

SCHEDULE 4

TERMS & CONDITIONS

The terms and conditions set out below (the “**Agreement**”) apply to all offers of support made under the HS2 Accelerator Programme, which is funded by HS2 Ltd and administered by the Connected Places Catapult.

All successful applicants to the Programme acknowledge and agree that this Agreement will become binding upon them immediately upon signing the Offer of Support Letter issued by Connected Places Catapult.

1. DEFINITIONS

In this Agreement the following terms shall have the following meanings:

Accelerator Manager: the individual who has been nominated to represent the Catapult for the purposes of this Agreement.

Accelerator Sponsor: High Speed Two (HS2) Limited whose address is Two Snowhill, Snow Hill Queensway, Birmingham B4 6GA.

Award Date: the date on which the Support is awarded, being the date of the Offer of Support Letter.

Bribery Act: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Catapult: Connected Places Catapult, a company limited by guarantee (Company Number 11837978) whose registered office is located at 1 Sekforde Street, London, England, EC1R 0BE.

Data Protection Legislation: all applicable data protection legislation and privacy legislation in force from time to time in the UK including the UK General Data Protection Regulation; the Data Protection Act 2018; and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data and the privacy of electronic communications.

Governing Body: the governing body of the Recipient including its directors or trustees.

Intellectual Property Rights: all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.

Know-How: information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

Offer of Support Letter: the letter sent by the Catapult to the Recipient formally offering the Support to the Recipient.

Personal Data: shall have the same meaning as set out in the Data Protection Legislation.

Prohibited Act: committing any offence:

- (a) under the Bribery Act;
- (b) under legislation creating offences in respect of fraudulent acts; or
- (c) at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Catapult or Accelerator Sponsor.

Programme: the HS2 Accelerator Programme funded by the Accelerator Sponsor and administered by the Catapult.

Recipient: the company, organisation or other entity named in the Offer of Support Letter as the recipient of Support under the Programme.

Representative: means a party's employees, advisors, contractors and agents.

Support: the Support to be given to the Recipient under the Programme as set out in the Offer of Support Letter.

Support Period: the period for which the Support is awarded starting on the Award Date and ending on the date specified in the Offer of Support Letter.

2. PURPOSE OF SUPPORT

- 2.1 The Recipient shall engage with the Support in accordance with the terms and conditions set out in this Agreement.
- 2.2 Where the Recipient intends to apply to a third party for other support materially the same as the Support, it will notify the Catapult in advance of its intention to do so and, where such support is obtained, it will provide the Catapult with details of the amount and purpose of that support.
- 2.3 The Recipient agrees and accepts that it shall not apply for duplicate support in respect of any part of the Support during the Support Period. For the avoidance of doubt, compliance with any obligations or conditions attaching to third party support are the sole responsibility of the Recipient and Catapult shall have no liability in respect thereof.

3. PROVISION OF SUPPORT

- 3.1 Subject to clause 7, the Catapult shall provide the Support to the Recipient as set out in the Offer of Support Letter. The Recipient agrees and accepts that provision of the Support can only be made to the extent that the Catapult has received funding for the Support from the Accelerator Sponsor.
- 3.2 The amount of the Support shall not be increased beyond that set out in the Offer of Support Letter.

4. ACCOUNTS AND RECORDS

- 4.1 If the Support includes the payment of monies to the Recipient by the Catapult:
- (a) the Support shall be shown in the Recipient's accounts as a restricted fund and shall not be included under general funds;
 - (b) the Recipient shall keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Support monies received by it;
 - (c) the Recipient shall keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the monetary Support for a period of at least six years following receipt of any Support monies to which they relate. The Catapult shall have the right to review, at the Catapult's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Support monies and shall have the right to take copies of such accounts and records;
 - (d) upon request by the Catapult, the Recipient shall provide the Catapult with a copy of its annual accounts within six months (or such lesser period as the Catapult may reasonably require) of the end of the relevant financial year in respect of each year in which the Support monies are paid;
- 4.2 The Recipient shall comply and facilitate the Catapult's compliance with:
- (a) all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Catapult; and
 - (b) any requirements as regards financial reporting imposed upon the Catapult by the Accelerator Sponsor in respect of the Programme.

5. MONITORING AND REPORTING

- 5.1 The Catapult shall closely monitor the delivery and success of the Support provided throughout the Support Period to ensure that the aims and objectives of the Programme are being met and that this Agreement is being adhered to.
- 5.2 The Recipient shall on request provide the Catapult with such further information, explanations and documents as the Catapult may reasonably require for it to establish that the Support has been properly received in accordance with this Agreement.
- 5.3 The Recipient shall permit any person authorised by the Catapult such reasonable access to its employees, agents, premises, facilities, and records, for the purpose of discussing, monitoring, and evaluating the Recipient's fulfilment of the conditions of this Agreement and shall, if so required, provide appropriate oral or written explanations from them.

6. DATA PROTECTION

- 6.1 Both Parties will comply with all applicable requirements of and all their obligations under the Data Protection Legislation which arise in connection with the Agreement.

7. WITHHOLDING AND SUSPENDING SUPPORT

- 7.1 The Catapult's intention is that the full programme of Support will be provided to the Recipient as set out in the Offer of Support Letter. However, without prejudice to the Catapult's other rights and remedies, the Catapult may at its discretion withhold or suspend provision of the Support if:
- (a) the Recipient has failed or delayed to engage with the provision of the Support in accordance with the scheduled programme and has not provided the Catapult with a reasonable explanation for the failure or delay;
 - (b) the Recipient is, in the reasonable opinion of the Catapult, engaging with the Support in a negligent manner;
 - (c) the Recipient undertakes activities that are likely to bring the reputation of the Programme, the Catapult or the Accelerator Sponsor into disrepute;
 - (d) the Recipient provides the Catapult with any materially misleading or inaccurate information;
 - (e) the Recipient commits or committed a Prohibited Act;
 - (f) the Recipient ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
 - (g) the Recipient becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due; or
 - (h) the Recipient fails to comply with any of the terms and conditions set out in this Agreement and fails to rectify any such failure within 30 days of receiving written notice detailing the failure.

- 7.2 The Catapult may retain or set off any sums owed to it by the Recipient which have fallen due and payable against any sums due to the Recipient under this agreement or any other agreement pursuant to which the Recipient provides goods or services to the Catapult.
- 7.3 The Recipient shall make any payments due to the Catapult without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 7.4 Should the Recipient be subject to financial or other difficulties which are capable of having a material impact on its effective engagement with the Support or compliance with this Agreement it will notify the Catapult as soon as possible so that, if possible, and without creating any legal obligation, the Catapult will have an opportunity to provide assistance in resolving the problem or to take action to protect the Catapult and the ongoing Programme as necessary.
- 7.5 For the avoidance of doubt, no event or actions described in this clause 7 shall cause this Agreement to automatically terminated unless the Catapult provides notice of termination in accordance with clause 15 (Termination).

8. ANTI-DISCRIMINATION

- 8.1 The Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.

9. HUMAN RIGHTS

- 9.1 The Recipient shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement as if the Recipient were a public body (as defined in the Human Rights Act 1998).
- 9.2 The Recipient shall undertake, or refrain from undertaking, such acts as the Catapult requests so as to enable the Catapult to comply with its obligations under the Human Rights Act 1998.

10. LIMITATION OF LIABILITY

- 10.1 The Catapult accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient participating in the Programme, receiving the Support, or from withdrawal of the Support.
- 10.2 Subject to clause 10.1, the Catapult's liability under this Agreement is limited to ten thousand pounds (£10,000).

11. WARRANTIES

- 11.1 The Recipient warrants, undertakes and agrees that:
- (a) it has not committed, nor shall it commit, any Prohibited Act;
 - (b) it shall at all times comply with all relevant legislation and all applicable codes of practice and other similar codes or recommendations, and shall notify the Catapult immediately of any significant departure from such legislation, codes or recommendations.
 - (c) it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
 - (d) all information concerning the Recipient which has been disclosed to the Catapult is to the best of its knowledge and belief, true and accurate; and
 - (e) it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Support.

12. INSURANCE

- 12.1 The Recipient shall effect and maintain with a reputable insurance company a policy or policies in respect of reasonable business risks which may be incurred by the Recipient, arising out of the Recipient's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss.

13. SUBSIDIES

- 13.1 The Recipient acknowledges and agrees that the Catapult is a research organisation which operates partially using public funds and that therefore has a duty to publish and disseminate any information, data and/or results which are created by or result from outputs of the Programme. The Recipient shall have the right to review and redact any of its Confidential Information from a proposed publication in advance of its publication, at all times the parties acting reasonably.
- 13.2 Where the Accelerator Sponsor is a public body:
- (a) the Recipient acknowledges and agrees that the Support is not intended to constitute a subsidy under the EU-UK Trade & Cooperation Agreement ("TCA") and as such the Recipient has given to the Catapult a signed 'no subsidy' declaration confirming that receipt of the Support will not cause the Recipient to be deemed to be in receipt of a subsidy; and
 - (b) in the event that an unlawful subsidy is alleged to have been given as a result of any part of the Support, the Catapult shall be entitled to recover from the Recipient, and the Recipient shall pay to the Catapult, such sums as will cause the arrangement to be compliant with subsidy regime set out in the TCA.

14. DURATION

- 14.1 Except where otherwise specified, the terms of this Agreement shall apply from the Award Date until the expiry of the Support Period.
- 14.2 Any obligations under this Agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.

15. TERMINATION

- 15.1 The Catapult may terminate this Agreement by giving written notice to the Recipient if the Recipient is in breach of this Agreement under any of the matters set out in clause 7;

16. OTHER MATTERS

- 16.1 The Recipient may not, without the prior written consent of the Catapult, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this Agreement.
- 16.2 No failure or delay by either party to exercise any right or remedy under this Agreement shall be construed as a waiver of any other right or remedy.
- 16.3 All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.
- 16.4 This Agreement shall not create any partnership or joint venture between the Catapult and the Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.
- 16.5 Where the Recipient is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this Agreement on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under this Agreement.
- 16.6 This Agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.
- 16.7 This Agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

This Agreement (together with all documents attached to or referred to within it) constitutes the entire agreement and understanding between the parties in relation to the Support and supersedes any previous agreement or understanding between them in relation to such subject matter.