

TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

This agreement (the “**Agreement**”) is made on [INSERT DATE OF FINAL SIGNATURE] between:

1. The **Advanced Research and Invention Agency**, a non-departmental public body incorporated under the laws of England and Wales by Act of Parliament whose principal office is at [●] (“**ARIA**”); and
 2. [●] a company registered in [Country] (company registration no. [●]) whose registered office is at [●] (the “**Supplier**”),
- (each a “**Party**” and, together, the “**Parties**”).
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1. Definitions and interpretation

- 1.1. The definitions and rules of interpretation set out at Schedule 1 (*Definitions*) shall apply to this Agreement.

2. Commencement and Term

- 2.1. This Agreement shall take effect on [START DATE] and shall end on [END DATE](the “**Term**”), unless extended or terminated earlier in accordance with the provisions of this Agreement.
- 2.2. ARIA shall have the right to extend the Term any number of times up to a total period of [twenty-four (24)] months in aggregate. If ARIA wishes to extend the Term in accordance with this Clause 2.2 it shall give the Supplier not less than [one (1)] months’ written notice of such intention prior to expiry.

3. Supply of Services

- 3.1. The Supplier shall provide the Services to ARIA in accordance with the terms of this Agreement for the duration of the Term.
- 3.2. For the duration of the Term, the Supplier shall:
 - 3.2.1. cooperate with ARIA in all matters relating to the Services, and comply with all reasonable instructions of ARIA;

- 3.2.2. perform the Services promptly and with due care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade, using a sufficient number of suitably skilled and experienced personnel;
 - 3.2.3. ensure that the Services (and any Deliverables) conform with all descriptions, standards and specifications set out in the Schedule 2;
 - 3.2.4. provide all equipment, tools and vehicles and such other items as are required to provide the Services;
 - 3.2.5. obtain and at all times maintain all licences, consents, technology, facilities, premises, expertise, equipment, management and personnel which may be required for the provision of the Services;
 - 3.2.6. comply with all applicable Laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the provision of the Services;
 - 3.2.7. comply with ARIA's policies and procedures as specified by ARIA in writing and updated from time to time, and the UK Government Supplier Code of Conduct;
 - 3.2.8. observe all health and safety rules and regulations and any other security requirements that apply at any of ARIA's premises (including ARIA's Health and Safety Policy);
 - 3.2.9. procure that at all times when the Supplier Personnel are present at any of ARIA's premises, they shall comply with the reasonable instructions of representatives of ARIA;
 - 3.2.10. not do or omit to do anything which may cause ARIA to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that ARIA may rely or act on the Services;
 - 3.2.11. not enter into any agreement or other arrangement with a third party, which restricts or prevents the Supplier from fully complying with the terms of this Agreement; and
 - 3.2.12. comply with any additional obligations as set out in the Schedule 2.
- 3.3. The Supplier shall give written notice to ARIA as soon as it becomes aware that it has breached, or is alleged to have breached, the provisions of Clause 3.2.
- 3.4. Time is of the essence in relation to the performance of the Services by the Supplier.

4. ARIA's obligations

- 4.1. ARIA shall:

- 4.1.1. provide the Supplier upon reasonable notice with reasonable access during Working Hours to ARIA's premises to the extent required for the purpose of providing the Services; and
 - 4.1.2. provide such necessary information for the provision of the Services as the Supplier may reasonably request.
- 4.2. ARIA may refuse admittance to or order the removal of any of the Supplier Personnel from its premises.

5. Charges and payment

- 5.1. In consideration of the provision of the Services in accordance with the terms of this Agreement, ARIA shall pay the Charges in accordance with this Clause 5.
- 5.2. The Charges shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 5.3. The Supplier shall invoice ARIA as described in Schedule 3 (*Charges*). Each invoice shall include such supporting information required by ARIA to verify the accuracy of the invoice, including the relevant purchase order number. Where the Supplier submits an invoice to ARIA, ARIA will consider and verify that invoice within seven (7) days. ARIA shall not be obliged to pay any invoiced amount without the provision of such information as set out in this Clause 5.3.
- 5.4. ARIA shall pay the Supplier any sums due under invoices no later than a period of thirty (30) days from the date on which ARIA has determined that the invoice is valid and undisputed.
- 5.5. All amounts payable by ARIA under this Agreement are exclusive of amounts in respect of any VAT chargeable. The Supplier shall provide ARIA with a valid VAT invoice where any taxable supply for VAT purposes is made under this Agreement.
- 5.6. ARIA reserves the right to withhold payment to the extent that the Deliverables have not been provided in accordance with this Agreement or if ARIA receives an invoice which it considers invalid and/or not properly due and ARIA shall notify the Supplier accordingly giving reasons for such withholding. ARIA shall only be entitled to withhold an amount equal to the sum which is in dispute.
- 5.7. ARIA shall be entitled but not obliged at any time to set off any liability of the Supplier to ARIA against any liability of ARIA to the Supplier (in either case howsoever arising and whether any such liability is due and payable or will become payable at a later date,

actual or contingent, liquidated or unliquidated and irrespective of the currency of its denomination including sums payable under this Agreement or any other contract between ARIA and the Supplier). Exercise by ARIA of its rights under this Clause 5.7 shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise, at law or in equity.

- 5.8. Subject to Clauses 5.6 and 5.7, if ARIA fails to pay by the due date any undisputed amount payable in accordance with this Agreement, the Supplier shall be entitled but not obliged to charge ARIA interest on the overdue amount from the due date for payment up to the date of payment, at a maximum rate of three per cent (3%) per annum above the Bank of England base rate in force at the time, provided that the Supplier shall give written notice to ARIA that the amount has not been paid and ARIA has been provided with any information it may reasonably require in order to make payment.
- 5.9. Payment by ARIA shall be without prejudice to any claims or rights which ARIA may have against the Supplier and shall not constitute any admission by ARIA as to the performance by the Supplier of its obligations under this Agreement.

6. Warranties

- 6.1. Each Party warrants on an on-going basis that:
- 6.1.1. it has full power and authority to execute, deliver and perform its obligations as set out in this Agreement;
 - 6.1.2. this Agreement is executed by its duly authorised representative; and
 - 6.1.3. there are no currently in force or binding agreements with third parties the terms of which would prevent it from entering into this Agreement or would materially impede the performance by it of its obligations under this Agreement.

7. Intellectual property rights

- 7.1. All Background IPR is and shall remain the exclusive property of the Party which owns it (or, where applicable, the third party rights holder).
- 7.2. ARIA grants the Supplier a licence to use such ARIA Background IPR solely to the extent required for the Supplier's performance of its obligations under this Agreement.
- 7.3. All logos, trade names or trade marks (the "**Marks**") owned by or used by ARIA in the course of its business are the property of ARIA or its licensors. ARIA reserves the right to all IPR in relation to the use of such Marks. The Supplier may not use or permit the use of such Marks or any similar Marks without the prior written consent of ARIA.

[Assignment model - delete as appropriate]

- 7.4. The Supplier hereby assigns to ARIA (including by way of present assignment of present and future rights) on creation, absolutely and free from encumbrances and with full title guarantee, all right, title and interest in the Foreground IPR, together with the right to sue for and obtain full and effective relief in respect of any infringement of such IPR (and warrants that all Supplier Personnel have assigned the same to the Supplier to enable such assignment to ARIA).
- 7.5. The Supplier hereby to the extent permissible by law waives irrevocably, and undertakes to ensure that all Supplier Personnel have waived irrevocably, to the extent permissible by law, the benefits of any "moral rights" in the Deliverables and/or Services (including under sections 77 to 85 of the Copyright, Designs and Patents Act 1988 and any resale right) or any similar laws of any jurisdiction.
- 7.6. The Supplier hereby grants to ARIA a worldwide, royalty-free, non-exclusive, perpetual, and irrevocable licence to use any Background IPR that is implemented in or otherwise required for ARIA to use or benefit from the Deliverables and/or Services.
- 7.7. The Supplier warrants on an ongoing basis that provision of the Deliverables and/or Services by the Supplier and/or receipt, use and possession of the same by ARIA will not subject the ARIA to any claim or dispute of infringement of IPR or other proprietary rights of a third party.

[Licence model - delete as appropriate]

- 7.8. All Foreground IPR (other than IPR in any ARIA Materials) shall be owned by the Supplier.
- 7.9. The Supplier grants to ARIA, or shall procure the direct grant to ARIA of, a fully paid-up, worldwide, non-exclusive, royalty-free, sublicensable through multiple tiers, perpetual and irrevocable licence to copy and modify the Deliverables for the purpose of receiving and using the Services and the Deliverables.
- 7.10. ARIA grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any ARIA Materials to the Supplier for the Term for the sole purpose of providing the Services to ARIA.
- 7.11. All ARIA Materials and ARIA Background IPR are and shall remain the exclusive property of ARIA.

8. Third party claims

- 8.1. The Supplier shall indemnify ARIA against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of

profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by ARIA arising out of or in connection with:

- 8.1.1. any claim brought against ARIA for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services (excluding ARIA Materials); and
- 8.1.2. any claim made against ARIA by a third party arising out of, or in connection with, the supply of the Services.

8.2. This Clause 8 shall survive termination of the Agreement.

9. Data Protection

9.1. The Parties shall comply at all times with their respective obligations under Data Protection Legislation and the provisions in Schedule 4 (*Data Protection*).

10. Insurance and Liability

- 10.1. The Supplier shall, arrange and maintain during the term of this Agreement and for not less than six (6) years thereafter, policies of insurance, with reputable insurers, covering the liabilities which may be incurred by the Supplier arising out of the acts or omissions of the Supplier or the Supplier Personnel in connection with this Agreement (including adequate public liability insurance and, where applicable, product liability insurance and/or professional indemnity insurance). The Supplier shall provide ARIA with evidence of compliance with this Clause 10.1 on request.
- 10.2. Nothing in this Agreement limits any liability which cannot legally be limited, including liability for: (a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; or (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.
- 10.3. Subject to Clause 10.2 and Clause 10.5, the Supplier's total liability to ARIA in respect of every kind of liability arising under or in connection with this Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise shall not exceed £[INSERT OR [INSERT] % of the Agreement value.].
- 10.4. Subject to Clause 10.2, ARIA's total liability to the Supplier in respect of every kind of liability arising under or in connection with this Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise shall not exceed £[INSERT OR [INSERT] % of the Agreement value.].

- 10.5. There shall be no limit to the Supplier's total liability to ARIA in respect of claims relating to breaches of the Supplier's obligations in relation to Data Protection Legislation, IPR or Confidential Information.

11. Default and Termination

- 11.1. ARIA may terminate this Agreement:

11.1.1. with immediate effect by giving written notice to the Supplier if:

11.1.1.1. there is a change of Control of the Supplier;

11.1.1.2. the Supplier's financial position deteriorates to such an extent that in ARIA's opinion the Supplier's capability to adequately fulfil its obligations under this Agreement has been placed in jeopardy;

11.1.1.3. the Supplier commits a breach of applicable Law;

11.1.1.4. the Supplier or any Supplier Personnel commit any act which brings ARIA into disrepute or which in ARIA's reasonable opinion is prejudicial to its interests; or

11.1.1.5. the Supplier commits a Default; and

11.1.2. for convenience by giving the Supplier one (1) month's written notice.

- 11.2. Either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if the other Party:

11.2.1. commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

11.2.2. has suffered a Force Majeure Event that has resulted in a continuous period of delay or non-performance of three (3) months or more; or

11.2.3. suffers an Insolvency Event.

- 11.3. In the event that the Supplier commits a Default, ARIA shall (in addition to Clause 11.1.1.5) have the right to:

11.3.1. require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services;

11.3.2. recover from the Supplier any costs incurred by ARIA in obtaining substitute services from a third party;

- 11.3.3. require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided; and/or
 - 11.3.4. claim damages for any additional costs, loss or expenses incurred by ARIA which are in any way attributable to the Supplier's failure to meet any applicable deadlines or delivery dates.
- 11.4. Nothing in this Clause 11 shall limit or affect any other right or remedy available to either Party.

12. Consequences of termination

- 12.1. On termination or expiry of this Agreement, the Supplier shall immediately deliver to ARIA all Deliverables whether or not then complete, and (at ARIA's discretion) return or destroy all ARIA Materials and any ARIA Confidential Information (including any copies thereof).
- 12.2. On expiry or termination of this Agreement, the Supplier shall co-operate with, and provide all assistance to, ARIA and any third party nominated by ARIA, as ARIA may request to enable an orderly and efficient transfer of the performance of the Services (or part of them) to ARIA or a third party (as applicable) without interruption or adverse effect. ARIA shall reimburse the Supplier with the reasonable costs actually incurred by the Supplier in providing that assistance.
- 12.3. Termination or expiry of this Agreement shall not affect any of the rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.
- 12.4. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

13. TUPE

- 13.1. The Parties do not anticipate that a relevant transfer under TUPE will occur during the Term.
- 13.2. The Supplier shall indemnify and keep ARIA and any New Supplier (being any person who provides to ARIA any services which are similar to the Services and which, immediately prior to the date on which the Supplier ceases providing the Services, were provided under this Agreement) indemnified against all losses which ARIA or the New Supplier may incur arising out of or in connection with this Agreement.

14. Prevention of fraud and bribery

- 14.1. The Supplier represents and warrants on an ongoing basis that neither it, nor any Supplier Personnel, has at any time committed a Prohibited Act, been investigated regarding any actual or alleged Prohibited Act, or been declared ineligible for participation in government procurement programmes or other government contracts on any grounds.
- 14.2. The Supplier shall (and shall procure that the Supplier's Personnel shall) during the Term: (a) not commit a Prohibited Act; (b) not do, suffer or omit to do anything that would cause ARIA (or any of ARIA's personnel) to fail to comply with applicable Law; and (c) comply with ARIA's policies as updated from time to time; and notify ARIA (in writing, with a comprehensive description) if it becomes aware of any breach of this Clause 14 or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with performance of this Agreement.

15. Audit

- 15.1. The Supplier shall keep and maintain for the duration of the Term and until six (6) years after the Agreement has been completed full and accurate records relating to this Agreement including: (a) the Services provided under it; (b) the time spent and materials used by the Supplier in providing the Services; (c) all payments made, and expenditure reimbursed, by ARIA; and (d) the steps taken to comply with its obligations under this Agreement.
- 15.2. The Supplier shall on request afford ARIA or ARIA's representatives such access to the records referred to in Clause 15.1 as may be required in connection with this Agreement. Additionally, the Supplier shall cooperate with any requests made by ARIA in relation to the EIR.

16. Confidentiality

- 16.1. Each Party undertakes that it shall not at any time during the Term, or at any time after the termination or expiry of this Agreement, disclose to any person any Confidential Information, except as permitted by Clause 16.3. Neither Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement.
- 16.2. Each Party undertakes to keep the other Party's Confidential Information secure and take no lesser security measures and degree of care to protect such Confidential Information than applies to its own confidential information and in any event no lesser than that which

a reasonable person or business would take in protecting its own confidential information.

16.3. Each Party may disclose the other Party's Confidential Information:

16.3.1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the Party's obligations under this Agreement. Each Party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other Party's Confidential Information keep such information confidential and are subject to obligations of confidentiality no less stringent than those in this Clause 16; and

16.3.2. as may be required by Law (including the EIR), a court of competent jurisdiction, or any governmental or regulatory authority (including the National Audit Office).

16.4. Each Party shall immediately inform the other Party in writing if it becomes aware that any Confidential Information has been disclosed to any unauthorised third party.

16.5. The obligations of confidentiality set out in this Clause 16 shall not apply:

16.5.1. where the Party to whom the Confidential Information belongs has given its specific prior written consent to the disclosure;

16.5.2. to Confidential Information which has entered the public domain, other than as a result of a breach of this Clause 16;

16.5.3. where the information was obtained, free from any restrictions as to its use or disclosure, from a third party who was free to divulge it; and

16.5.4. where the information was developed independently of any information received under this Agreement and by persons who had no access to, or knowledge of, that information.

16.6. The Supplier agrees that ARIA may make the following information public as part of its transparency reporting (at <https://www.aria.org.uk/transparency/>): (a) the existence of this Agreement; (b) the Supplier's identity and approximate size; (c) a short description of the Services; (d) how this Agreement was awarded; (e) the date on which the award was made; (f) the duration of the Term; (g) the total amount of the Charges; and (h) any updates or changes to those items during the Term.

16.7. The Parties acknowledge that damages may not be an adequate remedy for a breach of this Clause 16 or the confidentiality undertakings entered into by their directors, employees, subcontractors and other third parties pursuant to Clause 16.3. Each Party

shall be entitled to seek any legal or equitable relief, including injunctive relief or specific performance, upon the breach (or reasonably anticipated breach) of any part of this Clause 16 or of the confidentiality undertakings obtained for the purposes of disclosure pursuant to Clause 16.3.

- 16.8. The Supplier shall indemnify ARIA against any losses which ARIA may suffer arising from any breach of the Supplier's obligations under this Clause 16.

17. Key Personnel *[optional, change to not used where not applicable]*

- 17.1. The Parties shall identify any Key Personnel in the Schedule 2.

- 17.2. The Supplier shall not release nor substitute any Key Personnel engaged in the performance of the Services without the prior permission of ARIA (not be unreasonably withheld or delayed), except by reason of long term sickness, parental leave, promotion, termination of employment, or other circumstances beyond the Supplier's reasonable control.

- 17.3. In the event that ARIA permits the release or substitution of Key Personnel in accordance with Clause 17.2 above, the Supplier shall provide a suitable replacement of equivalent experience and skills and ARIA shall have the right to interview or otherwise assess any such replacement prior to appointment and request an alternative if deemed necessary (acting reasonably).

18. Conflicts of Interest

- 18.1. The Supplier must promptly notify ARIA of any actual or potential Conflicts of Interest or Perceived Conflicts of Interest which: (a) exist at the date of this Agreement; (b) arise during the Term; and (c) are reasonably anticipated to arise during the Term.
- 18.2. The Supplier shall use reasonable endeavours to minimise the risk of actual or potential Conflicts of Interest and Perceived Conflicts of Interest arising during the Term.
- 18.3. Where the Supplier has notified ARIA of any actual or potential Conflict of Interest or Perceived Conflict of Interest, the Supplier shall provide ARIA with: (a) sufficient detail as ARIA may reasonably require; and (b) a proposal for the management or mitigation of the relevant Conflict of Interest or Perceived Conflict of Interest. The Supplier shall put in place any additional measures as reasonably requested by ARIA.
- 18.4. Where ARIA (acting reasonably) forms the view that a Conflict of Interest or Perceived Conflict of Interest cannot be effectively managed or mitigated, ARIA may terminate this Agreement by giving thirty (30) days' written notice to the Supplier.

19. Modern Slavery Act

- 19.1. The Supplier shall, and shall procure that any subcontractor shall, take reasonable steps to ensure that slavery and human trafficking (as defined in section 54, Modern Slavery Act 2015 ("**MSA**")) is not taking place in any of its supply chains or in any part of its own business. The Supplier shall, at ARIA's request, provide ARIA with a statement of any such steps it has taken, and such other information as ARIA may reasonably require in order to enable it to prepare a slavery and human trafficking statement in accordance with the MSA. The Supplier shall notify ARIA immediately if it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement.

20. Import and export controls

- 20.1. The Supplier shall comply with all applicable import, export, and re-export control laws and regulations, including but not limited to those of the United Kingdom, the European Union, and the United States. The Supplier shall not, without obtaining all necessary authorisations and licences, indirectly or directly export, re-export, or transfer any deliverables, technical data, or technology provided under this Agreement to any prohibited destination, entity, or person. The Supplier represents and warrants that neither it nor any of its personnel are subject to any sanctions or appear on any restricted party list maintained by relevant governmental authorities. The Supplier shall indemnify and hold harmless ARIA against any losses, claims, or penalties arising from the Supplier's breach of this clause.

21. General

- 21.1. **Force majeure:** Neither Party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from a Force Majeure Event.

21.2. Assignment and subcontracting:

- 21.2.1. Neither Party shall assign, novate, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed). Either Party shall have the right to impose such conditions on such consent as it might reasonably require for the protection of its interests.
- 21.2.2. In the event that permission for subcontracting is granted in accordance with Clause 21.2.1 above, the subcontracting Party shall remain fully liable for the acts or omissions of its agents and subcontractors. The subcontracting Party

shall promptly make payment of all sums due to any subcontractor in accordance with the terms of the relevant subcontract.

21.3. **Entire agreement:**

21.3.1. This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.3.2. The Agreement shall govern all orders and supply of the Services to the entire exclusion of all other terms or conditions. No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or confirmation of order, specification or similar document will form part of the Agreement and the Supplier hereby waives irrevocably any right which it otherwise might have to rely on such terms and conditions.

21.4. **Relationship:** Nothing in this Agreement shall be deemed to constitute either Party as the agent of the other or create a partnership, joint venture, or unincorporated association between the Parties and the Supplier shall have no power to bind ARIA or to contract in the name of or create a liability against ARIA in any manner whatsoever.

21.5. **Further assurance:** The Supplier shall, promptly at ARIA's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as ARIA may from time to time require for the purpose of securing for ARIA the full benefit of this Agreement.

21.6. **Variation:** Except as expressly provided for in this Agreement, no variation of this Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Parties or their authorised representatives.

21.7. **Waiver:** The failure of either Party to exercise or enforce any right conferred upon it by this Agreement shall not be deemed to be a waiver of any such right or operate so as to bar the exercise or enforcement of that right at any time thereafter, as a waiver of another or constitute a continuing waiver.

21.8. **Severance:** The unenforceability of any single provision of this Agreement shall not affect any other provision hereof. Where such a provision is held to be unenforceable, the Parties shall use their best endeavours to negotiate and agree upon an enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the unenforceable provision.

21.9. **Notices:** All notices and other communications in relation to this Agreement shall be in writing and shall be deemed to have been duly given if: (a) personally delivered in Working Hours; (b) mailed to the relevant Key Contact (first class postage prepaid) at its registered office (if a company) or its principal place of business (in any other case); or (c) e-mailed to the Key Contact in Working Hours (except in relation to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution).

Supplier Key Contact:	[Name, Title, Office Address, Email Address]
ARIA Key Contact:	[Name, Title, Office Address, Email Address]

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

21.11. **Third party rights:** Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

21.12. **Governing law:** This Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

21.13. **Jurisdiction:** Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

DULY EXECUTED

Signed

for and on behalf of the **Advanced Research and Invention Agency**

Name:

Title:

Date:

Signed

for and on behalf of **[Supplier]**

Name:

Title:

Date:

Schedule 1 - Definitions

1. The definitions and rules of interpretation set out in this Schedule apply to the Agreement.
2. In this Agreement, the following terms shall have the following meanings:

"ARIA Background IPR" means Background IPR owned or controlled by ARIA prior to the date of the Agreement and/or developed entirely independently of it;

"ARIA Confidential Information" means any Confidential Information disclosed or made available by ARIA to the Supplier;

"ARIA Materials" means all materials, equipment and tools, drawings, specifications and data supplied by ARIA to the Supplier;

"Background IPR" means any and all intangible intellectual creations (including IPR) which exist prior to the date of this Agreement and/or which are developed entirely independently of it, and which are introduced by or on behalf of one Party to the other (intentionally or otherwise) and used in the performance of this Agreement, comprised in or relating to the Deliverables and/or which are used with provision and receipt of the Services;

"Business Day" means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

"Charges" means the charges payable by ARIA for the supply of the Services in accordance with Clause 5 and Schedule 3 (*Charges*);

"Confidential Information" means any confidential information which is disclosed, or made available, by one Party to the other whether before, on or after the date of this Agreement, which is designated in writing as confidential or would appear to a reasonable person to be confidential and which relates to a Party's business including its business methods, corporate plans or intentions, management systems, finances, new business opportunities, operations, processes, trade secrets, know how, personnel, suppliers and customers, and potential suppliers and customers and any information in respect of which ARIA owes an obligation of confidentiality to any third party and including information that the Supplier creates, develops,

receives or obtains in connection with this Agreement, and all information derived from any of the above together with the existence or provisions of this Agreement and any negotiations relating to it;

“Conflict of Interest” means a situation in which the interests of the Supplier (or Supplier Personnel) may be at odds with, or adversely interact with, the Supplier’s obligations under this Agreement or the interests of ARIA;

“Control” shall be as defined in section 1124 of the Corporation Tax Act 2010;

“Data Protection Legislation” has the meaning given to it in Schedule 4 (*Data Protection*);

“Default” means:

- (a) any act, statement, omission or breach of obligation (whether expressed or implied), condition or warranty contained in, precedent or collateral to this Agreement, breach of duty under statute or at common law or negligence in respect of which one Party is legally liable to the other:
 - (i) in the case of ARIA, of ARIA or its employees, servants, agents; and
 - (ii) in the case of the Supplier, of the Supplier or any Supplier Personnel; or
- (b) if the Supplier fails to perform the Services by the applicable deadlines or other delivery dates.

The definition of a Default shall extend to any substituted or remedial services provided by the Supplier;

“Deliverables” means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);

“EIR” means the Environmental Information Regulations 2004;

“Force Majeure Event” means events, circumstances or causes beyond its reasonable control (such as war or terrorist activity, riot, civil commotion, fire, flood or storm). For the avoidance of doubt, neither: (a) shortage of labour, materials, equipment or supplies; (b) lack of funds; (c) strikes or industrial disputes; nor (d) default or misconduct by a third party will constitute a Force Majeure Event;

- “Foreground IPR”** means any and all intangible intellectual creations (including IPR) used in the performance of this Agreement, comprised in or relating to the Deliverables and/or which are used with provision and receipt of the Services, excluding Background IPR;
- “Insolvency Event”** means the point at which a Party becomes or is deemed to have become insolvent (including being unable to pay its debts as they fall due and/or that the value of its assets is less than the amount of its liabilities taking into account contingent and prospective liabilities), or if a Party proposes or enters into any composition, arrangement or compromise with its creditors generally or any class of them, or if any petition is presented, order is made or resolution is passed for the winding up of a Party, or if an administration order is made or an application for such an order is made, or if a Party ceases, prepares to cease or threatens to cease to carry on its business (or a material part thereof) or is dissolved, or if steps are taken for the appointment of a receiver (including an administrative receiver), administrator, provisional liquidator, liquidator, manager, trustee, nominee, supervisor or similar officer over the whole or part of any of its business or assets, in each case under any law relating to bankruptcy, insolvency or the relief of debtors anywhere in the world;
- “Intellectual Property Rights” or “IPR”** means any and all proprietary rights and rights of use in intangible intellectual creations (such as technology, media, content, performances, works, materials, brands, and/or documentation) including patents; trade marks; design rights; copyrights; performers’ rights; moral rights; trade secrets; confidential information; rights in data, software, source code, user interfaces, computing models, algorithms, digital tools, computing or digital system frameworks and processes, and artificial intelligence; database rights; broadcast rights; rights in know-how, inventions, passing off, unfair competition, get-up, trade dress, domain names and website addresses; and all similar or equivalent rights or forms of protection; whether registered or unregistered, including rights to apply for and be granted such, which subsist or will subsist now or in the future, in any territory or part of the world;
- “Key Contact”** means the key contact for ARIA and the Supplier respectively, as described at Schedule 2 (Services);
- “Key Personnel”** means the named individuals designated as key to the performance of the Services in Schedule 2 (Services) and any replacement;
- “Law”** means the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services or with which the Supplier or ARIA is bound to comply;

- "Marks"** has the meaning given to it in Clause 7.3;
- "MSA"** has the meaning given to it in Clause 19.1;
- "New Supplier"** has the meaning given to it in Clause 13.1;
- "Perceived Conflict of Interest"** means a situation in which a third party observer may come to the reasonably held view that the interests of the Supplier (or Supplier Personnel) may be at odds with, or adversely interact with, the Supplier's obligations under this Agreement or the interests of ARIA;
- "Prohibited Act"** means:
- (a) to directly or indirectly offer, promise or give any person working for or engaged by ARIA a financial or other advantage as an inducement or reward for any improper performance of a relevant function or activity;
 - (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
 - (c) an offence: (i) under the Bribery Act 2010; (ii) under legislation or common law concerning fraudulent acts; (iii) of defrauding, attempting to defraud or conspiring to defraud ARIA (including offences by the Supplier under Part 3 of the Criminal Finances Act 2017); or
 - (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
- "Services"** the services, including any Deliverables, to be provided or delivered by or on behalf of the Supplier under this Agreement, as set out in the Schedule 2;
- "Supplier Personnel"** means all directors, officers, employees, other workers, agents, consultants and contractors of the Supplier and of any subcontractor engaged in the performance of the Supplier's obligations under this Agreement;
- "Term"** has the meaning given to it at Clause 2.1;
- "TUPE"** means the Transfer of Undertakings (Protection of Employment)

Regulations 2006;

“UK Government Supplier Code of Conduct” means the supplier code of conduct of the UK Government as may be updated from time to time, and which can be found here: <https://www.gov.uk/government/publications/supplier-code-of-conduct>;

“VAT” means value added tax chargeable under the Value Added Tax Act 1994 (and any replacement or applicable international equivalent); and

“Working Hours” means 09:00 to 18:00 on a Business Day.

3. In this Agreement, the following rules of interpretation shall apply:
- 3.1. the headings of clauses and sections are for ease of reference only and shall not affect the interpretation or construction of the Agreement;
 - 3.2. all references to clauses, schedules, annexes, and paragraphs are to the clauses, schedules, annexes, and paragraphs of this Agreement unless otherwise stated;
 - 3.3. any reference to a statute, statutory provision, subordinate legislation, code or guideline is a reference to such as amended and in force from time to time and to any instrument which re-enacts or consolidates the same;
 - 3.4. any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
 - 3.5. in the event of any conflict between the provisions of the core terms (meaning the front-matter of this Agreement, excluding any schedules, annexes, or documents incorporated by reference) and any schedule, annex, or document incorporated by reference, the provisions of the core terms shall prevail.

Schedule 2 - Services

1. Background

2. Description of the overarching service

3. Work packages

4. Deliverables and timelines

For the purposes of Clause 17, the following are identified as Key Personnel *[remove if Clause 17 is changed to not used]*:

Role	Name and contact details

Schedule 3 - Charges

[Guidance note to be deleted, when drafting consider:

- *maximum charges*
- *structure of the budget*
- *type of pricing*
- *payment cadence*
- *rate cards if needed*
- *assumptions, dependencies and exclusions]*

All invoices should be submitted to finance@aria.org.uk in accordance with Clause 5

Schedule 4 - Data Protection

1. **"Data Protection Legislation"** means the Data Protection Act 2018, where applicable, the General Data Protection Regulation 2016/679/EU ("**GDPR**") and/or the GDPR as enacted by the United Kingdom ("**UK GDPR**"), and any other applicable Laws relating to the processing of Personal Data under the Agreement, the Privacy and Electronic Communications (EC Directive) Regulations 2003 ("**PECR**") and all related regulations, regulatory codes of practice, opinions and guidance issued from time to time, including by the Information Commissioner, and in each case any amending, superseding or replacement applicable Law. The terms "**Data Subject**", "**processing**", "**Personal Data**", "**Controller**", "**Processor**" and "**Personal Data Breach**" shall bear the same meanings as set out in the applicable Data Protection Legislation.

[Version 1 - no personal data - delete as appropriate]

2. The Parties do not envisage that either Party will process any Personal Data for or on behalf of the other Party under or in connection with the Agreement. Where and to the extent that in undertaking the obligations set out in the Agreement either Party anticipates that the other will process any Personal Data on behalf of the other Party it shall notify the other Party and the Parties shall agree a variation to the Agreement to incorporate appropriate provisions in accordance with Article 28 of the GDPR, or as otherwise required by the Data Protection Legislation.

[Version 2 - personal data involved - delete as appropriate]

3. The Parties acknowledge that for the purposes of the Data Protection Legislation, ARIA is the Controller and the Supplier is the Processor. Annex A sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject. The Supplier shall not be entitled to appoint any third party processor of Personal Data under this Agreement without ARIA's prior written consent.
4. The Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Agreement:
 - 4.1. process that Personal Data only on the documented written instructions of ARIA unless the Supplier is required by Law to otherwise process that Personal Data. Where the Supplier is relying on Law as the basis for processing Personal Data, the Supplier shall promptly notify ARIA of this before performing the processing required by the relevant Law unless it prohibits the Supplier from so notifying ARIA;
 - 4.2. not process such Personal Data for any purpose other than those set out in this Agreement or otherwise expressly authorised by ARIA;
 - 4.3. ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against

accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- 4.4. ensure that all Supplier Personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - 4.5. not transfer any Personal Data outside of the UK or EEA unless the prior written consent of ARIA has been obtained and the following conditions are fulfilled:
 - 4.5.1. ARIA or the Supplier has provided appropriate safeguards in relation to the transfer;
 - 4.5.2. the data subject has enforceable rights and effective legal remedies;
 - 4.5.3. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 4.5.4. the Supplier complies with reasonable instructions notified to it in advance by ARIA with respect to the processing of the Personal Data;
 - 4.6. assist ARIA in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 4.7. notify ARIA without undue delay on becoming aware of a Personal Data Breach;
 - 4.8. at ARIA's discretion, delete or return Personal Data and copies thereof to ARIA on termination of the Agreement unless required by Law to store the Personal Data; and
 - 4.9. maintain complete and accurate records and information to demonstrate its compliance with Clause 9 and this Schedule 4 (*Data Protection*).
5. If either Party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other Party or to either Party's compliance with the Data Protection Legislation, it shall as soon as reasonably practicable notify the other Party and it shall provide the other Party with reasonably co-operation and assistance in relation to any such complaint, notice or communication.

Annex A: Processing, Personal Data, and Data Subjects	
Scope and nature of processing:	
Purpose of processing:	
Duration of processing:	
Types of personal data:	
Categories of data subject:	