

**[DRAFTING NOTE – REMOVE THIS PAGE FROM FINAL FORM CONTRACT
EXPLORATION STAGE
EXPLORATION STAGE PARTICIPANT TERMS AND CONDITIONS**

Where a consortium or joint venture is taking part in the Challenge, a lead participant will enter into these Terms and Conditions. The CivTech Team and the Challenge Sponsor reserve the right to require that another member of a consortium or joint venture team shall enter into the Accelerator Terms and Conditions instead of the party that entered into the Exploration Stage Participant Terms and Conditions.

Each party is solely responsible for taking its own separate legal advice in respect of these Terms and Conditions.]

**EXPLORATION STAGE
EXPLORATION STAGE PARTICIPANT TERMS AND CONDITIONS**

1 BACKGROUND

- 1.1 **[INSERT NAME OF CHALLENGE SPONSOR]** (the “**Challenge Sponsor**”) set a challenge being: **[INSERT DETAILS OF CHALLENGE PROBLEM]** (the “**Challenge Problem**”) as part of the CivTech Programme being run by the CivTech team on behalf of the Scottish Ministers (the “**CivTech Team**”) (the “**Challenge**”).
- 1.2 **[INSERT DETAILS OF EXPLORATION STAGE PARTICIPANT (WHERE PARTICIPANT IS A CONSORTIUM / JOINT VENTURE INSERT DETAILS OF THE LEAD PARTICIPANT)]** (“**You**” / “**Your**”) submitted a proposed solution to the Challenge Problem (“**Your Solution**”) and You have been selected as an Exploration Stage participant by the Challenge Sponsor to take part in the next stage of the Challenge.
- 1.3 The Challenge Sponsor and the CivTech Team have set out below the terms and conditions upon which You shall take part in the Challenge as an Exploration Stage participant.
- 1.4 The CivTech Programme comprises the following stages: Exploration Stage, Accelerator Stage, and Pre-Commercialisation Stage (if applicable) (the “**CivTech Programme**”).
- 1.5 [The CivTech Team and the Challenge Sponsor are both part of the Scottish Government but each have different roles in the context of the CivTech Programme.] **[Drafting note: this paragraph should be included where the Challenge Sponsor is part of the Scottish Government.]**

2 WHAT DOES BEING AN EXPLORATION STAGE PARTICIPANT MEAN?

- 2.1 You have been selected as one of the up to six (6) Exploration Stage participants to progress to the exploration stage of the Challenge where You will work with the Challenge Sponsor and the CivTech Team over a period of up to three (3) weeks to develop Your Solution (the “**Exploration Stage**”).
- 2.2 As an Exploration Stage participant, You shall:
- 2.2.1 engage actively in the Exploration Stage with the Challenge Sponsor, the CivTech Team and the other Exploration Stage participants;
 - 2.2.2 engage actively in the Exploration Stage in accordance with any specific guidance or information that has been provided to You;
 - 2.2.3 participate actively in any workshops / meetings / training / video and conference calls / other activities (including delivering pitches / attending interviews) that the Challenge Sponsor and/or the CivTech Team may organise during the Exploration Stage, including active participation in the final evaluation of the Exploration Stage which will include a scored pitch;
 - 2.2.4 submit a product development roadmap setting out how You plan to develop Your Solution during the Accelerator Stage;
 - 2.2.5 participate in any filming that may take place as part of the Exploration Stage (including the filming of Your pitches);
 - 2.2.6 continue to develop Your Solution over the course of the Exploration Stage (taking on board any further information / insight the Challenge Sponsor and/or the CivTech Team may provide to You); and
 - 2.2.7 if any source code forms part of Your Solution, ensure that such source code is maintained and kept up to date as it is developed during the Exploration Stage.
- 2.3 The obligations outlined in paragraph 2.2 are mandatory, and the Challenge Sponsor and/or the CivTech Team reserve the right to remove You from the Exploration Stage if You fail to comply with these obligations, as per the terms of paragraph 6.1.1 (*Removal from the Exploration Stage*).
- 2.4 The Exploration Stage will be delivered in accordance with government guidance and applicable legislation from time to time. As a consequence of the Covid-19 pandemic, participation in the Exploration Stage will likely be a hybrid of remote (using internet and other technologies) and in-person working. If permitted by legislation and government guidance and where all parties agree, we may ask You to attend the CivTech

Team's studio in Edinburgh or another location for specific purposes such as meetings. Attendance in person will always be agreed on a case-by-case basis and taking into account any concerns You may have.

2.5 You will be responsible for arranging any facilities and accommodation You may require for participating in the Exploration Stage. You will likely work remotely for the majority of the Exploration Stage with Your team (if applicable) and with the Challenge Sponsor and the CivTech Team. If in-person attendance is specifically agreed with You in accordance with paragraph 2.4, You may be asked to travel and attend activities at specified locations in order to be able to meet with the Challenge Sponsor, the CivTech Team and the other Exploration Stage participants.

2.6 You will need to have available Your own laptop, mobile phone, internet connection, licences, etc. as You may require to participate in the Exploration Stage (these will not be provided to You by the Challenge Sponsor or the CivTech Team). You agree to use any programmes / platforms / software for Your participation in the Exploration Stage as specified by the Challenge Sponsor and/or the CivTech Team.

3 WHAT IS THE CHALLENGE SPONSOR'S ROLE?

3.1 Along with the CivTech Team, the Challenge Sponsor will be engaging with You during the Exploration Stage. This shall include:

3.1.1 providing to You the Challenge Sponsor's subject matter expertise and sector knowledge in relation to the Challenge Problem; and

3.1.2 contributing to workshops / meetings / video and conference calls / other activities forming part of the Exploration Stage (for example, the Challenge Sponsor may act as judge in relation to pitches, assess business cases You may provide, and / or conduct interviews with You to understand Your Solution better).

4 WHAT IS THE CIVTECH TEAM'S ROLE?

4.1 The CivTech Team will be in charge of the general day-to day running of the Challenge and will also be available to provide You with general business advice.

5 DO EXPLORATION STAGE PARTICIPANTS GET PAID FOR THEIR WORK DURING THE EXPLORATION STAGE?

5.1 You will be paid a sum of £5,000 plus VAT (if applicable) by the Challenge Sponsor and the CivTech Team jointly for Your full participation during the entire Exploration Stage (whether You are successful in progressing to the Accelerator Stage of the Challenge or not) after the Exploration Stage. Without prejudice to the preceding sentence, You must comply with paragraph 2 (*What does being an Exploration Stage participant mean?*) and take part in the scored pitch at the end of the Exploration Stage in order to receive payment. This payment shall be paid to You by the CivTech Team and payment by the CivTech Team will satisfy its own and the Challenge Sponsor's payment obligations.

5.2 This payment shall be paid per Exploration Stage participant team (i.e. only one payment of £5,000 plus VAT (if applicable) regardless of the number of individuals or companies within an Exploration Stage participant team). You will be responsible for distributing the payment amongst the Exploration Stage participant team in accordance with any agreed payment arrangements. The Challenge Sponsor and the CivTech Team shall have no involvement in this distribution.

5.3 This payment shall be the only payment due from the Challenge Sponsor and the CivTech Team in relation to participation in the Exploration Stage, and the Challenge Sponsor and the CivTech Team will not be responsible for the payment of any additional expenses that may be incurred during participation in the Exploration Stage.

6 REMOVAL FROM THE EXPLORATION STAGE

6.1 The Challenge Sponsor and/or the CivTech Team may remove You from the Exploration Stage if:

6.1.1 You do not participate in the Exploration Stage in accordance with paragraph 2 (*What does being an Exploration Stage participant mean?*) and/or otherwise breach any of Your other obligations as outlined under these Terms and Conditions, and fail to remedy such non-participation and/or other breach no later than one day after receiving a written notice from the Challenge Sponsor and/or the CivTech Team requesting that You do so; or

- 6.1.2 You engage in any conduct or activity which, in the reasonable opinion of the Challenge Sponsor and/or the CivTech Team, damages or has the potential to damage the Challenge Sponsor and/or the CivTech Team's reputation and/or the reputation of the Scottish Ministers and/or the CivTech Programme;
- 6.1.3 You are part of a team of individuals and there is a disagreement within Your team such that Your team is no longer able to take part purposefully in the Exploration Stage; or
- 6.1.4 You have engaged a Sub-contractor (as defined in paragraph 10.5 (*Transfer/sub-contracting*)) and there is a disagreement with or involving the Sub-contractor or the Sub-contractor ceases to be engaged by You such that in the Challenge Sponsor and/or the CivTech Team's reasonable opinion You are no longer able to take part purposefully in the Exploration Stage.
- 6.2 If You are removed from the Exploration Stage in accordance with paragraph 6.1 or fail to attend the final evaluation of the Exploration Stage which will include a scored pitch as outlined in paragraph 5.1, You will not receive the payment from the CivTech Team and the Challenge Sponsor as outlined in paragraph 5.1 (*Do Exploration Stage participants get paid during their work on the Exploration Stage?*).
- 6.3 It may be that during the Exploration Stage, the Challenge Sponsor and the CivTech Team are of the view that the objectives of the Challenge and/or the CivTech Programme are not being met or will not be capable of being met by Your Solution or generally. In such a case the Challenge Sponsor and/or the CivTech Team may notify You that the Challenge Sponsor and the CivTech Team are stopping Your participation in the Exploration Stage although You will still receive the payment from the CivTech Team and the Challenge Sponsor as outlined in paragraph 5.1 (*Do Exploration Stage participants get paid during their work on the Exploration Stage?*) if such notification is given after the commencement of the Exploration Stage (provided that such view has not been reached due to a failure by You to perform Your obligations as outlined in these Terms and Conditions).
- 6.4 If You are removed from the Exploration Stage or if Your participation in the Exploration Stage is stopped in terms of paragraph 6.3:
- 6.4.1 the Challenge Sponsor and the CivTech Team shall be entitled to engage with another applicant that was not successful in the original selection process, offering the opportunity to take part in the Exploration Stage to another applicant; or
- 6.4.2 if You are part of a joint venture or consortium, the CivTech Team and the Challenge Sponsor reserve the right to continue the Exploration Stage with another member of Your team as lead participant and enter into Exploration Stage Participant Terms and Conditions with that other member of Your team. Where another member of Your team is to enter into the Exploration Stage Participant Terms and Conditions as the lead participant, You shall ensure that such other member of Your team has all necessary rights to the Background Intellectual Property (as defined in paragraph 7.4) and the Foreground Intellectual Property (as defined in paragraph 7.1) for the purposes of performing the Exploration Stage Participant Terms.

7 WHO OWNS ANY INTELLECTUAL PROPERTY RIGHTS THAT ARE CREATED?

- 7.1 Subject at all times to paragraph 7.4, as between You and the Challenge Sponsor You will own any Intellectual Property Rights that are created by: (i) or on behalf of You or by the Challenge Sponsor (and, if relevant, through the use of any hardware provided/made available to You by the Challenge Sponsor) during and as part of Your and the Challenge Sponsor's participation in the Exploration Stage; and (ii) any specialists assisting You during and as part of participation in the Exploration Stage where the relevant specialist transfers such Intellectual Property Rights to You and/or any Sub-contractor ("**Foreground Intellectual Property**"), so that You are able to continue to develop and commercialise Your Solution.
- 7.2 If You engage a Sub-contractor, You are responsible for granting the rights set out in paragraph 7 to the Challenge Sponsor and the CivTech Team. If You are a part of a team of individuals each team member may jointly own any Foreground Intellectual Property created by Your team and the Challenge Sponsor and the CivTech Team strongly recommend that Your team members have a written agreement regulating the ownership and use of such Foreground Intellectual Property.
- 7.3 Subject at all times to paragraph 7.4, for the purposes of paragraph 7.1 if the Challenge Sponsor creates any Intellectual Property Rights during and as part of the Challenge Sponsor's participation in the Exploration Stage, the Challenge Sponsor hereby assigns (by way of future assignation), to the extent that these are capable of being assigned, such Intellectual Property Rights to You, and shall ensure that any applicable moral rights that may subsist in the aforementioned Intellectual Property Rights are waived in favour of You. If You are a team of individuals, You shall own such assigned Intellectual Property Rights jointly with the other individuals in Your team.

- 7.4 Any Intellectual Property Rights existing prior to Your participation in the CivTech Programme and used in connection with Your Solution ("**Background Intellectual Property**") are and shall remain the exclusive property of the party owning it (including, where applicable, the third party from whom its right to use the Background Intellectual Property has derived). This includes Intellectual Property Rights which pre-exist in any hardware used to develop Your Solution, which shall be considered the Background Intellectual Property of the owner of such hardware. You will be required to identify and confirm in writing any Background Intellectual Property before commencing the Exploration Stage (including the details of any licences to which the Background Intellectual Property is subject).
- 7.5 Where the Challenge Sponsor agrees these are required, the Challenge Sponsor hereby grants to You a non-exclusive, royalty-free, perpetual licence to use, modify and develop (and the right to grant sub-licences to others to use, modify and develop) the Challenge Sponsor's background Intellectual Property Rights ("**Challenge Sponsor Background Intellectual Property**"), to the extent the Challenge Sponsor Background Intellectual Property is capable of being licensed by the Challenge Sponsor, for the sole purpose of continuing to develop and commercialise Your Solution (where this is applicable, the specific Challenge Sponsor Background Intellectual Property subject to this licence will be documented by the Challenge Sponsor and You in writing).
- 7.6 You hereby grant to the Challenge Sponsor and the CivTech Team a non-exclusive, royalty-free licence to use the Foreground Intellectual Property and Background Intellectual Property, for the purposes of their participation in the Exploration Stage and as required to fulfil their obligations and exercise their rights as outlined in these Terms and Conditions for the duration of the Exploration Stage.
- 7.7 You hereby warrant that You own or otherwise have the right to use and licence the use of the Foreground Intellectual Property and the Background Intellectual Property.
- 7.8 You shall indemnify the Challenge Sponsor and the CivTech Team against all liabilities, costs, expenses, damages and losses suffered or incurred by the Challenge Sponsor and/or the CivTech Team as a result of or in connection with any claim brought against the Challenge Sponsor and/or the CivTech Team for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with Your participation in the CivTech Programme, or the Challenge Sponsor and/or the CivTech Team's use of Your Solution in accordance with these Terms and Conditions, to the extent that the claim is attributable to Your and/or any Sub-contractor's acts or omissions.
- 7.9 If You progress to the Accelerator Stage, You will be required to provide a non-exclusive, perpetual, royalty-free licence to the Challenge Sponsor in respect of the Foreground Intellectual Property and the Background Intellectual Property in accordance with the Accelerator Participant Terms and Conditions.
- 7.10 For the purposes of these Terms and Conditions, "**Intellectual Property Rights**" means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

8 WHAT HAPPENS WHEN THE EXPLORATION STAGE HAS BEEN COMPLETED?

- 8.1 Subject to paragraph 8.7, one (1) to three (3) of the Exploration Stage participants will progress to the further stage of the Challenge to be an accelerator participant and work with the Challenge Sponsor and the CivTech Team to develop and test further their solution (the "**Accelerator Stage**"). The number of Exploration Stage participants progressing to the Accelerator Stage depends on the Challenge and is determined by the Challenge Sponsor.
- 8.2 Together with the CivTech Team, the Challenge Sponsor will decide which Exploration Stage participant(s) should progress to the Accelerator Stage having regard to the overall aims and principles of the CivTech Programme to harness new technologies to drive innovation. To help You continue to develop Your Solution, the Challenge Sponsor and / or the CivTech Team will provide some feedback if You are unsuccessful but the Challenge Sponsor and the CivTech Team will not be obligated to provide detailed justification outlining the decision of the Challenge Sponsor and the CivTech Team.
- 8.3 The decision which the Challenge Sponsor and the CivTech Team make in relation to which Exploration Stage participant(s) shall progress to the Accelerator Stage shall be final and binding, and You shall not have any rights to appeal the decision.
- 8.4 If You are chosen to progress to the Accelerator Stage:

- 8.4.1 You must comply with the following conditions:
- (a) if You are not already, You must form a company; and
 - (b) if You are a team of individuals, You (and any other members of Your team) must transfer any Intellectual Property Rights (as defined in paragraph 7.10) that each of You own in relation to Your Solution as per the terms of paragraphs 7.1 and 7.2 (*Who owns Intellectual Property Rights that are created?*) to the new company that is created and provide documented evidence of such transfer to the Challenge Sponsor and/or the CivTech Team (a template assignation is set out in the Appendix (*Template Assignation*) which You may wish to use to do this); and
- 8.4.2 if You are part of a joint venture or consortium, the CivTech Team and the Challenge Sponsor reserve the right to require that another member of Your team shall enter into the Accelerator Terms and Conditions as the lead participant. Change of the lead participant shall be agreed among the parties. Where another member of Your team is to enter into the Accelerator Terms as the lead participant, You shall ensure that such other member of Your team has all necessary rights to the Background Intellectual Property and the Foreground Intellectual Property for the purposes of performing the Accelerator Terms.
- 8.5 The Challenge Sponsor and/or the CivTech Team shall be entitled to prevent / remove You from going forward to the Accelerator Stage and select another Exploration Stage participant to progress to the Accelerator Stage if You do not comply with the conditions outlined in paragraph 8.4.
- 8.6 If You do progress to the Accelerator Stage the Challenge Sponsor and the CivTech Team's obligations to You will only be those set out in the Accelerator Terms and Conditions.
- 8.7 If the Challenge Sponsor and the CivTech Team are of the view that, following the completion of the Exploration Stage no viable solution to the Challenge has been identified, the Challenge Sponsor and the CivTech Team shall at their absolute discretion (without incurring any liability) have the ability to decide that no Exploration Stage participants should progress to the Accelerator Stage. Where it is initially planned that more than one Exploration Stage participant will progress to the Accelerator Stage but, following the completion of the Exploration Stage, the Challenge Sponsor and the CivTech Team are of the view that the number of viable solutions to the Challenge is less than the number of Accelerator Stage participants initially planned, then the Challenge Sponsor and the CivTech Team shall at their absolute discretion (without incurring any liability) have the ability to decide that a smaller number of Exploration Stage participants than initially planned should progress to the Accelerator Stage.

9 LIMITATION OF LIABILITY

- 9.1 The Challenge Sponsor and the CivTech Team shall not have any liability to You in relation to Your Solution not progressing to the Accelerator Stage, and neither the Challenge Sponsor nor the CivTech Team shall be obligated to continue to develop any commercial relationship with You and/or enter into any contract with You in relation to Your Solution or otherwise.
- 9.2 Subject to paragraph 9.3:
- 9.2.1 any advice and data that is provided to You by the Challenge Sponsor and/or the CivTech Team is for general information purposes only, and the Challenge Sponsor and the CivTech Team do not accept any liability in relation to any such advice and data;
 - 9.2.2 the combined total liability of the Challenge Sponsor and the CivTech Team to You shall in no circumstances exceed £5,000;
 - 9.2.3 and subject to paragraph 9.4, Your total liability to the Challenge Sponsor and the CivTech Team shall in no circumstances exceed £5,000; and
 - 9.2.4 and subject to paragraph 9.4, none of the parties shall be liable to the other parties in respect of any:
 - (a) loss of profits or anticipated savings; or
 - (b) loss of revenue or income; or
 - (c) loss of use or production; or
 - (d) loss of business, contracts or opportunities; or

(e) special, indirect or consequential loss or damage.

9.3 Nothing in these Terms and Conditions will limit or exclude any liability:

9.3.1 for death or personal injury resulting from negligence;

9.3.2 for fraud or fraudulent misrepresentation; or

9.3.3 that cannot be excluded or limited by applicable law.

9.4 Your liability under the following paragraphs shall be unlimited:

9.4.1 paragraph 7.8 (*Who Owns Any Intellectual Property Rights That Are Created?*);

9.4.2 paragraph 10.2 (*Applicable Law*); and

9.4.3 paragraph 10.4 (*Confidentiality*).

9.5 The limitations and exclusions of liability set out in this paragraph 9 are subject to paragraph 9.3 and govern all liabilities arising under these Terms and Conditions, including liabilities arising in contract, in delict (including negligence) and for breach of statutory duty, or otherwise, except to the extent expressly provided otherwise in these Terms and Conditions.

10 ADDITIONAL PROVISIONS

10.1 **Audit:** The Challenge Sponsor and the CivTech Team acting through themselves or through their Audit Agents shall have the right to audit You and/or any Sub-contractor (by way of being able to access any records and information relating to the Exploration Stage (including all documentation and correspondence relating to financial and other transactions) that You and/or any Sub-contractor may hold) during the Exploration Stage and for a period of 24 months thereafter, for the purposes of monitoring the Exploration Stage and to assess Your compliance with the obligations set out in these Terms and Conditions. This right may be exercised by giving You no less than 5 Working Days' advance written notice. For the purposes of these Terms and Conditions, "**Audit Agent**" shall mean: (i) the Challenge Sponsor and the CivTech Team's internal and external auditors; (ii) the Challenge Sponsor and the CivTech Team's statutory or regulatory auditors; (iii) Audit Scotland or the Auditor General, their staff and/or any of their appointed representatives; (iv) any party formally appointed by the Challenge Sponsor and the CivTech Team to carry out audit or similar review functions; and (v) successors or assignees of any of the above and "**Working Day**" shall mean a day, other than a Saturday, Sunday or public holiday in Scotland, when banks in Edinburgh are open for business. The CivTech Team will meet Your reasonable, unavoidable and directly incurred costs in connection with any audit carried out by the CivTech Team, provided that such costs are agreed by it in advance and in writing. If, as a result of any audit, You are found to have breached these Terms and Conditions, You shall meet the costs in connection with such audit and You shall return all payments relating to the audit made to You by the CivTech Team. You shall inform any Sub-contractors of this audit right and shall secure audit rights as set out in this paragraph in favour of the CivTech Team and the Challenge Sponsor from all Sub-contractors.

10.2 **Applicable Law:** We all agree at all times to comply with all applicable laws (including but not limited to anti-bribery and anti-corruption laws including the Bribery Act 2010, and equality laws) throughout the Exploration Stage.

10.3 **Freedom of Information Requests:** You acknowledge that the Challenge Sponsor and the CivTech Team are subject to freedom of information legislation, and You will work with the Challenge Sponsor and/or the CivTech Team as may be required for the Challenge Sponsor and/or the CivTech Team to be able to comply with their obligations under such legislation and acknowledge that the Challenge Sponsor and/or the CivTech Team may be required to disclose information relating to You and/or any Sub-contractors, the Challenge Problem, the Challenge, Your Solution and the Exploration Stage as part of such obligations (although prior to such disclosure it will be considered whether any exemptions apply).

10.4 **Confidentiality:** You, the Challenge Sponsor, and the CivTech Team (the "**Receiving Parties**") acknowledge that as part of the Exploration Stage we may receive trade secrets and/or confidential information in relation to each other and the other Exploration Stage participants. Subject to paragraph 10.3 (*Freedom of Information Requests*), all such information which is designated as confidential or which is otherwise clearly confidential in nature constitutes "**Confidential Information**", and each Receiving Party agrees: (i) not to divulge the Confidential Information belonging to any other party to any third party (except that You may disclose the Confidential Information to any Sub-contractor who needs to know such information for the purposes of the Exploration Stage and the CivTech Programme, provided that You

ensure that such Sub-contractor to whom You disclose the Confidential Information complies with this paragraph 10.4); and (ii) only to use the Confidential Information for the purposes of the Exploration Stage and the CivTech Programme. The confidentiality obligation contained in this paragraph 10.4 shall not apply to: (a) information which is or becomes part of the public domain other than through a breach of this paragraph 10.4; (b) information which was already in the Receiving Party's possession prior to its disclosure; or (c) any information that may be required to be disclosed by law, a court of competent jurisdiction or any governmental or regulatory authority.

- 10.5 **Transfer/sub-contracting:** You shall not assign, transfer, charge or deal in any other manner with these Terms and Conditions nor any of Your rights under them, nor sub-contract any of Your obligations without the prior written consent of the Challenge Sponsor and the CivTech Team.

Notwithstanding the foregoing, the Challenge Sponsor and the CivTech Team approve sub-contracting to the following sub-contractor(s): **[INSERT NAME(S) OF SUB-CONTRACTOR(S) INCLUDING ALL JOINT VENTURE / CONSORTIUM MEMBERS OR MARK AS NONE OR NOT APPLICABLE]** (each a "Sub-contractor").

Engaging Sub-contractors does not relieve You of any obligation or duty attributable to You under these Terms and Conditions. You are responsible for the acts and omissions of any Sub-contractors as though they are Your own. You shall ensure that the Sub-contractors comply with these Terms and Conditions.

- 10.6 **Further Assurances:** You will, at the reasonable request of the Challenge Sponsor and/or the CivTech Team, do all acts and execute all documents which may be necessary to give full effect to these Terms and Conditions.

- 10.7 **Amendments:** Any amendments to these Terms and Conditions must be agreed by You, the Challenge Sponsor and the CivTech Team, be set out in writing and expressly state the parties' intention to vary these Terms and Conditions.

- 10.8 **Rights of Third Parties:** Except in respect of Audit Agents as referred to in paragraph 10.1 (*Audit*), no person other than You, the Challenge Sponsor and the CivTech Team shall have any right to enforce any of the provisions of these Terms and Conditions which, expressly or by implication, confer a benefit on that person, and these Terms and Conditions do not give rise to any other rights under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce any term herein.

- 10.9 **Data Protection:**

10.9.1 The CivTech Team shall process personal data in accordance with its privacy policy from time to time and the Challenge Sponsor will process personal data in accordance with its privacy policy provided to You separately.

10.9.2 If You are an individual, You hereby waive any image rights that You may have in respect of any photography / filming / other activities that You participate in as part of the Exploration Stage.

10.9.3 If You are a company, You confirm that You have received any consents that are required from any individuals for the processing of any of their personal data by the Challenge Sponsor and the CivTech Team as is necessary in relation to: (i) Your participation in the Exploration Stage; (ii) the running and management of the Challenge; and (iii) the promotion of the CivTech Programme. You confirm that You have drawn the CivTech Team's privacy policy to the attention of all the individuals in Your team and will do so if the privacy policy is subsequently amended. You also confirm that You have received waivers in respect of any image rights that may be required in respect of any filming / photography / other activities that may take place during the Exploration Stage.

- 10.10 **Publicity:** You agree to participate in any publicity activities that are arranged by the Challenge Sponsor and/or the CivTech Team as reasonably requested.

- 10.11 **Procurement Regulations:** These Terms and Conditions are a research and development agreement excluded from the Public Contracts (Scotland) Regulations 2015 under and in terms of Regulation 15 and excluded from the Procurement Reform (Scotland) Act 2014 in terms of Section 4.

- 10.12 **Interpretation:** In these Terms and Conditions, the following rules apply: (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (b) a reference to a party includes its personal representatives, successors or permitted assignees; (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted; (d) a reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; (e) 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; (f) a reference to “writing” or “written” includes e-mails but not faxes and (g) any references to these Terms and Conditions shall include the Appendix which is hereby incorporated as part of these Terms and Conditions.

- 10.13 **Counterparts.** These Terms and Conditions may be executed in any number of counterparts, each of which when executed and delivered to the CivTech Team shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement. Transmission of the executed signature pages of a counterpart of these Terms and Conditions by email (in PDF, JPEG or other agreed format) to the CivTech Team shall take effect as delivery of an executed counterpart of these Terms and Conditions.
- 10.14 **Law and Jurisdiction:** These Terms and Conditions shall be considered as a contract made in Scotland and according to Scots Law and subject to the exclusive jurisdiction of the Scottish Courts.

BOTH THE CHALLENGE SPONSOR AND YOU MUST RETURN A SIGNED COPY OF THESE TERMS AND CONDITIONS TO THE CIVTECH TEAM TO ACKNOWLEDGE THAT THE CHALLENGE SPONSOR AND YOU HAVE READ, UNDERSTOOD, AND ACCEPT THESE TERMS AND CONDITIONS BEFORE PARTICIPATING IN THE EXPLORATION STAGE.

Challenge Sponsor Name:	
Signatory name:	
Signatory title / role:	
Authorised Signature of [INSERT CHALLENGE SPONSOR NAME]:	
Date:	
Place:	

Name:	
Signatory name (for companies):	
Title / role:	
Authorised Signature of [INSERT EXPLORATION STAGE PARTICIPANT NAME]:	
Date:	
Place:	

[DRAFTING NOTE: If multiple individuals – add additional signing blocks for each individual.]

This is the Appendix referred to in the foregoing Exploration Stage Participant Terms and Conditions

APPENDIX
TEMPLATE ASSIGNATION

[NOTE: THE CHALLENGE SPONSOR AND THE CIVTECH TEAM ACCEPT NO LIABILITY IN RELATION TO YOUR USE OF THIS TEMPLATE. YOU SHOULD SEEK INDEPENDENT LEGAL ADVICE BEFORE USING THIS TEMPLATE.]

[COMPANY LETTERHEAD]

[INDIVIDUAL NAME]
[INDIVIDUAL ADDRESS]

[Insert date]

Dear [INDIVIDUAL NAME]

Transfer of Intellectual Property Rights
[INSERT COMPANY NAME] (the "Company")

You have taken part in a challenge as part of the CivTech Programme being run by the CivTech Team on behalf of the Scottish Ministers and [INSERT NAME OF CHALLENGE SPONSOR] (the "**Challenge**"). As part of the Challenge you have submitted a proposed solution to the Challenge ("**Your Solution**").

We have agreed that the Intellectual Property Rights in all works which you have undertaken, created or which have been assigned to you by [INSERT NAME OF CHALLENGE SPONSOR], including, without limitation, those as set out in the Schedule (the "**Existing Works**"), and all future works which you will undertake and create (the "**Future Works**") in whatever media (collectively the "**Works**"), in relation to Your Solution and the Challenge, shall belong exclusively to the Company.

This Letter sets out the basis on which the Intellectual Property Rights will transfer to the Company.

1 Transfer of intellectual property rights

1.1 For the purposes of this Letter:

1.1.1 "**Intellectual Property Rights**" means all present and future copyright and related rights, rights in designs, trade marks, trade names and domain names, patents, rights to inventions, rights in get-up, rights in goodwill or to sue for passing off, database rights, rights in confidential information (including know-how and trade secrets) and other intellectual property rights relating to the Works and all applications and rights to apply for registration of such rights and the right to sue for any and all past infringements and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world; and

1.1.2 "**moral rights**" means moral rights of the author of a copyright work (including a right to be identified as the author of the work and to object to derogatory treatment of the work) as described in Part I, Chapter IV of the Copyright Designs and Patents Act 1988 and any similar rights of authors anywhere in the world.

1.2 You hereby assign, by way of present and future assignation, in favour of the Company all your property, right, title and interest in the Intellectual Property Rights in the Works, including all statutory and common law rights, and hereby undertake at the request of the Company to do all things and execute all such further documents, forms and authorisations as may be required to vest full right, title and interest in the Intellectual Property Rights in the Works in the Company.

2 Moral Rights

2.1 You hereby:

2.1.1 irrevocably and unconditionally waive in favour of the Company, its assignees and licensees any and all moral rights (whether past, present or future) conferred on you in respect of the Existing Works; and

2.1.2 irrevocably and unconditionally waive in favour of the Company, its assignees and licensees any and all moral rights (whether past, present or future) conferred on you in respect of the Future Works.

3 Governing Law and Jurisdiction

3.1 This Letter and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Scotland and both you and the Company submit to the exclusive jurisdiction of the Scottish Courts.

This Letter is issued in duplicate. We should be grateful if you would sign one copy of this Letter where indicated below and return this to me.

Yours sincerely

[INSERT COMPANY NAME]

Before the following witness

..... Witness sign

..... Full Name

..... Address

.....

I confirm that I have read, understood and agreed to be bound by the terms set out in this Letter.

Signature:

Full Name in block capitals:

Date:

Place:

Before the following witness

..... Witness sign

..... Full Name

..... Address

.....

This is the Schedule referred to in the foregoing Letter from [INSERT COMPANY NAME] to [INSERT NAME OF INDIVIDUAL]

Existing Works