email address is [procurement@ts.catapult.org.uk](mailto:procurement@ts.catapult.org.uk).

TSC will review Respondent proposals and raise any necessary clarification questions at this time and, as appropriate, provide feedback on areas of apparent misunderstanding, failure to meet requirements / expectations and at its discretion offer an opportunity for the Respondent to clarify / address these issues.

Selection will be based on the Respondents response to the information set out in this document, evaluation criteria set out in the following section and other selection factors such as the presentation for those short listed to these stages. Respondents will be notified at the end of the selection period as to whether they have been selected as a shortlist Respondent, and the next steps. An opportunity for feedback to unsuccessful Respondents on why they were not selected will be offered – however the timing of this debrief will be based on availability of TSC project team members and the timing of essential project activities.

Respondents should note that TSC reserve the right at their sole and absolute discretion to reject any or all proposals, with or without reason. The following reasons may lead TSC to consider automatic rejection of a bid:

- I. Missed deadline for the response.
- II. Failure to respond or, having responded, failure to clarify points raised by TSC.
- III. Failure to submit a bid that complies with TSC requirements.
- IV. Any breach of confidentiality whatsoever.
- V. Unless specified to the contrary, channelling any communications with regard to this project to anyone not specified in the ITT.

## **2.8. Evaluation criteria**

The high level criteria that will be utilised to evaluate Respondents responses are laid out below. Respondents should note that the evaluation decision will be primarily be made on price and capability to deliver the services.

Criteria	Description	Score
Commercial	The financial transparency, credit checks and other terms and conditions should be adhered to for a successful bid.	12
Quality	Credit will be given for the bidder demonstrating their credibility, experience and knowledge in the area of this specification. Respondents should also include an outline of how they expect to approach this project, including any risks and their mitigation.	10
Relevance	To what extent does the Respondent indicate an understanding of the TSC requirements, as defined in section 1.4 of this ITT, including the ability to commence the project as stated in section 2.3.	18
Insight	The TSC would expect any successful bidder to generate significant insights in relation to linking the Technology Strategy for Intelligent Mobility with UK jobs and growth in IM.	4

## 2.9. Suitability as a business partner

TSC wishes to assure itself that the Respondent has the resource, capability and substance to deliver the requirements to a consistent high quality and cost effectiveness. The Respondents, corporate pedigree, stability, soundness and experience will be assessed in both financial and non-financial terms to determine their suitability as a potential business partner to TSC.

The Respondents' specific experience and demonstrated ability in providing the required services to organisations on a scale and / or complexity comparable to those described in this ITT will also be assessed.

### 2.9.1. Capability to deliver requirements

Respondents will be assessed against their ability to deliver the core products and services. The ability to flex and change products and services and cost base as the business changes and grows.

### 2.9.2. Strategic direction and innovation

Whilst the scope of this ITT is clearly defined, the capability of the Respondent to deliver additional services that TSC may choose to either realign to a single supplier or manage the supply of the services through one supplier are also a factor;

The Services should deliver business value of which reducing cost is a key but not the only element. Respondents will be evaluated as to the appropriateness of their proposals to create business added value.

Respondents will also be evaluated as to the appropriateness of any innovations or other value creating proposals contained in their response and how they will ensure innovation is maintained.

### 2.9.3. Cultural fit

The ability of the Respondent and TSC to work together throughout the term of the contract is an important consideration. TSC will evaluate a number of factors including:

- Client relationship management and commitment to working in the best interests of TSC.
- Openness.

It is recognised that this particular criteria is more readily evaluated once the number of potential Respondents has been further reduced and TSC is in the process of final selection however an early view will be taken based on the above factors.

#### **2.10. Commercial & contractual considerations**

Commercial and contractual considerations will obviously play an important part in the overall evaluation. Key factors under consideration include:

- Pricing and costing proposed over the contract duration
- Flexibility and innovation
- Impact of change
- Problem / issue management across TSC business departments and other Respondents

#### **2.11. Costs and expenses**

Respondents shall bear all costs associated with the preparation and submission of their tender and the TSC shall not be responsible or liable for any costs or expenses regardless of the conduct or outcome of the procurement process.

#### **2.12. Right to cancel**

TSC reserves the right to terminate the process. This ITT does not represent a commitment to enter into any contract.

#### **2.13. Right not to award contract**

TSC reserves the right to reject all tenders if none, in its opinion, adequately satisfies the requirements, or if TSC's circumstances change. In such circumstances TSC may subsequently issue another ITT.

#### **2.14. Confidentiality**

All communications issued by TSC to Respondents must be treated as strictly confidential. Respondents shall not release details of such communications other than on an "In Confidence" basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing their tender. Under no circumstances may Respondents release any information concerning such communications for publication in the press or on radio, television, screen or any other medium. The content of the tenders and the details of the evaluation of the proposals will remain confidential to TSC and its advisors who will comply with all relevant legislation. Should Respondents wish that any information supplied by them as part of this process not be disclosed because of its commercial sensitivity or confidentiality or otherwise, they must, when providing this information, clearly identify the specific information they do not wish to be disclosed and clearly specify the reasons for its sensitivity.

Please note that it is not sufficient to include a statement of confidentiality encompassing all the information provided in the response.

#### **2.15. Adherence to tender process**

The tender process must be strictly adhered to as outlined in this document. Any deviation may render a tender ineligible.

**Appendices**

Appendix 1 - Acknowledgement Letter

Appendix 2 - Respondent Response Template

Appendix 3 - Terms & Conditions

**APPENDIX 1 – ACKNOWLEDGEMENT LETTER**

To: Transport Systems Catapult Ltd

Attn: Lauren McDonald

From (Company who will bid):

**Invitation to Tender – Absorptive Capacity for Intelligent Mobility - Initial Study**

We acknowledge receipt of your Invitation to Tender for the above work and are in receipt of all documents listed in the contents.

- I. We agree to comply with the requirements of the Instructions to Respondents and confirm that we will respond to your request and submit our bid no later than the date required.
- II. We shall not submit a bid. We confirm that all paper copies have been destroyed, that all electronic copies have been erased in their entirety from our systems
- III. (Respondent to delete item I. or II. as applicable).

Our primary point of contact in connection with this bid is:-

Regards

(Signature & Title):.....

(Printed Name):.....

(Company):.....

## APPENDIX 2 – RESPONDENT RESPONSE TEMPLATE

### Requirements and Response Format.

Respondents are required to submit a proposal based on the information and response format contained in this document.

The Respondents response must be provided in the format set out below with responses required against each point listed below. Respondents are requested to follow the numbering scheme in their response. Detailed documents may be referred to in appendices where appropriate.

Respondents should note that all responses should be constructed based on the proposed contract duration.

### Format of responses:

A front cover sheet should be attached, including:

- Name and contact details of key Respondent contact(s) for this proposal.
  - A table of contents indexing the response should also be included.
- Specific sections are detailed below.

An executive summary of no more than two pages covering the key points of the proposal containing:

- I. Confirmation of Service being bid for and an overview of the proposed solution
- II. Assessment of key risks and how they will be managed/mitigated.
- III. A cost and benefits summary.
- IV. Company organisation chart showing full details of parent subsidiary and associate companies (as applicable).
- V. Ownership details of the company including when it was established and how long it has been involved in the supply of the Services as described in this ITT. Additionally, details of any material acquisitions / mergers relevant to the Services in the past two years.
- VI. The proposed contracting entity, its financial standing (if not clear from overall company financial statements or IV, and relationship to parent (if applicable).
- VII. A summary of annual turnover (revenue), profit and employee numbers and turnover for last 2 years.
- VIII. A summary of pertinent quality standards, awards, or other accreditation achieved in the UK in the last two years that are relevant to this ITT.
- IX. Proposed key team (or equivalent) for the term of the agreement.
- X. Please provide two client references covering the services described in this ITT including the size, nature and duration of the relationship with these customers.
- XI. Please also provide for each of these references the following details.
  - Name
  - Position
  - Company
  - Address
  - Phone
  - Email
  - Role during initial engagement

Please note that the above named contacts will NOT be approached without your prior knowledge.

- XII. If the Respondent is responding to this ITT on the basis of another Respondent being a material sub-contractor then the information requested in response to questions 2.1 to 2.13 should be repeated for the second Respondent and the nature of the relationship with the second Respondent should be fully explained.

## APPENDIX 3 – TERMS AND CONDITIONS

### Terms and Conditions of Consultancy Engagement Company

#### 1. DEFINITIONS

- 1.1. In this Agreement the following expressions shall, unless the context otherwise requires, have the following meanings:
- 1.1.1. **Agreement:** means the Conditions together with the Statement of Works;
- 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 Transport Systems Catapult, more particularly described in the Statement of Works;
- 1.1.4. **Commencement Date:** means the date set out in part 5 the Statement of Works;
- 1.1.5. **Conditions:** means these Terms and Conditions of Consultancy Engagement – Company Edition, 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 Statement of Works providing Services to the Catapult;
- 1.1.8. **Day:** means 7.5 hours whether incurred during any one period or aggregate of periods;
- 1.1.9. **Disclosure and Barring Service Check:** means a search undertaken by the Disclosure and Barring Service, as the Catapult may in its absolute discretion direct;
- 1.1.10. **Expiry Date:** means the date set out in part 5 of the Statement of Works;
- 1.1.11. **Fees:** means the fees payable by the Catapult to the Consultant as set out in part 4 of the Statement of Works;
- 1.1.12. **Foreground IP:** means any Intellectual Property Rights which are created during the provision of the Services;
- 1.1.13. **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;
- 1.1.14. **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;
- 1.1.15. **Parties:** means the Catapult and the Consultant and “Party” shall be construed accordingly;
- 1.1.16. **Personnel:** means any individual who shall provide the Services on behalf of the Consultant as listed in part 6 of the Statement of Works;
- 1.1.17. **Purchase Order:** means any purchase order for the Services submitted by the Catapult to the Consultant;
- 1.1.18. **Results:** means all results which arise from or relate to the Services including any Invention or Work;
- 1.1.19. **Security Clearance:** means such clearance as the Catapult may in its absolute discretion deem to be appropriate;
- 1.1.20. **Services:** means the services provided by the Consultant to the Catapult as more particularly detailed in part 2 of the Statement of Work;
- 1.1.21. **Statement of Works:** means the particulars as amended and agreed by the Parties from time to time to which these Conditions are annexed or otherwise referenced;
- 1.1.22. **Substitute:** means a substitute for the Personnel appointed to provide the Services;
- 1.1.23. **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;
- 1.1.24. **Termination Date:** means the date of the termination of this Agreement howsoever occasioned;
- 1.1.25. **Time-Sheet:** means the Catapult’s time sheet;
- 1.1.26. **Week:** means Monday to Friday (inclusive) excluding public and bank holidays;
- 1.1.27. **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.

- 1.2. References to clauses are, unless otherwise stated, to clauses of these Conditions and references to parts are, unless otherwise stated, to parts of the Statement of Works.
- 1.3. The headings to the clauses 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.
- 1.11. These Conditions will control and prevail over the Statement of Works unless the Conditions expressly provide otherwise.

## **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. Subject to the terms of the Statement of Works, 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 Statement of Works. 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.

The Consultant acknowledges that:

- 3.3.1. if it performs services which have not been agreed pursuant to the Statement of Works 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 Statement of Works or time spent perfecting the Services in accordance with 3.3.2.

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.

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 provided the same have been incurred with the prior written consent of the Catapult exclusive of VAT, if applicable.

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. Subject to clause 4.4, the Consultant shall procure that the Personnel dedicate the number of Days as set out

- in the Statement of Works together with such attention and abilities as is necessary to ensure the proper provision of the Services
- 4.4. The Consultant shall not be required to provide the Services in the case of illness or accident to Personnel, in which case it shall notify the Catapult immediately and shall provide such evidence as to the illness or accident as the Catapult shall reasonably require. For the avoidance of doubt, the Consultant will not be entitled to receive the Fee for the period during which the Consultant's Personnel are unable to perform the Services due to illness or accident.
- 4.5. If in the event the Consultant does not provide the Services for the maximum number of Days set forth in the Statement of Works 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 Statement of Works without the prior written agreement of the Catapult.
- 4.6. 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 will use reasonable endeavours to make such replacement within 5 days of written notice being received from the Catapult.
- 4.7. 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 than these Conditions. If the Catapult accepts the Substitute, the Consultant 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.
- 4.8. The Consultant shall 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.
- 4.9. 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.
- 4.10. The Consultant shall supply and shall procure that the Personnel supplies the Services in a good, efficient and proper manner using all reasonable skill and care with any Results being fit for purpose and 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.
- 4.11. The Consultant 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.
- 4.12. The Consultant undertakes with the Catapult:
- 4.12.1. to perform such duties and exercise such powers as the Catapult assigns to and vests in the Consultant;
- 4.12.2. to comply with all reasonable requests given by the Catapult;
- 4.12.3. to do all other things, in the ordinary course of business, which the Catapult reasonably considers necessary or proper in its interests; and
- 4.12.4. not to do anything which is harmful to the Catapult.
- 4.13. 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.
- 4.14. 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.
- 4.15. The Consultant shall immediately communicate the Results to the Catapult.
- 4.16. The Results and all rights in them shall be and remain the property of the Catapult.
- 4.17. The Consultant 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.
- 4.18. 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 clause 4.18 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 clause 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 including for the purpose of obtaining the Security Clearance and for the Disclosure and Barring Service Check 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 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.
- 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 and it is reasonably impracticable to separate the same without adversely affecting the utilisation of the Results; or the Consultant 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 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 clause 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.

#### **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).

#### **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 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;
- 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;
  - 12.2.8. the Consultant and/or the Personnel breach clause 4.18;
  - 12.2.9. Security Clearance for the Personnel cannot be obtained within a reasonable time, such time to be at the absolute discretion of the Catapult or the Security Clearance for the Personnel is revoked; or
  - 12.2.10. the results of the Disclosure and Barring Services Check are not acceptable to the Catapult.
- 12.3. Any delay by the Catapult in exercising such rights of termination detailed in clause 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 clause 12, the Catapult shall be liable for the payment of the Fees, on a proportionate basis, 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.
- 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 clause 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. Neither Party shall be liable to the other for any indirect, special or consequential loss, damage, profit, costs, expenses (including reasonable legal expenses) or other claims (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.
- 14.3. Subject to clause 14.1 and 14.2, the Catapult limits its liability under this Agreement to payment of the properly due Fees.
- 15. NOTICES**
- 15.1. Any notice given under this Agreement shall be in writing and may be served:
- 15.1.1. personally;
  - 15.1.2. to the other's registered office, and in the case of the Catapult addressed to the Catapult's "Company Secretary";
  - 15.1.3. by email to the Catapult at both the following addresses [procurement@ts.catapult.org.uk](mailto:procurement@ts.catapult.org.uk) cc'ing [lauren.mcdonald@ts.catapult.org.uk](mailto:lauren.mcdonald@ts.catapult.org.uk); or
  - 15.1.4. by any other means which any Party specifies by notice to the others.
- 15.2. 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.
- 15.3. A notice shall be deemed to have been served:
- 15.3.1. if it was served in person, at the time of service;
  - 15.3.2. if it was served by post, 48 hours after it was posted;
  - 15.3.3. if sent by email, only on acknowledgement of receipt, such acknowledgement not being an automated message.
- 16. DISPUTE RESOLUTION PROCEDURE**
- 16.1. The Parties will attempt to resolve a dispute in good faith, whereby:
- 16.1.1. 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;
- 16.1.2. the Party's respective Senior Project Managers shall attempt in good faith to resolve the dispute;
- 16.1.3. if 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;
- 16.1.4. if 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.
- 16.2. Clause 16 shall be without prejudice to the Party's other rights and remedies.
- 17. GENERAL**
- 17.1. 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.
- 17.2. 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.
- 17.3. 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.
- 17.4. 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.
- 17.5. 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.
- 17.6. 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.
- 17.7. 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.
- 17.8. 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).

**Contract Non-compliance Form**

Transport Systems Catapult Ltd requires all suppliers to accept the above terms and conditions. Where a supplier wishes to amend a particular clause, please complete the attached form.

<b>Clause Heading</b>	<b>Clause Number</b>	<b>Current Wording</b>	<b>Rationale for Non-Compliance</b>	<b>Propose re-wording</b>