



**STRATEGIC SCIENCE
INVESTMENT FUND –
INFRASTRUTURE FOR A NEW
ZEALAND MISSION OPERATIONS
CONTROL CENTRE**

between

**THE MINISTRY OF BUSINESS,
INNOVATION AND EMPLOYMENT**

and

{Contractor}

Contract Number

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**STRATEGIC SCIENCE INVESTMENT - INFRASTRUCTURE INVESTMENT CONTRACT
FOR A NEW ZEALAND MISSION OPERATIONS CONTROL CENTRE**

Date: [insert date]

Parties:

The Sovereign in right of New Zealand, acting by and through the Ministry of Business, Innovation and Employment ("**Ministry**")

and [insert Contractor name] (the "**Contractor**")

together referred to as the "**Parties**".

BACKGROUND

- A. The Strategic Science Investment Fund is for research, science, or technology, or related activities that is subject to a separate decision-making process and has been identified in the *Gazette* by the Minister in accordance with section 5(2) of the Research, Science, and Technology Act 2010.
- B. The purpose of the Strategic Science Investment Fund is to support longer-term underpinning infrastructure and programmes of mission-led science critical to the future of New Zealand's economy, environment and wellbeing.
- C. Methane is a potent greenhouse gas that is responsible for a quarter of the warming we are experiencing today. Reducing methane emissions from the oil and gas industry is the fastest, cheapest and best opportunity to slow the rate of global warming.
- D. MethaneSAT LLC¹, an affiliate of Environmental Defense Fund (EDF), is planning to launch a new, low-cost, purpose-built satellite — MethaneSAT — to map and measure oil and gas methane emissions worldwide, with the potential to assess emissions from the full range of man-made sources.
- E. In November 2019, the Ministry signed a partnership agreement with United States-based NGO Environmental Defense Fund (EDF) and its subsidiary MethaneSAT LLC to contribute to a state-of-the-art satellite designed to detect global methane emissions with unprecedented accuracy.
- F. The Contractor has applied for funding to establish and operate a Mission Operations Control Centre to support the MethaneSAT Mission. The Contractor will perform the role of the Mission Operations Control Centre Host. The primary focus of the Mission Operations Control Centre Host will be to support the successful delivery of the MethaneSAT Mission. The goals for the Platform are to:

¹ MethaneSAT LLC was created to design, build, launch, and operate the methane detection observatory.

- (a) support the delivery of the MethaneSAT Mission by delivering a high quality Mission Operations Control Centre;
- (b) support government climate change objectives, and contribute to solving global climate challenges;
- (c) build space sector and science capability;
- (d) create an enduring national infrastructure capability that can be employed across multiple space missions; and
- (e) enhance New Zealand's reputation and credibility.

G. The purpose of this Contract is to:

- (a) set out the terms under which Funding is provided to the Contractor;
- (b) recognise that the Parties to this Contract have a mutual goal of delivering a combination of people, facilities, information and knowledge that provide a particular ongoing science and innovation capability for New Zealand, and enable both Parties to achieve that goal;
- (c) deal with any change in the deliverables, outcomes of or risks to potential achievement of outcomes of the science platform; and
- (d) ensure that the Ministry can get information about the progress of the Platform Plan from the Contractor.

1. DEFINITIONS

1.1 In this Contract the following definitions apply, unless the context otherwise requires:

Change Event has the meaning set out in clause 6.1.

Confidential Information means, in relation to a Party, all information concerning the organisation, administration, operation, business, customers, clients, finances, and methods (including any secret process or formula or other trade secret) of that Party, the content of this Contract, and includes all information concerning the Science Infrastructure Platform.

Data Management Plan means a plan specified in Schedule 6 that sets out how the Contractor anticipates managing the data collected, observed, accessed, created, developed, generated or produced by the Science Infrastructure Platform to maximise the benefit of that Science Infrastructure Platform for New Zealand.

End Date means the end date of this Contract as specified in Schedule 1, or the date that this Contract is terminated (whichever is the earlier).

Frascati Definition of Research and Experimental Development means the Frascati Definition of Research and Experimental Development as set out in *Frascati Manual 2002: Proposed Standard Practice for Surveys on Research and Experimental Development*, published by the Organisation for Economic Co-operation and Development

Funding means the amount of funding paid in respect of the Science Infrastructure Platform as set out in the Schedule 1.

Intellectual Property Management Plan means a plan specified in Schedule 6 that sets out how the Contractor anticipates managing the Intellectual Property Rights generated by the Science Infrastructure Platform to maximise the benefit of that Science Infrastructure Platform for New Zealand.

Intellectual Property Policies and Principles means the policies and principles relating to the management of Science Infrastructure Platform Intellectual Property Rights that the Contractor must adopt pursuant to Principle 2 of Appendix 1.

Intellectual Property Rights includes copyright, all rights conferred under statute, common law or equity in relation to inventions (including patents), registered and unregistered trademarks, registered and unregistered designs, circuit layouts, plant varieties, confidential information, know-how, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields, together with all right, interest or licence in or to any of the foregoing.

Joint Project Steering Group means a group established to provide oversight of the management and implementation of this Contract and meeting New Zealand's Methane SAT Mission objectives, comprised of nominated representatives from each agency.

Key Performance Indicators (KPIs) means the defined quantifiable measures used to assess how well the Contractor is performing in delivery of science in accordance with the Platform Plan as specified in Schedule 3.

MethaneSAT Mission means the mission being led by the United States NGO Environmental Defense Fund and its subsidiary MethaneSAT LLC. The mission will launch a state-of-the-art satellite designed to detect global methane emissions with unprecedented accuracy.

Mission-led means research, science or technology or related activities directed at achieving a specific outcome.

Mission Operations Control Centre Host means the university selected by the Ministry to provide the physical location for the Mission Operations Control Centre.

Notice means a notice given in accordance with clause 12.

Overseas Party means:

- (a) any individual or association of persons not ordinarily resident in New Zealand;
or
- (b) any incorporated body:
 - (i) not registered, or deemed to be registered, under Part 18 of the Companies Act 1993; or
 - (ii) that does not have a registered place of business in New Zealand; and
 - (iii) that is not carrying on a business in New Zealand.

Performance Management and Reporting Requirements means the requirements set out in clause 4.10.

Platform Plan means the research, science or technology described in Schedule 2 to be delivered by the Contractor.

Prime Implementing Entity means the entity responsible for the establishment and operations of the Mission Operations Control Centre as outlined in the Project Implementation Plan.

Project Implementation Plan means the document that outlines the approach and practices in the implementation of the New Zealand portion of the MethaneSAT Mission. The document outlines the technical baseline, structure of the mission, and implementation approach.

Protective Security Plan means the security plan relating to information security, physical security and personnel security.

Protective Security Requirements means the Government's Protective Security Requirements (www.protectivesecurity.govt.nz).

Research Data means any information that has been collected, observed, generated, created or developed to validate or produce original research findings and results.

Science Infrastructure Platform (or Platform) means the **Mission Operations Control Centre** as a national infrastructure platform that provides access to research technology, infrastructure, and associated support services funded under this Contract and that of the Mission Operations Control Centre Host recorded in the Platform Plan.

Science Infrastructure Platform Intellectual Property Rights means Intellectual Property Rights arising directly from the performance of the Science Infrastructure Platform.

Science Infrastructure Platform Conditions means contractual conditions that apply in respect of a Science Infrastructure Platform that are set out in Schedule 5 of this Contract.

Start Date means the start date of this Contract as specified in Schedule 1.

Transaction means a formal agreement between the Contractor and an Overseas Party under which any Science Infrastructure Platform Intellectual Property Right is to be transferred for a defined term or permanently (by way of assignment, licence to use, or otherwise), but does not include:

- (a) any proprietary information exchange agreement or confidentiality agreement made in anticipation of a formal agreement;
- (b) any option or preliminary agreement which has not resulted in a final agreement;
- (c) any agreement relating solely to a common law right in the nature of know-how, trade secrets, biological material, or the like, except where a trade secret, or the like, is subject to statutory definition in the Overseas Party's jurisdiction; or
- (d) any agreement made by a third party in New Zealand, to whom the Contractor has previously transferred a Science Infrastructure Platform Intellectual Property Right, with an Overseas Party.

Work Programme means the research, science, or technology programme described in Schedule 2 as to be delivered by the Contractor using the Funding.

Working Days means any day not being a Saturday or Sunday or public holiday within the meaning of section 44 of the Holidays Act 2003.

1.2 In this Contract, unless the context requires otherwise:

- a. the singular includes the plural and vice versa;
- b. clause and other headings are for ease of reference only and will not affect the interpretation of this Contract;
- c. references to a person includes a company, body of persons (corporate or unincorporate) government department or municipal authority;
- d. references to a Party to this Contract include that Party's successors and permitted assignees;
- e. any obligation not to do anything also constitutes an obligation not to suffer or permit or cause that thing to be done;
- f. including and similar words do not imply any limitations;
- g. where a payment or other obligation is due on a day that is not a Working Day, that payment or other obligation shall be deemed to be due on the Working Day immediately following; and

- h. any reference to any statute or regulation is a reference to that statute or those regulations as amended or replaced from time to time.

2. TERM

- 2.1 This Contract commences on the Start Date and stays in force until the End Date, unless terminated earlier in accordance with this Contract.

3. MINISTRY'S OBLIGATIONS

Funding

- 3.1 In consideration of the Contractor investing in the Science Infrastructure Platform providing access to research technology, infrastructure and associated support services in accordance with the Work Programme and meeting its obligations under this Contract, the Ministry will provide the Funding to the Contractor subject to the terms and conditions of this Contract.
- 3.2 The Ministry will provide Funding in accordance with the payment schedule set out in Schedule 4.
- 3.3 The Funding is exclusive of GST, and the Contractor is responsible for all taxation liabilities, rates, and levies payable in relation to the Funding.

Media and Communications

- 3.4 The Ministry will be responsible for any communications or media statements relating to this Contract, the Funding, or the MethaneSAT Mission. The Contractor must obtain the Ministry's prior written agreement over the form and content of any public statement made by the Contractor relating to this Contract, the Funding, or the MethaneSAT Mission.

Intellectual Property Rights

- 3.5 The Ministry agrees that all Intellectual Property Rights arising from this Contract are the property of the Contractor, and will make no claim to ownership of any Intellectual Property Rights arising from this Contract.

4. CONTRACTOR'S OBLIGATIONS

Science Infrastructure Platform

- 4.1 The Contractor will use its best endeavours to deliver the Science Infrastructure Platform as set out in Schedule 2.
- 4.2 The Contractor will comply with any Science Infrastructure Platform Conditions relating to that Science Infrastructure Platform. The Contractor and the Prime Implementing

Entity will be required to develop a Memorandum of Understanding setting out how the two organisations will work together, including provisions for transitioning operations of the Mission Operations Control Centre from the Prime Implementing Entity to the Mission Operations Control Centre Host, and for providing post-handover consultation in the event it is needed for problem resolution.

- 4.3 The Contractor will perform the role of the Mission Operations Control Centre Host to establish and operate the Platform.

Funding

- 4.4 In respect of the Science Infrastructure Platform, the Contractor will use the Funding only:
- (a) for the costs of research, science and technology that meet the intent of a Science Infrastructure Platform incurred between the Start Date and the End Date;
 - (b) to deliver the Science Infrastructure Platform in accordance with the Platform Plan, which must be consistent with the Frascati Definition of Research and Experimental Development, and which include any activities that are reasonably ancillary to purposes that are consistent with the Frascati Definition of Research and Experimental Development;
 - (c) to meet Performance Management and Reporting Requirements;
 - (d) to carry out activities that are reasonably necessary to deliver a Science Infrastructure Platform;
 - (e) to meet the Contractor's reasonable costs of providing access, information, and reports to the Ministry if the Ministry undertakes an audit as set out in clauses 4.8 and 4.9, or a review or evaluation as set out in clauses 4.13 and 4.14; and
 - (f) to carry out any other activities directly relating to the Science Infrastructure Platform as agreed between the Parties.
- 4.5 The Contractor will acknowledge, as appropriate, provision of Funding by the Ministry.
- 4.6 The Contractor will ensure that it enters into legally binding contracts with Platform Partners, subcontractors, and any other entity pursuant to Schedule 2 and terms of this Contract as required to fulfil the Platform Plan and that all legally binding contracts will not be inconsistent with this Contract.

Record Keeping

- 4.7 For each Science Infrastructure Platform, the Contractor must maintain true and accurate records, including appropriate accounting records (including cash and in-kind

contributions), of its use of the Funding for at least 7 years after termination or expiry of this Contract.

Audit

- 4.8 There are no scheduled audits planned in respect of this Contract. However, the Ministry may appoint an independent auditor to audit all records relevant to this Contract:
- (a) if the Ministry has cause to believe that the Contractor is in breach of its obligations under this Contract;
 - (b) as part of a random audit programme required by the Ministry in order to satisfy its obligations as a Government funder; or
 - (c) if directed to do so by the Minister responsible for the Vote (as defined in the Public Finance Act 1989) from which the Funding originates.
- 4.9 The Ministry will use its best endeavours to ensure that any audit carried out under clause 4.8 minimises:
- (a) disruption to the Contractor; and
 - (b) overlap with any other audit and/or review that has been carried out in respect of the Contractor's use of funds.

Performance Management and Reporting Requirements

- 4.10 The Contractor will meet the following Performance Management and Reporting Requirements to the reasonable satisfaction of the Ministry:
- (e) provide an annual report by no later than 31 August each year that covers the delivery of the Science Infrastructure Platform between 1 July of the previous year (or the Start Date of the Science Infrastructure Platform, whichever is the latter) and 30 June of the year in which the report is due, and includes:
 - (i) information about all Key Performance Indicators as specified in Schedule 3 and the Platform Plan with comments where there has been a significant departure from the projected figures or information contained in that;
 - (ii) information to be shared publicly on the status of the Science Infrastructure Platform; and
 - (iii) the status and progress towards delivery of the Science Infrastructure Platform.
 - (f) if the End Date is a day other than 30 June, provide a final report by no later than 2 months after the End Date that covers the delivery of the Science Infrastructure Platform for the partial year from the preceding 1 July to the End Date, and that

describes any changes to the information set out in the previous annual report provided under paragraph (a);

- (g) provide statistical information as reasonably required;
- (h) provide information that would enhance the Ministry's understanding of the performance of the Science Infrastructure Platform as appropriate;
- (i) comply with any Science Infrastructure Platform Conditions specified in Schedule 5.

4.11 The Contractor will provide an annual update to the Ministry for approval no later than 30 April each year prior to the annual strategic discussion with the Ministry, that provides information about the research, science, or technology or related activities that it proposes to undertake within the upcoming 12-month period (1 July – 30 June), including an updated Work Programme and financial information if required.

4.12 The Contractor will provide additional reports or information reasonably required by the Ministry.

Reviews and Evaluations

4.13 The Ministry will review the performance of the Contractor in respect of this Contract by the end of the fourth year of the Term. At completion of the review, further funding for the remainder of the Term will be negotiated.

4.14 The Ministry may review the performance of the Contractor in respect of this Contract on 90 days' written notice to the Contractor.

4.15 The costs of any review or evaluation will be borne by the Ministry but any costs of providing information for and participating in the review incurred by the Contractor and/or Platform Partners will be paid for out of the Funding in accordance with clause 4.4(e).

4.16 The Contractor will:

- (a) on reasonable Notice from the Ministry, provide reasonable access, information, and reports to the Ministry:
 - (i) during working hours for the term of this Contract, to allow the Ministry to review its investment in the Science Infrastructure Platform; and
 - (ii) for a period of up to 7 years after this Contract ends, to allow the Ministry to review or evaluate whether the post-contract outcomes for New Zealand (if any) described in the Schedules have been delivered; and
- (b) comply with any additional review or evaluation requirements specified in the Schedules.

Intellectual Property Rights and Data Management

- 4.17 The Contractor must comply with Principles 1 – 3 of Appendix 1, including by adopting Intellectual Property Policies and Principles as required by clause 2 of Appendix 1.
- 4.18 The Contractor's Intellectual Property Policies and Principles must be published on the Contractor's website or, where this is inappropriate, made available if requested by a member of the public. However, the Contractor is not required to publish individual agreements relating to its Intellectual Property Rights on its website.
- 4.19 The Contractor will maintain the Intellectual Property Management Plan and the Data Management Plan specified in Schedule 6, and will manage any Science Infrastructure Platform Intellectual Property Rights and Research Data arising from the Science Infrastructure Platform in accordance with those plans, in order to contribute towards delivering science in accordance with the Platform Plan.

Protective Security Requirements

- 4.20 The contracted party undertakes to work in line with the Government's Protective Security Requirements (PSR) guidelines to put in place, and comply with, appropriate and manageable risk mitigation measures.

Overseas transactions

- 4.21 If the Contractor concludes a Transaction with an Overseas Party that was an Overseas Party at the date of commencement of the Transaction, the Contractor will report to the Ministry in a manner to be reasonably agreed by the Contractor and the Ministry. If the Contractor is obligated under the terms of the Transaction not to reveal the identity of the Overseas Party, the Contractor will provide information on:
- (a) the particular nature of the Science Infrastructure Platform Intellectual Property Right in the Transaction;
 - (b) the form of the Transaction;
 - (c) the territorial and/or application limits of the Transaction; and
 - (d) financial information and related material that indicates the Transaction's contribution to the Contractor's overseas earnings.

5. GOVERNANCE

Joint Project Steering Group

- 5.1 The Joint Project Steering Group will be established to provide oversight of the management and implementation of this Contract and meeting New Zealand's Methane SAT Mission objectives as outlined in the Project Implementation Plan.

5.2 The Joint Project Steering Group will comprise nominated representatives from each agency, including the Contractor, the Mission Operations Control Centre Prime Implementing Entity, and MethaneSAT LLC, with the Ministry as an observer.

6. CHANGE EVENTS

6.1 The following matters constitute a Change Event:

- (a) any significant aspect of the Science Infrastructure Platform cannot be, or is unlikely to be, delivered by the dates specified in, or in the manner contemplated by, this Contract;
- (b) the Ministry is not satisfied with the progress the Contractor has made in relation to the delivery of any significant aspect of its Platform Plan;
- (c) the Ministry, in its reasonable discretion is not satisfied with the annual update referred to in clause 4.11 setting out the intended Science Infrastructure Platform activities for the upcoming year;
- (d) a change in the involvement of Platform Partners;
- (e) the Contractor materially fails to deliver any of the KPIs set out in Schedule 3;
- (f) the Contractor fails to meet any of the contract conditions listed in Schedule 5;
- (g) if there is a policy change by the government which affects the Funding; or
- (h) any event that would give rise to a right for the Ministry to terminate under clause 7.1 arises.

6.2 If a Change Event occurs:

- (a) the Party that is aware of the Change Event will give the other Party Notice of the Change Event as soon as reasonably practicable after becoming aware of the Change Event; and
- (b) the Ministry may suspend payment of all or part of the Funding payable under this Contract to the Contractor.

6.3 The Parties may, at any time after receipt of the Notice of a Change Event:

- (a) agree that the circumstances giving rise to the Change Event no longer exist;
- (b) agree to vary this Contract; or
- (c) agree that no further action is required in respect of the Change Event.

6.4 If the Parties reach agreement in respect of a Change Event in accordance with clause 6.3:

- (a) the Ministry will pay the Contractor the Funding suspended under clause 6.2(b) (if any); and
 - (b) no further action will be required under this clause 6.
- 6.5 The Contractor must try to remedy the Change Event by no later than 3 months (or any other period agreed in writing by the Parties) after the date the Notice of the Change Event was given in accordance with clause 12 (“remedy date”).
- 6.6 The Ministry may, at any time after the date the Notice of the Change Event was received, obtain an independent review that considers the impact of the Change Event on the provision of the Science Infrastructure Platform under this Contract.
- 6.7 If the Change Event has not been remedied to the satisfaction of the Parties by the remedy date, the Ministry will make a determination in accordance with Clause 6.9.
- 6.8 If the Change Event is to be determined by the Ministry, the Contractor can provide any information that it wants the Ministry to take into account when making its determination (subject to such information being received within the timeframes set by the Ministry).
- 6.9 The Parties agree that if the Ministry determines that:
 - (a) no further action is required in respect of the Change Event:
 - (i) the Ministry will pay the Contractor any Funding suspended under clause 6.2(b); and
 - (ii) no further action will be required under this clause 6;
 - (b) this Contract must be varied (which may include a change to the amount of Funding payable), subject to clause 6.10 the Parties will do anything necessary to give effect to that decision, including by entering into a variation of agreement;
 - (c) this Contract must be terminated, this Contract will terminate with effect from the date specified by the Ministry (which may provide for a disengagement period, if the Ministry considers that is appropriate).
- 6.10 If the Ministry determines that a Change Event must be resolved by varying this Contract, and the Contractor does not wish to continue providing the Science Infrastructure Platform in this Contract, it may, at any time before the variation is executed by the Parties, terminate this Contract immediately by Notice to the Ministry.
- 6.11 If this Contract is terminated by the Ministry under clause 6.9(c) or by the Contractor under clause 6.10, the Ministry:
 - (a) is not required to pay any Funding suspended under clause 6.2(b) (if applicable), unless it determines that such Funding should be paid to the Contractor: and

- (b) may require the Contractor to return all Funding not spent and for which contractual liabilities have not yet been incurred as at the date of termination.

6.12 The Parties agree that:

- (a) neither Party may raise a dispute under clause 9 if a Change Event is notified under clause 6.2; and
- (b) nothing in this clause 6 prevents the Ministry from terminating this Contract (as the case may be) under clause 7.

7. TERMINATION

7.1 The Ministry may suspend the payment of Funding or terminate this Contract immediately by Notice to the Contractor:

- (a) If the government reduces, stops, or freezes funding to the Ministry;
- (b) if the MethaneSAT Mission is cancelled;
- (c) if the Contractor commits or is likely to commit a material breach of the terms or conditions of this Contract that is not capable of being remedied;
- (d) if the Contractor commits or is likely to commit a material breach of this Contract that is capable of being remedied, but fails to remedy the breach to the Ministry's satisfaction within any reasonable time specified by the Ministry in a Notice;
- (e) the Contractor gives any information, representation, or statement to the Ministry about its Science Infrastructure Platform that is misleading or inaccurate in any material respect.
- (f) if the Contractor fraudulently misuses or misappropriates any Funding;
- (g) if the Contractor becomes insolvent (or is deemed or presumed to be so under any applicable law) to be unable to pay its debts, or in the case of an individual or partnership, commits an act of bankruptcy;
- (h) if the Contractor makes an assignment for the benefit of, or makes any arrangement or composition with, its creditors;
- (i) if the Contractor has a receiver, liquidator, administrator, trustee, or manager (including the statutory manager) appointed in respect of all or any of its property; or
- (j) if the Contractor passes any resolution, or proceedings are commenced, for amalgamation with any other company (except for the purposes of a reconstruction approved by the Ministry, for which approval may be withheld by the Ministry in its absolute discretion).

- 7.2 If this Contract is terminated under clause 7.1, the Ministry may require the Contractor to return all Funding not spent and for which contractual liabilities have not yet been incurred as at the date of termination.
- 7.3 If this Contract is terminated under clause 7.1(f), the Ministry may require the Contractor to return all Funding paid up to the date of termination under this Contract in force at the date of termination, together with interest on all sums due, which will be charged on a daily basis at a rate that is same as the credit and debit rate that is charged by Inland Revenue on each day on which interest is charged by the Ministry, from the date on which the Contractor was paid the money by the Ministry to the date the Contractor returns the money, or set off the amount against any payment to be made to the Contractor under any other contract, existing or future, with the Ministry.
- 7.4 If payment of Funding is suspended in accordance with clause 7.1 but the Contract is not terminated, the Ministry is not required to pay any Funding unless it determines that such Funding should be paid to the Contractor.

8. CONFIDENTIALITY

- 8.1 Except as required by law, and subject to clauses 8.2 to 8.6, the Parties will:
- (a) keep the Confidential Information of the other Party confidential;
 - (b) not disclose any Confidential Information to any person other than its employees or contractors to whom disclosure is necessary for purposes of the Work Programme or this Contract;
 - (c) use no less than reasonable care to safeguard the Confidential Information from access or use by unauthorized persons; and
 - (d) ensure that any employees or contractors to whom it discloses the Confidential Information are aware of, and comply with, the provisions of this clause 8.
- 8.2 The obligations of confidentiality in clause 8.1 do not apply to any disclosure of Confidential Information:
- (a) that is independently developed by the receiving Party without use of the Confidential Information;
 - (b) that is required by law; or
 - (c) where the information has become public other than through a breach of the obligation of confidentiality in this clause 8 by the receiving Party, or its employees or contractors, or was disclosed to a Party on a non-confidential basis by a third party which was not in violation of a confidentiality obligation.

8.3 The Contractor recognises that from time to time the Ministry may release the following information relating to this Contract:

- (a) the name of the Contractor;
- (b) the Contract ID;
- (c) the titles of the Science Infrastructure Platform's themes;
- (d) the public statement set out in Schedule 1;
- (e) any of the Contractor's summary reports for public dissemination;
- (f) the relevant sector(s);
- (g) total amount of Funding paid to the Contractor in the current financial year and previous years; and
- (h) the year Funding was approved in respect of the workstreams within the Science Infrastructure Platform.

8.4 Information arising from the Contract, including reports provided by the Contractor to the Ministry, will remain confidential to the extent to which the Ministry is able to protect confidentiality in accordance with the Official Information Act 1982 or any other statutory or evidentiary requirement.

8.5 Subject to any legal requirements, the Ministry will give Notice to the Contractor if it receives a request for information other than the information listed in clause 8.2 concerning the Contractor.

8.6 The Ministry may release any information in an aggregated form that does not specifically identify the Contractor.

8.7 Nothing in this clause 8 prevents the Ministry from disclosing Confidential Information to:

- (a) a Minister; or
- (b) any of the Ministry's advisors (including relevant third parties) or any other government agency (including any Crown entity), provided that any person to whom Confidential Information is disclosed is bound in writing by obligations no less onerous than those contained in this clause 8 prior to any disclosure.

9. DISPUTE RESOLUTION

9.1 Subject to clause 6.12, if any dispute arises between the Parties in relation to this Contract, then a Party may give Notice to the other Party of the initiation of the dispute resolution process set out in this clause 9.

- 9.2 The Parties will attempt in good faith to settle the dispute amicably.
- 9.3 If the Parties cannot settle the dispute amicably within 10 Working Days of Notice being given, a Party may seek to have it mediated. If the Parties agree to attend mediation, the mediation will be conducted by a single mediator appointed by the Parties (or if they cannot agree, appointed by the Resolution Institute) and on the terms of the Resolution Institute Mediation Rules (unless the Parties agree otherwise). The Parties will pay their own costs relating to any mediation or other form of alternative dispute resolution (unless they agree otherwise).
- 9.4 The Parties must continue to perform their obligations under this Contract as far as possible as if no dispute had arisen pending final resolution of the dispute.
- 9.5 Nothing in this clause 9 precludes either Party from taking immediate steps to seek urgent or injunctive relief before a New Zealand court.

10. VARIATION

- 10.1 No modification to or variation of this Contract will be effective and binding on the Parties unless made in writing and signed by the Parties.

11. WARRANTIES

- 11.1 Each Party warrants to the other Party that it has full power and authority to enter into and perform its obligations under this Contract which, when executed, will constitute binding obligations on it in accordance with this Contract's terms.
- 11.2 The Contractor warrants that:
- (a) all consents required (including, without limitation, statutory consents) to deliver a Science Infrastructure Platform have been, or will be, obtained. The Contractor will notify the Ministry immediately if any required consent is not able to be obtained, expires, is withdrawn, or otherwise lapses;
 - (b) It is not insolvent or bankrupt and no action has been taken to initiate any form of insolvency administration in relation to the Contractor;
 - (c) All information provided by it to the Ministry in connection with this Contract was, at the time it was provided, true, complete and accurate in all material respects; and
 - (d) It is not aware of any material information that has not been disclosed to the Ministry which may, if disclosed, materially adversely affect the decision of the Ministry whether to provide the Funding.

12. NOTICES

12.1 Any notice to be given under this Contract must be in writing and hand delivered or sent by email or post to the Parties' respective addresses as set out in clause 12.2. Any notice is deemed to be received:

- (a) if personally delivered, when delivered;
- (b) if posted, three Working Days after posting; or
- (c) if sent by email, at the time the email enters the recipient's information system as evidenced by a delivery receipt requested by the sender and it is not returned undelivered or as an error;

provided that any notice received after 5pm or on a day which is not a Working Day is deemed not to have been received until the next Working Day.

12.2 The Parties' address for Notices is:

Ministry:	Contractor:
Ministry of Business, Innovation & Employment 15 Stout Street PO Box 1473 WELLINGTON 6140 Manager, Specialised Investments Science, System Investment & Performance Branch Email address: ssif.investmetns@mbie.govt.nz	[insert name] [insert physical and postal address] [insert email address] Attention:

13. NO EMPLOYMENT RELATIONSHIP

13.1 This Contract does not create a relationship between the Parties of employer and employee, principal and agent, partners, or joint venturers.

13.2 The Contractor will not lead any person to believe that remuneration for work or any other payment received by that person is met directly by the Ministry.

13.3 The relationship between the Parties is a relationship only for the supply of Funding on the terms set out in this Contract.

14. ENTIRE CONTRACT

- 14.1 This Contract represents the entire agreement between the Parties and supersedes and extinguishes all prior agreements, discussions, and arrangements between the Parties that relate to the subject matter contained in this Contract.
- 14.2 This Contract may be signed in any number of counterparts (including electronic copies) and provided that each Party has signed a counterpart, the counterparts, when taken together, will constitute a binding and enforceable agreement between the Parties. This Contract may be signed by digital signature processes.

15. FORCE MAJEURE

- 15.1 No Party will be liable for any delay or default due to natural calamities, acts or demands of government or any government agency, wars, riots, strikes, floods, accidents or any other unforeseen cause beyond its control and not due to that Party's or those Parties' fault or neglect.
- 15.2 If an event described in clause 15.1 occurs, in which resources employed in this Contract are required for public good purposes in relation to the event, the Ministry will negotiate a reasonable variation to the Contract to take account of the diversion of resources.

16. PARTIAL INVALIDITY

- 16.1 The illegality, invalidity, or unenforceability of a provision of this Contract under any law, will not affect the legality, validity, or enforceability of any other provision of this Contract.
- 16.2 If any clause of this Contract is held to be unenforceable or in conflict with the law, the invalid or unenforceable clause will be replaced with a clause which, as far as possible, accomplishes the original purpose of the clause.

17. ASSIGNMENT

- 17.1 The Contractor may not assign, or otherwise transfer its rights and obligations under this Contract to a third party, except with the prior written consent of the Ministry.
- 17.2 Any change affecting the control of the Contractor will be deemed a transfer and an assignment.

18. SURVIVAL OF CLAUSES

18.1 Expiry or termination of this Contract for any reason will not affect the validity and enforceability of this clause and the intellectual property, confidentiality, reporting, termination, dispute resolution, and governing law clauses of this Contract.

19. GOVERNING LAW

19.1 This Contract will be governed by and construed in accordance with the laws of New Zealand, and the Parties submit to the jurisdiction of the Courts of New Zealand.

20. INSURANCE

20.1 The Contractor must effect and maintain for the term of this Contract adequate insurance to cover standard commercial risks and upon request by the Ministry, provide evidence of its compliance with this clause.

Signed on behalf of in the Sovereign right of
New Zealand acting by and through the
Chief Executive of the Ministry of Business,
Innovation and Employment or their
authorised delegate:

Signature

Name and position

Ministry of Business, Innovation and Employment

Date

Signed on behalf of [insert name of
Contractor] by:

Signature

Name and position

Date

SCHEDULE 1 – SUMMARY

Contract ID:	
Science Infrastructure Platform (title):	
Proposal reference:	
Contract reference:	
Research fund:	
Total Funding year one (GST exclusive):	
Total Funding year one (plus GST, if GST is payable):	
Total Funding (GST exclusive):	
Total Funding (plus GST, if GST is payable):	
Number of years of funding:	
Contractor:	
Contractor's Contract Manager:	
Contact person:	
Contact email:	
Contact phone:	
Payment schedule:	
Start Date:	
End Date:	
Approval date:	
Approval reference:	

Public statement 300 words [to be inserted]

Executive Summary 600 words [to be inserted]

SCHEDULE 2 – PLATFORM PLAN

[TO BE AGREED AND INSERTED]

DRAFT

SCHEDULE 3 –KEY PERFORMANCE INDICATORS

[TO BE AGREED AND INSERTED]

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SCHEDULE 4 – FINANCIAL INFORMATION

Indicative Platform expenditure

Platform	2020-21 Year 1	2021-22 Year 2	2022-23 Year 3	2023-24 Year 4	2024-2025 Year 5	2025-2026 Year 6	2026-2027 Year 7
Operating							
Capex							
Ministry Funding	Up to \$350,000	Up to \$1m	Up to \$1m	Up to \$1m	Negotiated	Negotiated	Negotiated
Co-Funding (if applicable)							
Contributions	Cash						
	In-Kind						
Other funding							
Funding costs (GST excl)							

SCHEDULE 5 – SCIENCE INFRASTRUCTURE PLATFORM CONDITIONS

To be used if the Science Infrastructure Platform has special contract conditions and or performance management and reporting requirements.

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SCHEDULE 6 – INTELLECTUAL PROPERTY MANAGEMENT PLAN

and

DATA MANAGEMENT PLAN

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APPENDIX 1 – POLICIES AND PRINCIPLES

INTELLECTUAL PROPERTY

In the following principles, “should” indicates a non-obligatory best practice.

1. The Contractor must use its best endeavours to maximise the benefits to New Zealand of each Science Infrastructure Platform through its management of any Science Infrastructure Platform Intellectual Property Rights.
2. The Contractor must, before this Contract commences, have a set of Intellectual Property Policies and Principles in place in respect of this Contract.
3. The Contractor’s Intellectual Property Policies and Principles must:
 - (i) determine the ownership and/or assignment, if any, of Science Infrastructure Platform Intellectual Property Rights and require employees, or grant holders using the Contractor for that purpose, to acknowledge the relevant ownership and rights associated with Science Infrastructure Platform Intellectual Property;
 - (ii) ensure that researchers are advised of the potential value of Science Infrastructure Platform Intellectual Property Rights and of the options available to them to add value to those rights;
 - (iii) ensure that researchers are advised of any actual or potential confidentiality issues relating to Science Infrastructure Platform Intellectual Property Rights;
 - (iv) make clear and binding to the Contractor’s staff the separate and mutual obligations of the staff and the Contractor in relation to Science Infrastructure Platform Intellectual Property Rights management and protection;
 - (v) set out a review process to identify protectable and potentially valuable Science Infrastructure Platform Intellectual Property Rights and associated commercial activities and to prevent the infringement of existing protected Science Infrastructure Platform Intellectual Property Rights and associated commercial activities;
 - (vi) provide guidance on the prompt disclosure and resolution of potential conflicts of interest concerning the generation, ownership, management and use of Science Infrastructure Platform Intellectual Property Rights, such as on:
 - (a) staff members’ financial interests in external firms that contract with the Contractor, particularly where these entail research contracts and the exchange of Intellectual Property Rights;
 - (b) the nature and terms of institutional support for start-up companies and the equity holdings of the Contractor and its staff;

- (vii) satisfy all legal and regulatory obligations with such amendments promptly incorporated as may be necessary to comply with all changes or additions to legal or regulatory obligations that may be made during the term of this Contract Science Infrastructure Platform; and
 - (viii) cover good scientific conduct, including sound record keeping and human and animal experimentation ethics.
4. The Intellectual Property Policies and Principles should ensure that cultural, Treaty of Waitangi and Māori issues are properly taken into consideration.
 5. The Contractor should give preferential access to competent New Zealand-based firms to develop the Science Infrastructure Platform Intellectual Property Rights. Where a Contractor believes that it is best to commercialise the Science Infrastructure Platform Intellectual Property Rights outside of New Zealand, the Contractor should seek to retain ongoing research, science, and technology in New Zealand and reinvest any net income derived from the commercialisation of the Science Infrastructure Platform Intellectual Property Rights in research, science, and technology in New Zealand.
 6. The Contractor should, wherever possible:
 - (i) provide assistance to researchers in fulfilling Science Infrastructure Platform Intellectual Property Rights obligations and responsibilities;
 - (ii) encourage participation by researchers in any subsequent commercialisation process of any Science Infrastructure Platform Intellectual Property Rights; and
 - (iii) develop policies that incentivise staff and other stakeholders to generate benefits to New Zealand from the work.

DATA MANAGEMENT

7. The Data Management Plan should ensure that the Data Management Principles and Policies are properly taken into consideration.

The plan should set out which policies are guiding the data management approach, including:

- (i) The New Zealand Government Open Access and Licensing Framework. This framework advocates the use of creative commons licenses;
- (ii) MBIE's Environmental Data Management Policy Statement. If you receive new funding for research that includes environmental science you must agree to license under a Creative Commons Attribution 3.0 New Zealand licence (CC-BY) copyright works produced;
- (iii) Principles for safe and effective use of data and analytics when appropriate. These principles were developed by the Privacy Commissioner and Government

Chief Data Steward and are designed to support safe and trusted use of data and analytics by New Zealand government agencies;

- i. The FAIR data principles for scientific data management and stewardship; Findable, Accessible, Interoperable and Reusable; and
- ii. Any other policies or protocols relevant to the Work Programme.

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