

Master Site Sharing Agreement (IOT)

Between

Company

And

Glasgow City Council

This document has important legally binding consequences and you should take independent legal advice before accepting its terms and signing it.

## Table of Contents

1	interpretation .....	3
2	Permitted Use .....	5
3	Duration .....	5
4	Charges.....	5
S	The Company Obligations.....	6
6	Authority Obligations .....	7
7	Service of Notice .....	7
8	indemnity .....	8
9	Limitation of Liability .....	8
10	Data Protection.....	8
11	Confidentiality.....	10
12	Freedom of Information .....	10
13	Novation.....	10
14	Third Party Rights.....	11
15	Entire Agreement .....	11
16	Counterparts.....	11
17	Severability .....	11
18	Variation.....	11
19	Jurisdiction .....	12
	Schedule Part 1 .....	13
	Schedule Part 2 .....	14

## OFFICIAL - SENSITIVE: Commercial

This Agreement is made between

- (1) The Company (The Company"),
- (2) Glasgow City Council (the "Authority "), a local authority constituted and incorporated under the Local Government etc (Scotland) Act 1994 and having its principal office at City Chambers, George Square, Glasgow G2 1 DU.

Together "the Parties"

Whereas

The Company provides wireless Internet of Things (IoT) infrastructure and services on an open access basis and seeks to establish points of presence for IoT gateways, which is the subject of this Agreement.

The Authority offers to provide Sites for The Company to facilitate the delivery and operation of the IoT network.

The Parties have agreed upon the terms of occupation of the Sites and the grant and exercise of Rights (as defined in this document).

It is agreed between the Parties as follows:

- (A) Glasgow City Council
- (B) The Company

### 1 Interpretation

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

"Access and Authorisation Process" Means the process more particularly described in and the subject of Schedule 2 annexed to this Agreement.

"Agreement" Means this agreement, being a Site sharing agreement, including any Schedule thereof, which Schedule may be varied or modified by agreement between the Parties as herein provided from time to time;

"Commencement Date" Means "Day Month Year"

"Equipment" Means the electronic communications apparatus and any other equipment ancillary to such apparatus owned by The Company and used and operated for the Permitted Use, including any electricity and/or power connections.

"Rights" Means the rights granted by the Authority as set out in clauses 2 and 6 of this Agreement

"Site" Means any of the locations more particularly described in and the subject of Schedule Part 1 annexed to this Agreement.

"Term" Means the period from "DD/MM/YYYY" and "DD/MM/YYYY"

OFFICIAL - SENSITIVE: Commercial

## **2 Permitted Use**

- 2.1 With effect from the Commencement Date, The Company will be permitted to install, maintain, upgrade and operate the Equipment for the purposes of relaying IoT communications at the Sites on a non-exclusive basis.

## **3 Duration**

- 3.1 This Agreement shall commence on "DATE" and shall continue until "DATE" (Term), unless it is terminated earlier by either Party giving not less than six (6) months' notice in writing to the other. If Parties wish to continue the use of Equipment at the Sites beyond "DATE" they shall negotiate in good faith to agree the terms of such arrangement by no later than three (3) months prior to the expiry of the Term. Parties acknowledge that in accordance with Scottish Enterprises guidance the Equipment on the Sites forms part of a network which will be commercial viable by the expiry of the Term and the charges applied to the continued use of the Sites shall be in accordance with the industry standard rates applicable to each Site.
- 3.2 If Parties do not wish to continue the use of Equipment at the Sites beyond the Term or the Parties cannot agree the terms of such arrangement, this Agreement shall expire on the expiry of the Term and The Company shall remove the Equipment from each Site within 14 working days from the expiry of the Term.

## **4 Charges**

- 4.1 In consideration of The Company installing, maintaining, upgrading and operating Equipment from the Sites under this Agreement, The Company shall pay to the Authority an annual fee of **TBC** for each Site. This is calculated as a total of "**Replace with amount in words**" for the Term and is payable in advance.
- 4.2 The fee agreed shall not include Value Added Tax (VAT) and where applicable it shall be paid by The Company.
- 4.3 The Company agrees to pay invoices within 30 days from the end of the month in which the invoice is received. In the event of late payment by The Company of any amount payable under this Agreement The Company shall pay to the Authority interest on the outstanding amount at a rate of two per cent per annum above the base rate from time to time of the Bank of Scotland from the due date of payment until the date the outstanding amount is actually received by the Authority.
- 4.4 For a period of 12 months from Commencement Date, the Authority may use the IoT network which is made available through the Equipment at the Sites with the following benefits:
- 4.5 Up to 50 sensors per Site per annum may be connected free of charge.
- 4.6 Any sensors connected to the IoT network over and above the total quantity referenced in 4.4.1 will be charged on a prorated basis with a 50% discount from the tariffs in force at the time of activation, (available from The Company upon request).
- 4.7 Upon the expiry of the 12-month period, all sensors will be charged by The Company in line with tariffs in force at that time, (available from The Company upon request).

## **5 The Company Obligations**

- 5.1 The company shall (at its own cost) provide the following documentation to the Authority which shall be agreed between the Parties prior to installation of the Equipment:
- 5.1.1 a copy of the risk assessment of the specific Site.
- 5.1.2 a method statement, which details how and where the Equipment will be installed; and

**OFFICIAL - SENSITIVE: Commercial**

- 5.1.3 the specification of the Equipment.
- 5.2 The Company shall (at its own cost) throughout the term of the Agreement
  - 5.2.1 not cause, nor permit any disruption to other users within any Site.
  - 5.2.2 keep and maintain the Equipment and all ancillary items in good repair and condition and safe working order following good industry practice.
  - 5.2.3 ensure that the Equipment is fully compliant with the appropriate technical standards and the guidelines issued from time to time by the Radiation Division of the Health Protection Agency and/or ICNIRP (International Commission on Non-ionising Radiation Protection);
  - 5.2.4 provide on request, assistance to identify the cause of any suspected non-compliance with the guidelines in 5.2.3 above.
  - 5.2.5 not cause, nor permit any third party for whom The Company is responsible at law to cause, damage to any Site.
  - 5.2.6 at all times comply with all relevant Health and Safety Regulations.
  - 5.2.7 obtain any necessary statutory consents and permission regarding the operation and use of the Equipment.
  - 5.2.8 ensure that all planning and other consents necessary are obtained in respect of the Equipment and its use and on request provide the Authority with written confirmation thereof prior to exercising any rights under this Agreement.
  - 5.2.9 not tamper with or operate anything on any Site other than the Equipment.  
before exercising any rights of access pursuant to the terms of this Agreement, The Company shall give notice through the Access and Authorisation Process; and
  - 5.2.10 on termination of this Agreement, The Company shall remove the Equipment within 20 working days from expiry or termination of the Agreement from all Sites and make good any damage to any Site.

**6 Authority Obligations**

- 6.1 The Authority shall, subject to the Access and Authorisation Process (where appropriate):
    - 6.1.1 provide access to each Site.
    - 6.1.2 respond to each request for access in a timely manner.
    - 6.1.3 maintain each Site for safe access and working conditions using appropriate H&S equipment.
    - 6.1.4 provide adequate power for the Equipment.
    - 6.1.5 maintain controlled access to each Site.
  - 7 The Authority shall not be liable for any break in electricity supply due to any cause but will use all reasonable endeavors to restore the electricity supply as quickly as reasonably possible.
- Service of Notice

- 7.1 Any notice under this Agreement shall be in writing and shall refer to this Agreement and shall be deemed to be sufficiently served if addressed to the Party and sent by:
  - 7.1.1 first class mail or courier service; or
  - 7.1.2 registered post;to the relevant address here following or such other address as the Party may from time to time designate by written notice to the other:

The Company: Address and email address

**OFFICIAL - SENSITIVE: Commercial**

## **OFFICIAL - SENSITIVE: Commercial**

The Authority: Address and email address

Any notice sent by first class mail, courier service or registered post shall be deemed to have been delivered two Business Days after posting, exclusive of the day of posting. Any notice by electronic media shall be deemed to have been delivered on the day of transmission, unless such transmission is not done on a Business Day or occurs after 1700 hours.

### **8 Indemnity**

- 8.1 The Company shall make good any damage caused to any property or person by reason of any act of omission or default by The Company, or any third party for whom The Company is responsible at law arising out of The Company's use of any Site or the Rights under this Agreement.
- 8.2 The Company shall indemnify the Authority on demand against all costs, expenses, charges, damages, actions claim and demands relating to any property or person by reason of anyact of omission or default by The Company, or any third party for whom The Company is responsible at law.
- 8.3 The Company shall maintain insurance against employers and public liability to a minimum of ten million Pounds (£10,000,000) Sterling in respect of any incident or series of related incidents.

### **9 Limitation of Liability**

- 9.1 Subject to clause 9.2 The Company shall not be liable to the Authority under this Agreement for:
  - 9.1.1 A breach of this Agreement to the extent that any such breach results from any negligence, willful act, default or omission of the Authority or the Authority's employees, contractors, agents or anyone else within the Authority's reasonable control.
- 9.2 Nothing in this Agreement shall limit or exclude a Party's liability for:
  - 9.2.1 Death or personal injury caused by its negligence, or that of its employees, agents or subcontractors or anyone within its reasonable control; or
  - 9.2.2 Fraudulent misrepresentation or fraudulent concealment.
  - 9.2.3 Any willful actions, defaults, omissions or misconduct of that Party or its employees, agents or subcontractors or anyone within its reasonable control
  - 9.2.4 Any liability which cannot by law be limited or excluded
- 9.3 Notwithstanding the provisions of clause 8 and this clause 9 the Authority accept no liability for the Equipment.

### **10 Data Protection**

- 10.1 Both Parties will comply with the applicable requirements of Data Protection Law to the extent they apply to any activities under this Agreement.
- 10.2 The Parties agree that it is their mutual expectation that they will not share personal data with each other under this Agreement. In the event that, contrary to this mutual expectation, personal data is shared then the following provisions of this Clause shall apply in the event that the parties do not agree in writing any express provisions regulating such processing.
- 10.3 To the extent that either Party discloses personal data to the other Party it will ensure that such disclosure is fair, lawful and transparent in the context of the purposes for which the personal data is to be processed by the receiving Party and otherwise complies with the

**OFFICIAL - SENSITIVE: Commercial**

**OFFICIAL - SENSITIVE: Commercial**

requirements of Data Protection Law.

10.4 Without prejudice to Clause 10.2, if either Party ("Processor") acts as a processor of personal data for the other Party ("Controller") in relation to any activities under this Agreement then:

10.4.1 the Processor shall process such personal data only for the purposes of this Agreement and subject to any express written instructions of the Controller from time to time, and otherwise on such terms relating to the processing as the Controller may reasonably specify in writing.

10.4.2 the Processor shall assist the Controller in complying with its obligations under Data Protection Law and in demonstrating such compliance, including by documenting and agreeing in writing any particular aspects of the processing and providing such information in relation to the processing, to the extent required to do so by the Controller; and

10.4.3 the provisions of Articles 28.2, 28.3 (a) to (h) and 28.4 of the General Data Protection Regulation (EU 2016/679) shall be incorporated into this Agreement mutatis mutandis by way of direct contractual obligation on the part of the Processor to the Controller.

10.5 In this Clause:

10.5.1 "Data Protection Law" means Law relating to data protection, the processing of personal data and privacy from time to time.

10.5.2 "Law" means any statute, directive, other legislation, law or regulation in whatever form, delegated act (under any of the foregoing), rule, order of any court having valid jurisdiction or other binding restriction, decision or guidance in force from time to time; and

10.5.3 words and expressions defined in Data Protection Law shall have the same meanings when used in this Clause.

## **11 Confidentiality**

11.1 Each Party undertakes to the other that it shall treat and procure that its directors, officers, employees, and contractors treat as confidential information relating to the business of the other Parties of which it becomes aware as a result of this Agreement other than information which is generally available and in the public domain or which comes into the public domain other than by breach of this clause or where disclosure is required for compliance with any statutory obligation or for the purposes of legal proceedings.

## **12 Freedom of Information**

12.1 The Company acknowledges that the Authority is subject to the requirements of Freedom of Information (Scotland) Act 2002 (FOI(S)A) and Environmental Information (Scotland) Regulations 2004 (EIRs) and The Company shall assist and cooperate with the Authority to enable it to comply with these information disclosure requirements.

12.2 The Company acknowledges that the Authority may be required under the FOI(S)A and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from The Company. The Authority shall take reasonable steps to notify The Company of a Request For Information (in accordance with the Scottish Ministers' Code of Practice on the discharge of functions by Scottish Public Authorities under section 60 of Part 6 of the FOI(S)A and regulation 18 of EIRs) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Authority shall be responsible for determining in its absolute



## **OFFICIAL - SENSITIVE: Commercial**

discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOI(S)A and/or the EIRs.

### **13 Novation**

- 13.1 The Company shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Agreement without the prior written consent of the Authority.
- 13.2 The Authority may at its discretion assign, novate or otherwise dispose of any or all of its rights, obligations and liabilities under this Agreement and/or any associated licenses to anybody (including any private sector body) which performs any of the functions that previously had been performed by the Authority, provided that any such assignment, novation or disposal shall not increase the burden on The Company of the obligations accepted by The Company under this Agreement.
- 13.3 The Company shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this clause 13.2.,

### **14 Third Party Rights**

- 14.1 A person who is not a party to this Agreement has no right under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce or to enjoy the benefit of any term of this Agreement. Nothing in this Agreement, whether express or implied, is intended or shall be construed to confer, directly or indirectly, upon or give to any person, other than the Parties hereto, any right, remedy or claim under or in respect of this Agreement or any undertaking, condition or other provision contained herein.

### **15 Entire Agreement**

- 15.1 This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understanding or arrangements between them relating to the subject matter of this Agreement. Neither Party shall be entitled to rely on any prior agreement understanding or arrangement which is not expressly contained in this Agreement.

### **16 Counterparts**

- 16.1 This Agreement may be signed in any number of counterparts, each of which when signed shall be an original and all of which together evidence the same agreement.
- 16.2 Transmission of a signed counterpart of this Agreement (for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this Agreement.
- 16.3 No counterpart shall be effective until each Party has signed and delivered at least one counterpart.

### **17 Severability**

- 17.1 Each provision in this Agreement shall be construed separately and (save as otherwise expressly provided herein) none of the provisions hereof shall limit or govern the extent, application or construction of any of them and notwithstanding that any provision of this Agreement may prove to be illegal or unenforceable the remaining provisions of this Agreement shall remain in full force and effect.

### **18 Variation**

- 18.1 No variation of this Agreement shall be binding on any Party unless and to the extent that it



**OFFICIAL - SENSITIVE: Commercial**

is recorded in a written document executed by the Parties.

**19 Jurisdiction**

19.1 This Agreement and the relationship between the Parties hereunder shall be interpreted in accordance with the laws of Scotland and for these purposes the Parties submit to the exclusive jurisdiction of the Scottish Courts.

IN WITNESS WHEREOF this Agreement consisting of this and the preceding 10 pages, together with Schedule 1 and Schedule 2 and have been executed as follows:

Executed for and on Behalf of		GLASGOW CITY COUNCIL		Company	
Signature					
Name (Print)					
Job Title (Print)					
of Signature (Print)					
Location of Signature (Print)					
Before this witness					
Witness Signature					
Witness Name (Print)					
Witness Address (Print)					

**OFFICIAL - SENSITIVE: Commercial**

THIS IS THE SCHEDULE IN 2 PARTS REFERRED TO IN THE FOREGOING AGREEMENT BETWEEN GLASGOW CITY COUNCIL AND COMPANY.

**Schedule Part 1**

SITE NUMBER	SITE NAME	SITE ADDRESS
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		

**OFFICIAL - SENSITIVE: Commercial**

**Schedule Part 2**

1. The Company shall submit a request to [propertyfmsupport@drs.glasgow.gov](mailto:propertyfmsupport@drs.glasgow.gov) providing a minimum of 20 working days' notice to the Authority prior to requiring access to the Site.
2. The request shall detail the following:
  - a) date and time access is required;
  - b) description of works or maintenance to be carried out;
  - c) contact details for the individuals that will attend at the Site; and
  - d) the required method statement and risk assessment for the proposed works.
3. The Authority shall respond to the request from The Company within 10 working days of receipt advising if the request can be accommodated or proposing an alternative date and time.