

DATE

[2021]¹

ASTON UNIVERSITY

AND

[INSERT NAME]²

**PROVISION OF SERVICES TO DESIGN, DEVELOP, DELIVER & IMPLEMENT; PROVIDE
KNOWLEDGE TRANSFER & TRAINING SERVICE AND POST IMPLEMENTATION
SUPPORT AND MAINTENANCE SERVICES FOR A CUSTOMER RELATIONSHIP
MANAGEMENT SYSTEM (CRM) USING MICROSOFT DYNAMIC SERVICES
AGREEMENT**

SUBJECT TO CONTRACT

Draft: []

¹ Amend the year accordingly and remove square brackets. Once the Agreement has been signed by both parties, the last date of signature should be entered here.

² Insert the name of the other party.

This Agreement is between:

- (1) Aston University of Aston Triangle, Birmingham, B4 7ET, England (“Aston”); and
- (2) [insert company name]³ registered in England and Wales with registered number [insert company number]⁴ and whose registered office is situated at [insert company’s registered address]⁵ (“the Supplier”);

each a “Party”, together the “Parties”.

Agreed:

1. Introduction

The Parties have agreed for the Supplier to supply the Services (defined below) to Aston pursuant to the terms of this Agreement to;

- 1.1 Design, deliver, implement and provide knowledge transfer and training in the use, operation, support, maintenance and ongoing development of, a Customer Relationship Management Software System solution using Microsoft Dynamics (the “Solution”);
- 1.2 Where it is authorised by Aston in writing (by means, or confirmed by means of a properly authorised Aston purchase order, or otherwise authorised by and confirmed in writing by Aston), provide post implementation support and maintenance services or other services (which may include, without limitation, knowledge transfer and training in the operation, use and support and maintenance of the Solution)
- 1.3 Where is authorised by Aston in writing (by means, or confirmed by means of a properly authorised Aston purchase order, or otherwise authorised by and confirmed in writing by Aston), provide additional services on a Microsoft Dynamics Platform.

2. Duration

- 2.1 This Agreement will commence on the Commencement Date and will continue until [insert duration] **OR**⁶ [the successful completion of the Services] (“the Term”) unless otherwise terminated in accordance with the Terms and Conditions as set out in Schedule 1.

2.1.1 in the case of the provision of the Services required to deliver the Solution, on the date that the Solution is accepted by Aston; and

2.1.2 in the case of the Services required to deliver and provide post implementation support and maintenance services or other services:

- (i) on the date that the Services are scheduled to expire as set out in Part 2 of Schedule 2; or

³ Insert the name of the other party.

⁴ Insert the Company number.

⁵ Insert the Company’s registered address.

⁶ How will the completion of services be determined? Will the Agreement be in force for a certain period (months/years) or until the completion of the Services? Please amend/delete as necessary.

- (ii) the date that the Services are scheduled to expire as set out in a Form of Change signed by both parties.

in each case referred to as the “Term”, and in each case unless otherwise terminated in accordance with the Terms and Conditions as set out in Schedule 1.

- 2.2 This Agreement may be extended by the mutual agreement of the Parties.

3. Services

- 3.1 The Services are defined as all and any services required and necessary to and primarily referred to in the Services Specification as set out in Part 1 of Schedule 2 and may be set out in any other attachments to the Agreement or any amending agreement; and

- 3.1.1 Deliver a compliant and working Solution; and

- 3.1.2 Deliver the requirements and deliverables (the “Deliverables”) set out in Part 1 Schedule of Schedule 2 of the Agreement and as may be set out in any other attachments to the Agreement or any amending agreement; and

- 3.1.3 where it is authorised by Aston in writing (by means, or confirmed by means of a properly authorised Aston purchase order, or otherwise authorised by and confirmed in writing by Aston), provide and deliver post implementation support and maintenance services or other services (which may include, without limitation, knowledge transfer and training in the operation, use and support and maintenance of the Solution) as set out in Part 2 of Schedule 2 of the Agreement or as set out in the written instruction and authorisation to provide such Services.

- 3.2 Where the Supplier provides post implementation support and maintenance Services to Aston following the acceptance of the Solution or Aston authorises the Supplier to provide post implementation support and maintenance Services under the provision of Clause 3.1.3 above, Aston will assess the Supplier’s performance against the Key Performance Indicators as set out in Part 2 of Schedule 2. In the event the Supplier fails to meet any of the Key Performance Indicators, Aston will be entitled to exercise the rights and remedies as set out in the Terms and Conditions

- 3.3 The Parties acknowledge that the precise conformity of the Services; the Delivery of the Deliverables and the Solution is of the essence of this Agreement. In the event the Services, the Deliverables, the Solution, the Maintenance and Support are not performed in accordance with the Services Specification, however slight the breach may be, this will be deemed a material breach.

4. Delivery

- 4.1 The Supplier will provide and perform the Services required and necessary to deliver the Deliverables, the Solution and the Maintenance in accordance with the provision (including dates) set out in the then current version of a project plan (the “Project Plan”) approved by Aston and shall deliver the Solution on the date specified in Project Plan as the date upon which Aston is expected to sign a certificate accepting

that all of the aspects captured within the definition of the Solution set out in Clause 1.1 have been completed and delivered in accordance the Agreement and to the satisfaction of Aston (“Delivery Date”).

- 4.2 The Supplier will deliver and perform any post implementation support and maintenance Services that it is obliged to provide under the provisions of the Agreement in accordance with the standards set out in Part 2 of Section 2.
- 4.3 The Supplier will deliver and perform the Services that it is authorised by Aston in writing (by means, or confirmed by means of a properly authorised Aston purchase order, or otherwise authorised by and confirmed in writing by Aston), provide post implementation support and maintenance services or other services (which may include, without limitation, knowledge transfer and training in the operation, use and support and maintenance of the Solution) in accordance with any requirements or standards set out in the written authority to provide the Services or, in the absence of any such standards, the provisions of Part 2 of Schedule 2 insofar as they may be applicable to the Services required.
- 4.4 The Supplier will deliver and perform additional services outside the scope of the required solution as mutually agreed and is authorised by Aston in writing (by means, or confirmed by means of a properly authorised Aston purchase order, or otherwise authorised by and confirmed in writing by Aston).
- 4.5 The Delivery Address is:
- Aston University
Aston Triangle
Birmingham
B4 7ET
United Kingdom

5. Payment

- 5.1 Aston will pay the Supplier the Price as set out in Schedule 3.
- 5.2 All prices quoted are exclusive of VAT, which shall be invoiced to and paid by the University at the rate and in a manner for the time being prescribed by Law.
- 5.3 The Price for the Solution and any post implementation support and maintenance Services is fixed and firm and set out in Schedule 3. The Price shall not be varied unless the Supplier is able to demonstrate to the satisfaction of Aston that Aston is requesting (or has requested), or has otherwise made a change to the Deliverables. The Price (not any part of it) shall not under any circumstances be varied without the prior written consent of Aston.
- 5.4 Aston shall make payment of the Price for the Solution and support and maintenance Services in accordance with the payment profile set out in Schedule 3. Any payment shall be strictly subject to Aston having accepted that the Services and the Solution (or any part of the Services or Solution) for which payment is sought as being in accordance with the Agreement and to the satisfaction of Aston.

- 5.5 The calculation of any increase in the Price for the second and any subsequent year post implementation support and maintenance Services shall be based on the principle that any increase in the previous year's support and maintenance Services shall not exceed an amount equivalent to the Price payable for the previous year's Services plus two per cent (2%). The Supplier shall not renew the Agreement for the provision of such support and maintenance Services without the prior written authority of Aston. Supplier will not increase the Price without the prior written consent of Aston.
- 5.6 The Parties acknowledge that time is of the essence with the performance of Services and Aston may reduce the Price by the following;
- 5.6.1 Phase 1 - a rate of five percent (5%) per day that elapses between the Delivery Date and the actual date of delivery that will not exceed a total reduction of the Price of twenty five percent (25%); which the Parties agree is a genuine pre-estimate of Aston's loss as a result of late delivery and is not a penalty.
- 5.6.2 Phase 2 - a rate of five percent (3%) per day that elapses between the Delivery Date and the actual date of delivery that will not exceed a total reduction of the Price of twenty five percent (15%); which the Parties agree is a genuine pre-estimate of Aston's loss as a result of late delivery and is not a penalty.
- 5.6.3 Phase 3 - a rate of five percent (3%) per day that elapses between the Delivery Date and the actual date of delivery that will not exceed a total reduction of the Price of twenty five percent (15%); which the Parties agree is a genuine pre-estimate of Aston's loss as a result of late delivery and is not a penalty.
- 5.7 The Price for Ad Hoc requirements will be based on the agreed Schedule of Service Rates.
- 5.8 The Price for the provision of any additional Microsoft Dynamics Projects shall be as stated on the written authority issued by Aston authorising the Supplier to proceed with the provision of any such Services based on the agreed Schedule of Services Rates and accepted by both Parties in writing.
- 6. Aston and Supplier Details- Including Key Personnel**
- 6.1 Details of Aston's and the Supplier's Nominated Representatives and Project Managers are set out in Schedule 4.
- 6.2 Details of the Supplier's Key Personnel for the provision of the Services required to deliver the Deliverables and the Solution are set out in Part 1 of Schedule 2 and Schedule 4. The Supplier warrants that the Key Personnel assigned to the Agreement shall not be changed (unless such change is due to circumstances outside the direct control of the control of the Supplier, including, by way of example, any of the nominated Key Personnel resigning or being otherwise unavailable due to death or ill health) without the prior written approval of Aston and that the Key Personnel are

suitably qualified and experienced, and have the appropriate qualifications to deliver the Services and the Solution. Aston shall have the right to require that any member of the Key Personnel shall be removed from the provision of the Services and replaced (at no additional cost to Aston) if Aston reasonably determines that the member of Key Personnel is failing to deliver the Services or any part of them to the required and appropriate standards or is otherwise unsuitable to be providing and delivering the Services. If the Supplier cannot provide an acceptable replacement, Aston may terminate the agreement.

- 6.3 All Invoices will be addressed to the relevant Party's address stated at the beginning of this Agreement.

7. Employment arrangements⁷

- 7.1 This agreement envisages that subsequent to the commencement of this agreement, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this agreement, or part, or otherwise) which may result in a transfer of the Services in whole or in part (**Service Transfer**).
- 7.2 At any time in the nine calendar months preceding the end of the Term, Aston may request that the Supplier provide a Final Staff List, which shall be complete and accurate in all material respects. The Supplier shall provide a Final Staff List within ten working days of any such request. The Supplier's Final Staff List shall list all Transferring Employees;
- 7.3 The Supplier shall use its best endeavours to ensure that no personnel changes are made by the Supplier between the date of provision of the Final Staff List and the Service Transfer which would impact upon the content of the Final Staff List, other than in the ordinary course of business.
- 7.4 Aston shall be permitted to use and disclose the Supplier's Final Staff List for informing any tenderer or other prospective replacement supplier for any services which are substantially the same type of services (or any part thereof) as the Services.
- 7.5 In connection with a relevant transfer to which the Employment Regulations apply, the parties agree that:
- 7.6 The Supplier shall perform and discharge all its obligations in respect of all the Transferring Employees and their representatives for its own account up to and including the date of the Service Transfer. The Supplier shall indemnify Aston and any replacement supplier in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by Aston or any replacement supplier including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to:
- 7.6.1 the Supplier's failure to perform and discharge any such obligation;

⁷ These standard clauses offer only basic protection in the event of a TUPE applying. If the contract is high value, if we anticipate that the Supplier will use a substantial number of staff to provide the services or if any Aston staff are likely to transfer out of the University, please consult the OGC. HR may also need to be involved.

- 7.6.2 any act or omission by the Supplier on or before the date of the Service Transfer or any other matter, event or circumstance occurring before the date of the Service Transfer;
- 7.6.3 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contributions and otherwise) payable in respect of any period on or before the Service Transfer Date;
- 7.6.4 any claim made by or in respect of any person employed or formerly employed by the Supplier other than a Transferring Employee for which it is alleged Aston or any replacement supplier may be liable by virtue of this agreement and/or the Employment Regulations; and
- 7.6.5 any act or omission of the Supplier in relation to its obligations under regulation 11 of the Employment Regulations, or in respect of an award of compensation under regulation 12 of the Employment Regulations except to the extent that the liability arises from Aston's or the replacement supplier's failure to comply with regulation 11 of the Employment Regulations.

8. Material Sub-Contractors

- 8.1 The Supplier is not permitted to appoint Material Sub-Contractors under this Agreement.

9. Force Majeure⁸

- 9.1 Neither Party will be liable to the other to the extent that it is unable to perform its obligations by reason of Force Majeure provided the Party so unable to perform promptly notifies the other of the Force Majeure and its causes ("the Force Majeure Notice").
- 9.2 If a Force Majeure continues for more than 30 days' ("the Force Majeure Period"), a Party in receipt of a Force Majeure Notice may terminate this Agreement by giving 10 Business days' notice to the other Party ("the Subsequent FM Notice").
- 9.3 In calculating the Force Majeure Period, the Party may ignore any period or periods totalling 5 days or less during the Force Majeure Period, during which the Party serving the Force Majeure Notice under clause 9.1 was able to fulfil its obligations.
- 9.4 The Party serving a Subsequent FM Notice pursuant to clause 9.2 may withdraw it if the Force Majeure ceases during the 10 Business days.

10. Change Request

The Parties may amend the provisions of this Agreement by entering into an amending agreement in the format set out in Schedule 6.

⁸ Consider the type of agreement and the necessary time periods for force majeure. Is 60 days sufficient without it causing the University a problem? Amend the time periods necessary.

11. Terms and Conditions

Subject always to clause 12, the Terms and Conditions will apply to this Agreement.

12. Special Conditions

12.1 The Aston Terms and Conditions for delivery of Services in Schedule 1 will be amended as follows:

12.1.1 Paragraph 5.1.2 will be deleted.

12.1.2 Paragraph 6 will be deleted and the following will be inserted:

6.1 The Supplier will indemnify and hold Aston harmless from all claims and all direct, costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, Aston as a result of or in connection with:

6.1.1 any claim made against Aston in respect of any liability, loss, damage, injury, cost or expense sustained by Aston's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the performance of Services as a consequence of a breach or negligent performance or failure or delay in performance of this Agreement by the Supplier; or

6.1.2 any alleged or actual infringement, whether or not under English law, of any third party's Intellectual Property Rights or other rights arising out of the use of the Services.

Nothing in this paragraph 6 of Schedule 1 will restrict or limit Aston's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

6.2 Subject to clause 7.1:

6.2.1 the Supplier shall not in any circumstances be liable for any indirect or consequential liabilities (including loss of profits, loss of business, depletion of good will and similar losses); and

6.2.2 the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty, however arising), misrepresentation (whether innocent or negligent) restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract or otherwise arising in favour of the Customer shall be limited to the Price paid or payable for the Services provided or to be provided to Deliver the Solution or the Price paid or payable by the Customer to the Supplier for the Services in any twelve month period whichever is the greater plus twenty-five per cent (25%).

12.1.3 Paragraph 16.1 will be deleted and the following will be inserted:

OGC056A (06 November 2019) – For use, please refer to the published guidance

- 16.1 Aston may terminate the Agreement for the Services provision that takes the form of the provision of support and maintenance Services for the Solution by giving the Supplier no less than one months' notice. For the purposes of clarification, the Agreement for the provision of support and maintenance Services shall terminate on the expiry date of the Agreement for the provision of the Services and shall not renew or continue without the written authority of Aston.

12.1.4 Paragraph 16.4 will be deleted.

Template

Schedule 1

Aston's Terms and Conditions for delivery of Services

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| <p>1. Services</p> <p>1.1 The Supplier will perform the Services in accordance with the Services Specification and the Key Performance Indicators as applicable.</p> <p>1.2 The Supplier will comply will all Applicable Laws, standards, regulations and other legal requirements concerning the performance of Services.</p> <p>1.3 The Supplier will perform the Services in accordance with Industry Standards and Good Practice.</p> <p>1.4 The Supplier will ensure its availability at all times on reasonable notice to perform the Services and any reasonable assistance as Aston may require.</p> <p>1.5 During the performance of the Services, the Supplier will not have any authority to incur any expenditure in the name or for the account of Aston or hold itself out as having authority to bind Aston unless Aston gives prior express authorisation to do so.</p> <p>1.6 The Supplier will and procure that its Affiliates will comply with Aston's Policies and Procedures.</p> <p>2. Payment</p> <p>2.1 The Supplier will raise an Invoice to Aston at any time after the performance of Services.</p> <p>2.2 Aston will pay the Invoice within 30 days of the date of the Invoice.</p> <p>2.3 Aston may at any time and without notice to the Supplier set off any liability of the Supplier to Aston against any liability of Aston to the Supplier.</p> <p>2.4 No payment made by Aston will constitute acceptance by Aston of the</p> | <p>Services or otherwise prejudice any rights or remedies which Aston may have against the Supplier including the right to recover any amount overpaid or wrongfully paid to the Supplier.</p> <p>3. Access</p> <p>The Supplier will provide the names of any employees or persons that may require access to Aston's premises to perform the Services if expressly requested by Aston.</p> <p>4. Warranties</p> <p>4.1 The Supplier warrants and represents to Aston that:</p> <p>4.1.1 the Services will be performed in accordance with Industry Standards and Good Practice and will correspond with the requirements set out in the Services Specification;</p> <p>4.1.2 it will comply with all Applicable Laws whilst performing the Services;</p> <p>4.1.3 it will not behave in any manner that could detrimentally affect Aston's reputation, its employees' or students' wellbeing.</p> <p>5. Non Performance</p> <p>5.1 Without prejudice to any other rights or remedies of Aston, if the Supplier breaches any condition of the Agreement or Aston terminates the Agreement in accordance with clause 9 or paragraph 16 of Schedule 1, then Aston may, whether or not the performance of Services has commenced:</p> <p>5.1.1 refuse to accept any subsequent performance of</p> |
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| | the Services which the Supplier attempts to make; | | Property Rights or other rights arising out of the use of the Services. |
| 5.1.2 | recover from the Supplier any additional expenditure reasonably incurred by Aston in obtaining the Services in substitution from another supplier; and/or | 6.2 | Nothing in this paragraph 6 of Schedule 1 will restrict or limit Aston's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity. |
| 5.1.3 | claim Losses incurred by Aston which are in any way attributable to the Supplier's breach of the Agreement or failure to perform the Services. | 7. | Limitation of Liability |
| 6. | Indemnity | 7.1 | Neither Party limits its liability for: |
| 6.1 | The Supplier will indemnify and hold Aston harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, Aston as a result of or in connection with: | 7.1.1 | death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors; or |
| 6.1.1 | any claim made against Aston in respect of any liability, loss, damage, injury, cost or expense sustained by Aston's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the performance of Services as a consequence of a breach or negligent performance or failure or delay in performance of this Agreement by the Supplier; or | 7.1.2 | fraud by it or its employees; or |
| 6.1.2 | any alleged or actual infringement, whether or not under English law, of any third party's Intellectual | 7.1.3 | breach of any obligation as to title implied by statute; or |
| | | 7.1.4 | any other act or omission, liability for which may not be limited under Applicable Law. |
| | | 7.2 | The Supplier is not responsible for any Losses caused by the breach or negligent performance of Aston in connection with any of the Supplier's obligations under this Agreement. |
| | | 8. | Intellectual Property Rights |
| | | 8.1 | The Intellectual Property Rights arising from the performance of the Services under this Agreement will vest in Aston. |
| | | 8.2 | The Supplier warrants that its performance of the Services, and Aston's receipt of the same, will not infringe the Intellectual Property Rights of any person |
| | | 9. | Confidentiality |
| | | | The Supplier will not (except in the proper course of its duties) use or disclose to any third party (and will |

- use his best endeavours to prevent the publication or disclosure of) any Confidential Information. This restriction does not apply to any use or disclosure authorised by Aston or required by any Applicable Law or any information which is already in, or comes into, the public domain otherwise than through the Supplier's unauthorised disclosure.
- 10. Anti-Bribery**
- 10.1 Each Party will:**
- 10.1.1 comply with Anti-Bribery Law;
- 10.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act if such activity, practice or conduct had been carried out in the UK;
- 10.1.3 have and will maintain in place, throughout the term of this Agreement, its own policies and procedures, including Adequate Procedures, to ensure compliance with Anti-Bribery Law and this paragraph 10 of Schedule 1, and will enforce them where appropriate; and
- 10.1.4 procure and ensure that all its Associated Persons comply with this paragraph 10 of Schedule 1.
- 10.2 The Supplier will:**
- 10.2.1 keep, for a minimum of 6 years and at its normal place of business, detailed, accurate and up to date records and books of account showing all payments made by the Supplier in connection with this Agreement and the steps taken by the Supplier to comply with this paragraph 10 of Schedule 1; and
- 10.2.2 permit Aston, and any person nominated by it for this purpose to have such access on demand to the Supplier's premises, personnel, systems, books and records as Aston may reasonably require to verify the Supplier's compliance with this paragraph 10 of Schedule 1.
- 10.3 Aston may terminate this Agreement with immediate effect if the Supplier is found in breach of this paragraph 10 of Schedule 1.**
- 11. Freedom of Information**
- 11.1 The Supplier acknowledges that Aston is subject to the requirements of the FOIA and the EIR, and the Supplier will assist and co-operate with Aston (on request and at each Party's own expense) to enable Aston to comply with the information disclosure requirements imposed on it by the FOIA and/or the EIR as the case may be.**
- 11.2 If Aston is in receipt of a Request for Information and decides that it is obliged to disclose Confidential Information in response to such Request for Information, it will endeavour to notify the Supplier of that decision at least 3 Business Days before disclosure (insofar as it is lawful for Aston to do so).**
- 12. Compliance with Applicable Laws**
- 12.1 The Supplier will monitor and keep Aston informed in writing of any changes in the Applicable Laws which may impact the performance of Services and will provide Aston with timely details of measures it proposes to take and changes it proposes to make to comply with any such changes.**

- 12.2 The Supplier will consult Aston on the manner, form and timing of changes it proposes to make to meet any changes in Applicable Laws where they would impact the performance of Services. The Supplier will not implement any change, without Aston's prior written agreement, which would have an adverse effect on the Supplier's ability to perform the Services in accordance with this Agreement. The Supplier will use all reasonable endeavours to minimise any disruption caused by any changes in Applicable Laws.
13. **Data Protection Laws**
- Schedule 7 will apply to this Agreement in respect of compliance with Data Protection Laws.
14. **Audit**
- 14.1 Aston may as often as reasonably necessary during this Agreement and for a period of 12 months following its termination, conduct an audit for the following purposes to verify the accuracy of charges levied by the Supplier and review the integrity, confidentiality and security of any Confidential Information, the Supplier's compliance with the Applicable Laws, any records created and/or books of account kept pursuant to this Agreement.
- 14.2 Aston will use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the performance of the Services.
- 14.3 Subject to Aston's obligations of confidentiality, the Supplier will on demand provide Aston and any Regulatory Body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including all information requested by Aston within the permitted scope of the audit and reasonable access to any premises controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services.
- 14.4 Aston will endeavour to (but is not obliged to) provide at least 15 Business Days' notice of its intention to conduct an audit.
- 14.5 The Parties agree that they will bear their own costs and expenses incurred in respect of compliance with this paragraph 13 of Schedule 1, unless the audit identifies a material breach of the terms of the Agreement by the Supplier in which case the Supplier will reimburse Aston for all reasonable costs incurred by Aston in the course of the audit.
- 14.6 If an audit identifies that the Supplier has failed to perform its obligations under this Agreement in any material manner, the Parties will agree and implement a remedial plan. If the Supplier's failure relates to a failure to provide any information to Aston about the charges levied under this Agreement, then the remedial plan will include a requirement for the provision of all such information.
- 14.7 If an audit identifies that Aston has overpaid any charges set out in the Price, the Supplier will pay to Aston the amount overpaid within 30 days. Aston may deduct the relevant amount from any subsequent Invoices if the Supplier fails to make this payment.
- 14.8 If an audit identifies that Aston has underpaid any charges, Aston will pay to the Supplier the amount of the under-payment less the cost of audit incurred by Aston within 30 days if this was due to a default by the Supplier in relation to invoicing.
15. **Insurance**
- The Supplier will maintain the Insurances in force with a reputable insurance company.

OGC056A (06 November 2019) – For use, please refer to the published guidance

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| <p>16. Termination</p> <p>16.1 Aston may at any time terminate this Agreement by giving the Supplier no less than 3 months' notice.</p> <p>16.2 Either Party may terminate this Agreement immediately by giving written notice to the other Party at any time if:</p> <p>16.2.1 the other Party commits a material breach that cannot be remedied; or</p> <p>16.2.2 the other Party commits a material breach that can be remedied but fails to remedy that breach within 30 days of a receipt of a written notice issued by the non-breaching Party setting out the breach and the requirement to remedy it; or</p> <p>16.2.3 the other Party commits a series of persistent breaches which, when taken together, amount to material breach; or</p> <p>16.2.4 the other Party ceases, or threatens to cease, to carry on all or substantially the whole of its business; or</p> <p>16.2.5 there is a change of control of the other Party (within the meaning of section 1124 of the Corporation Tax Act 2010).</p> <p>16.3 Aston may terminate this Agreement immediately by giving notice if the Supplier becomes Insolvent.</p> <p>16.4 Aston may terminate one or more Services provisions by giving one months' written notice to the Supplier. The termination of those Service provisions will not affect the continuity and validity of any other existing Services provisions and this Agreement</p> | <p>16.5 Following expiry or termination of this Agreement, the Services Specification, paragraph 7 (Limitation of Liability), paragraph 9 (Confidentiality), and paragraph 10 (Anti-Bribery) of this Schedule 1, will continue to have effect as will all rights and duties of the Parties accrued prior to termination.</p> <p>17. Notices</p> <p>17.1 The addresses of the Parties for service of notice are set out on the first page of this Agreement.</p> <p>17.2 If a notice has been properly sent or delivered in accordance with this paragraph 17 of Schedule 1, it will be deemed to have been received as follows:</p> <p>17.2.1 if delivered personally, at the time of delivery; or</p> <p>17.2.2 if delivered by commercial courier, at the time of signature of the courier's delivery receipt; or</p> <p>17.2.3 if sent or supplied by electronic means, one hour after the notice was sent or supplied and a delivery receipt received; or</p> <p>17.2.4 if sent by pre-paid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted; or</p> <p>17.2.5 if deemed receipt under any of paragraphs 17.2.1 to 17.2.5 of this Schedule 1 (inclusive) is not within Business Hours, receipt will be deemed on the Party's next Business Day.</p> <p>17.3 In proving service in respect of personal delivery or delivery by post it will be sufficient to prove that the envelope containing such notice was addressed to the correct address of</p> |
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- the relevant Party and delivered to that address.
18. **Dispute Resolution**
- 18.1 Aston and the Supplier will use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that may arise out of or relate to this Agreement or a breach thereof.
19. **General Provisions**
- 19.1 Each Party on behalf of itself acknowledges and agrees with the other Party that:
- 19.1.1 this Agreement constitutes the entire agreement and understanding between the Parties and supersedes any previous arrangement, understanding or agreement between them;
- 19.1.2 in entering into this Agreement neither Party has relied on any Pre-Contractual Statement; and
- 19.1.3 each Party agrees that the only rights and remedies available to it or arising out of or in connection with any Pre-Contractual Statement will be for breach of contract. Nothing in this Agreement will, however, limit or exclude any liability for fraud.
- 19.2 The Supplier will not assign, novate, sub-contract or otherwise dispose of any or all of its rights and obligations under this Agreement to any third party other than to those sub-contractors as specified in Schedule 5 without the prior written consent of Aston.
- 19.3 Subject to clause 10 of the Agreement, no variation of this Agreement will be valid unless it is in writing and signed by or on behalf of each of the Parties.
- 19.4 This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, will be an original, and all the counterparts together will constitute one and the same instrument.
- 19.5 Except as expressly provided elsewhere in this Agreement, a person who is not a party to this Agreement will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists, or is available, apart from under that Act.
- 19.6 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to this Agreement.
- 19.7 In the event of any conflict, these Terms and Conditions will take precedence over the Services Specification, Key Performance Indicators and Price.
20. **Governing Law and Jurisdiction**
- The formation, construction, performance, validity and all aspects whatsoever of this Agreement (including non-contractual disputes or claims) will be governed by English Law and the Parties agree to the exclusive jurisdiction of the courts of England and Wales.
21. **Definitions**
- The following expressions will have the following meanings unless the context otherwise requires:
- “**Adequate Procedures**” will be determined in accordance with section 7(2) of the Bribery Act (and any guidance issued under section 9 of that Act);
- “**Affiliates**” means all associates, staff, employees, consultants and visiting consultants of the Supplier;

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“Anti Bribery Law” means all Applicable Laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including the Bribery Act;

“Applicable Laws” means the laws of England and Wales and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the obligations under this Agreement including Anti Bribery Law, Modern Slavery Law and Data Protection Law;

“Associated Persons” has the meaning ascribed to it in section 8 of the Bribery Act and will include any employees, agents and/or subcontractors of the Parties;

“Bribery Act” means the Bribery Act 2010;

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

“Business Hours” means 9.00am – 5.00pm on a Business Day;

“Change Request” means a change request in the form set out in Schedule 6 that will be completed by the Parties when proposing an amendment to this Agreement;

“Commencement Date” means the date of this Agreement;

“Confidential Information” means information in whatever form (including written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) including trade secrets such as technical data and know-how or details of any of suppliers, customers, students, agents, distributors, management or business contacts (whether directly or indirectly and whether before or after the Effective Date, whether or not such information (if in anything other than oral form) is marked confidential);

“Data Protection Law” means the General Data Protection Regulation ((EU) 2016/679) (“GDPR”) and the Data Protection Act 2018 as amended, replaced or superseded from time to time;

“Delivery Date” has the meaning given in clause 4;

“EIA” means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;

“Employment Regulations” means that Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246);

“Final Staff List” means a list in the form set out at Schedule 8;

“Force Majeure” means circumstances beyond the reasonable control of a Party including, without limitation, acts of God, acts of terrorism, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic;

“Force Majeure Notice” has the meaning given to it in clause 9.1;

“Force Majeure Period” has the meaning given to it in clause 9.2.

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government departments in relation to such legislation;

“Good Practice” means the degree of skill, care, prudence and foresight and operating practice which would ordinarily be expected from time to time of a skilled and experienced operator (engaged in the same type of undertaking as that of the Supplier);

“Industry Standards” means all industry standards in force from time to time applicable to the Services including all relevant legislation, regulatory requirements and safety standards;

“Insolvent” means a Party that:

- (a) proposes or passes a resolution for its winding up or in the case of a limited liability partnership proposes or determines that it will be wound up;

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- (b) is subject to an application to or order or notice issued by a court or other authority of competent jurisdiction for its winding up or striking off;
- (c) enters administration or is the subject of an application for administration filed at any court or a notice of intention to appoint an administrator given by any person filed at any court;
- (d) proposes, makes or is subject to, a company voluntary arrangement or a composition with its creditors generally, an application to a court of competent jurisdiction for protection from its creditors generally or a scheme of arrangement under Part 26 Companies Act 2006;
- (e) has a receiver or a provisional liquidator appointed over any of its assets, undertaking or income;
- (f) ceases to trade or appears, in the reasonable opinion of the other Party, to be likely to cease to trade;
- (g) is unable to pay its debts within the meaning of section 123 Insolvency Act 1986; or
- (h) is the subject of any event that is equivalent or similar to any events mentioned in sub-clauses (a) to (g);

“Insurance” means professional indemnity insurance, product liability insurance, employer’s liability insurance and public liability insurance cover of not less than £10,000,000 an cyber liability insurance cover of not less than £2,500,000 for any one or any series of claims in aggregate in each case;

“Intellectual Property Rights” means all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent

passing off for unfair competition, copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

“Invoice” means a valid invoice specifying the Services, period relating to invoice, date on invoice and the invoice number;

“Key Performance Indicators” means the key performance indicators which will be met by the Supplier whilst performing the Services in accordance with Part 2 of Schedule 2;

“Losses” means all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), damages, claims, demands, proceedings and judgments;

“Material Sub-Contractors” means the material sub-contractors set out in Schedule 5;

“Milestone” means a key stage of delivery reached by the Supplier as set out in Schedule 3;

“Nominated Representative” means the individual authorised to legally bind the relevant Party and execute this Agreement;

“Modern Slavery Law” means the Modern Slavery Act 2015 and all associated regulations;

“Policies and Procedures” means the published policies and procedures of Aston (as amended from time to time);

“Pre-Contractual Statement” means any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement or any documents referred to in it;

“Price” means the price of the Services payable by Aston to the Supplier in accordance with Schedule 3;

“Project Manager” means the project manager as identified in Schedule 4;

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“Regulatory Bodies” means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled by any Applicable Law to supervise, regulate, investigate or influence the matters dealt with in this Agreement, or any other affairs of Aston;

“Request for Information” means a request for information made (or deemed to be made in accordance with the FOIA or the EIR as the case may be) under the FOIA or the EIR;

“Services” means the services to be performed by the Supplier for Aston as set out in the Services Specification;

“Services Specification” means the services to be performed by the Supplier in accordance with Part 1 of Schedule 2;

“Subsequent FM Notice” has the meaning given to it in clause 9.2;

“Term” has the meaning given in clause 2.1;

“Terms and Conditions” means the terms and conditions applicable to the Services as set out in Schedule 1;

“Transferring Employees” means those employees of the Supplier whose contract of employment will be transferred to Aston or a replacement supplier pursuant to the Employment Regulations on expiry or termination of this agreement; and

“VAT” means tax prevailing in accordance with the Value Added Tax Act 1994.

22. Interpretation

22.1 In this Agreement:

22.1.1 the headings in this Agreement are inserted for convenience only and will not affect its construction;

22.1.2 a reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it;

22.1.3 unless the context otherwise requires, a reference to one gender will include a reference to the other gender;

22.1.4 unless the context otherwise requires, words in the singular include the plural and in the plural include the singular;

22.1.5 a person includes a corporate or unincorporated body (whether or not having separate legal personality);

22.1.6 any phrase introduced by the words “including”, “includes”, “in particular” or “for example” or similar will be construed as illustrative and will not limit the generality of the related general words;

22.1.7 unless a right or remedy of a party is expressed to be an exclusive right or remedy, the exercise of it by a party is without prejudice to that party's other rights and remedies; and

22.1.8 any schedules and appendices to this Agreement form part of (and are incorporated into) this Agreement.

Schedule 2

Part 1 – Services Specification

[Insert details of the Services to be performed by the Supplier]

Part 2 – Key Performance Indicators

[Insert key performance indicators if necessary] **OR** [Not Used]

Schedule 3
Price

1. Aston will pay the Supplier £ [XXXXX] plus VAT.
2. VAT is payable on all amounts stated in this Agreement.
3. The payment of the Price will be divided into the following instalments corresponding to the Milestones set out in the table below:

| Descriptions of Service / Milestone | Acceptance Criteria | Date required for delivery of services | Price plus VAT |
|-------------------------------------|---------------------|--|----------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Schedule 4
Aston and Supplier Details

| | Aston's Details | Supplier's Details |
|------------------------------------|-----------------|--------------------|
| Nominated Representative | | |
| Contact Address | | |
| Email Address | | |
| Telephone Number | | |
| Work Mobile Number (if applicable) | | |
| Project Manager | | |
| Contact Address | | |
| Email Address | | |
| Telephone Number | | |

Schedule 5
Material Sub-Contractors

The Supplier will not sub-contract any rights and obligations to any third party under this Agreement. The Supplier may appoint Material Sub-Contractors by completing the form below.

| Material Sub-Contractors | | | | | |
|--------------------------------|---------|-------------------------|-----------------|-----------|-------|
| Name of Company and Individual | Address | Description of Services | Primary Contact | | |
| | | | Position | Telephone | Email |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Schedule 6

Form of Change Request

If either Party wishes to amend this Agreement, it will enter into an amending agreement in the form set out in this Schedule 6.

This Amending Agreement is between

- (1) Aston University of Aston Triangle, Birmingham, B4 7ET, England (“Aston”); and
- (2) [insert name]⁹ with company number [insert number]¹⁰ of [insert address]¹¹ (“the Supplier”);

each a “party” and together the “parties”.

Background

- (A) The parties entered into an agreement entitled “[insert title]¹²” dated [insert date]¹³ (“the Agreement”).
- (B) The parties have agreed to amend the Agreement based on the terms set out this Amending Agreement.

Agreed

1. Unless the context otherwise requires, the terms and expressions defined in the Agreement will have the same meanings, interpretations or constructions when used in this Amending Agreement.
2. With effect from the date of this Amending Agreement, [insert details of changes]¹⁴.
3. For the avoidance of doubt, the above amendments will be without prejudice to any rights of the parties under or in respect of the Agreement which may have accrued as at the time and date of such amendments.
4. This Amending Agreement and the Agreement will be read and construed as one document and references in the Agreement (howsoever expressed) will be read and construed as references to the Agreement as amended by this Amending Agreement and any other agreement amending the same from time to time.
5. This Amending Agreement may be entered into by the parties on separate counterparts, each of which so executed and delivered will be an original, but all the counterparts will together constitute one and the same instrument.
6. This Amending Agreement will be governed by English Law the provisions of the Agreement will apply mutatis mutandis.

⁹ Insert the full name of the Supplier.

¹⁰ Insert the company number if applicable.

¹¹ Insert the registered address of the Supplier.

¹² Insert the title of the original agreement.

¹³ Insert the date on which the original agreement was dated.

¹⁴ You will need to insert the details of the amendments to the original agreement here. This may be inserting, removing or amending a clause.

This Amending Agreement has been entered into on the date stated at the beginning of it.

Signed on behalf of **Aston University**

Signature:

Date:

Name:

Position:

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

Signature:

Date:

Name:

Schedule 7 **Data Protection**

1. Definitions and Interpretation

- 1.1 In this Schedule 7, unless set out below and unless the content otherwise requires, a term defined elsewhere in the Agreement has the same meaning in this Schedule 7.

"Agreement" shall mean this Agreement.

The terms **Data Controller, Data Processor, Data Subject, Process/Processing and Special Categories of Personal Data** shall have the same meaning as described in the Data Protection Laws. For the purposes of this Schedule 7 the Data Controller shall be [] and the Data Processor shall be []¹⁵.

"EEA" means the European Economic Area.

"Personal Data Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed, as well as any breach of the security requirements set out in paragraph 2.2.4.

Personal Data means the data set out in this Schedule 7 and any other personal data, as defined in the Data Protection Laws, Processed by the Data Processor on behalf of the Data Controller pursuant to or in connection with the Agreement.

Standard Contractual Clauses means the standard contractual clauses, as agreed by the European Commission, for the transfer of Personal Data to processors established in third countries which do not ensure an adequate level of protection, as updated, amended replaced or superseded from time to time by the European Commission.

"Supervisory Authority" means (a) an independent public authority which is established by a Member State pursuant to Article 51 GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws.

2. Data Processing Terms

- 2.1 The Data Controller hereby appoints the Data Processor in relation to the Processing of Personal Data under the Agreement and the parties agree to act in accordance with their respective obligations under this Schedule 7.
- 2.2 The Data Processor agrees that it shall undertake the obligations set out in this paragraph 2.2.
- 2.2.1 It shall only process the Personal Data relating to the categories of Data Subjects for the purposes of the Agreement and for the specific purposes in each case as set out in this Schedule 7 and shall not Process, transfer, modify, amend or alter the Personal Data or disclose or permit the disclosure

¹⁵ Confirm who will be the data controller/processor

of the Personal Data to any third party other than in accordance with the terms of the Agreement and the Data Controller's documented instructions from time to time and for the sole purpose of fulfilling its obligations under the Agreement, unless Processing is required by Applicable Laws to which the Data Processor is subject, in which case the Data Processor shall to the extent permitted by Applicable Laws inform the Data Controller of that legal requirement before Processing that Personal Data.

- 2.2.2 It shall take reasonable steps to ensure the reliability of any employee, agent or contractor who may have access to the Personal Data, ensuring in each case that access is strictly limited to those individuals who need to access the relevant Personal Data, as strictly necessary for the purposes set out in paragraph 2.2.1 above in the context of that individual's duties to the Data Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.
- 2.2.3 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, it shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate the measures referred to in Article 32(1) of the GDPR.
- 2.2.4 In assessing the appropriate level of security, it shall take account in particular of the risks that are presented by Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to the Personal Data transmitted, stored or otherwise Processed.
- 2.2.5 It shall notify the Data Controller without undue delay and in any case within 24 hours, upon becoming aware of or reasonably suspecting a Personal Data Breach, providing the Data Controller with sufficient information which allows the Data Controller to meet any obligations to report a Personal Data Breach under the Data Protection Laws. Such notification shall as a minimum:
 - 2.2.5.1 communicate the name and contact details of the Data Processor's data protection officer or other relevant contact from whom more information may be obtained;
 - 2.2.5.2 describe the likely consequences of the Personal Data Breach; and
 - 2.2.5.3 describe the measures taken or proposed to be taken to address the Personal Data Breach.
- 2.2.6 It shall co-operate with the Data Controller and take such reasonable commercial steps as are directed by the Data Controller to assist in the investigation, mitigation and remediation of each Personal Data Breach.

- 2.2.7 It shall co-operate as requested by the Data Controller to enable the Data Controller to comply with any exercise of rights by a Data Subject under any Data Protection Laws and, taking into account the nature of the Processing, it shall assist the Data Controller by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Data Controller's obligation to respond to requests for exercising Data Subject rights laid down in GDPR.
 - 2.2.8 It shall promptly, and in any case within 5 Working Days, notify the Data Controller if it receives a request from a Data Subject under any Data Protection Laws in respect of the Personal Data.
 - 2.2.9 It shall provide reasonable assistance to the Data Controller with any data protection impact assessments which are required under Article 35 GDPR and with any prior consultations to any supervisory authority of the Data Controller which are required under Article 36 GDPR, in each case solely in relation to Processing of Personal Data by the Data Processor on behalf of the Data Controller under this Agreement, and taking into account the nature of the Processing and information available to the Data Processor.
- 2.3 Where the Data Processor receives a request for disclosure of Personal Data from any government agency or regulator or under any statutory requirement (or is otherwise required or wishes to make a disclosure to a government agency or regulator or under any statutory requirement), it shall advise the Data Controller, in writing, of the request as soon as possible and prior to any disclosure, unless prohibited from doing so by law.
- 2.4 The Data Processor shall not authorise any third party and/or sub-contractor to Process the Personal Data ("Sub-processor") other than with the prior written consent of the Data Controller, which the Data Controller may refuse in its absolute discretion and in each case subject to the Data Processor:
 - 2.4.1 providing the Data Controller with full details of the Processing to be undertaken by the each Sub-processor;
 - 2.4.2 carrying out adequate due diligence on each Sub-processor to ensure that it is capable of providing the level of protection for the Personal Data as is required by this Schedule 7 including without limitation sufficient guarantees to implement appropriate technical and organisational measures in such a manner that Processing will meet the requirements of GDPR and this Schedule 7;
 - 2.4.3 including terms in the contract between the Data Processor and each Sub-processor which are the same as those set out in this Schedule 7. Upon request, the Data Processor shall provide a copy of its agreements with Sub-processors to the Data Controller for its review;
 - 2.4.4 insofar as that contract involves a transfer of the Personal Data outside of the EEA, incorporate the Standard Contractual Clauses into the contract between the Data Processor and each Sub-processor, or procure that each Sub-processor enter into such a contract with the Data Controller, in each

- case in order to ensure the adequate protection of the transferred Personal Data; and
- 2.4.5 remain fully liable to the Data Controller for any failure by each Sub-processor to fulfil its obligations in relation to the Processing of any Personal Data Processed under the Agreement.
- 2.5 The Data Processor shall not under any circumstances Process any Personal Data outside the EEA unless authorised in writing to do so by the Data Controller (which consent shall be subject to Data Processor agreeing details of the transfer with the Data Controller and Data Processor and its sub-processor complying with the Data Controller's IT security requirements as applicable). When requested by the Data Controller, the Data Processor shall promptly enter into (or procure that any relevant Sub-processor of the Data Processor enters into) an agreement with the Data Controller including or on such provisions as the Standard Contractual Clauses and/or such variation as the Data Controller might require, in respect of any processing of Personal Data outside of the EEA, which terms shall take precedence over those in this Schedule 7.
- 2.6 The Data Processor shall make available to the Data Controller on request all information necessary to demonstrate compliance with this Schedule 7 and allow for and contribute to audits, including inspections by the Data Controller or another auditor mandated by the Data Controller of any premises where the Processing of Personal Data Processed under this Agreement takes place, in order to assess compliance with this Schedule 7. The Data Processor shall permit the Data Controller or another auditor mandated by the Data Controller to inspect, audit and copy any relevant records, processes and systems in order that the Data Controller may satisfy itself that the provisions of this Schedule 7 are being complied with. The Data Processor shall provide full co-operation to the Data Controller in respect of any such audit and shall at the request of the Data Controller, provide the Data Controller with evidence of compliance with its obligations under this Schedule 7. The Data Processor shall immediately inform the Data Controller if, in its opinion, an instruction pursuant to this paragraph 2.6 infringes the GDPR or other EU or Member State data protection provisions.
- 2.7 The Data Processor agrees that it shall hold the Personal Data in such a manner that it is capable of being distinguished from other data or information processed by the Data Processor.
- 2.8 The Data Processor shall indemnify and hold harmless the Data Controller against all losses, fines and regulatory sanctions arising from any claim by a third party or Supervisory Authority arising from any breach of this Schedule 7.
- 2.9 In the event of any termination of the Agreement, the Data Processor shall:
- 2.9.1 subject to paragraph 2.9.2, cease processing the Data Controller Personal Data;
- 2.9.2 promptly, and in any event within 28 days, at the Data Controller's instruction, either (a) return a complete copy of all the Personal Data to the Data Controller by secure file transfer in such format as notified by the Data

Controller to the Data Processor; or (b) securely delete the Personal Data, such that it cannot be recovered or reconstructed, and procure the deletion of all other copies of the Personal Data Processed by Data Processor or any Sub-processor under this Agreement; and

- 2.9.3 certify that all copies of the Personal Data have been destroyed or returned in compliance with paragraph 2.9.2 within a reasonable time but in any event not later than 28 days after termination.

3. **Changes in Data Protection Laws**

The Data Controller may notify the Data Processor in writing from time to time of any variations to this Schedule 7 which are required as a result of a change in Data Protection Laws including without limitation to the generality of the foregoing, any variations which are (i) required as a result of any changes to UK Data Protection Laws following any exit of the UK from the European Union; or (ii) required to take account of any new data transfer mechanisms for the purposes of paragraph 2.5. Any such variations shall take effect on the date falling 30 days after the date such written notice is sent by the Data Controller and the Data Processor shall procure that where necessary the terms in each contract between Data Processor and each Sub-processor are amended to incorporate such variations within the same time period.

4. **Personal Data**

- 4.1 This Schedule 7 includes certain details of the Processing of Personal Data as required by Article 28(3) GDPR.

- 4.2 Subject matter and duration of the Processing of Personal Data:

- 4.2.1 the subject matter and duration of the Processing of the Personal Data are as set out in this Agreement.

- 4.3 The nature and purpose of the Processing of Personal Data:

- 4.3.1 for the purpose of the provision of the Processing of the Personal Data as set out in this Agreement.

- 4.4 The types of Personal Data to be Processed

- 4.4.1 [Include list of data types here] ¹⁶

- 4.5 The categories of Data Subject to whom the Personal Data relates

- 4.5.1 [Insert categories here] ¹⁷.

¹⁶ Please insert the types of Personal data that will be processed e.g. names of Students, grades, etc.

¹⁷ Please insert the Data Subjects to whom this relates e.g. Students, staff, etc.

Schedule 8

Final Staff List

| Details | Emp No 1 | Emp No 2 | Emp No 3 | Emp No 4 |
|--|----------|----------|----------|----------|
| Job title | | | | |
| Work location | | | | |
| Age | | | | |
| Continuous service date (dd/mm/yy) | | | | |
| Date employment started with existing employer | | | | |
| Contractual weekly hours | | | | |
| Regular overtime hours per week | | | | |
| Salary (or hourly rate of pay) | | | | |
| Payment interval | | | | |
| Bonus payments | | | | |
| Agreed pay increases | | | | |
| Any allowances paid | | | | |
| Any benefits in kind | | | | |
| Type of pension provision | | | | |
| Current employer contribution rate | | | | |
| Annual leave entitlement (including bank holidays) | | | | |
| Contract type | | | | |

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| | | | | |
|--|--|--|--|--|
| Maternity or paternity leave entitlement | | | | |
| Sick leave entitlement | | | | |
| Notice | | | | |
| Collective agreements | | | | |
| Information about any disciplinary procedure taken against, or grievance procedure taken by, the employee in the last two years. | | | | |
| <p>Information of any court, tribunal, case, claim or action:</p> <p>(a) brought by the employer; and</p> <p>(b) that the University has reasonable grounds to believe that the employer may bring against the transferee, arising out of the employee's employment.</p> | | | | |

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This Agreement has been entered into on the date stated at the beginning of it.

Signed on behalf of **Aston University**

Signature:

Date:

Name:

Position:

Signed for and on behalf of **[insert name]**¹⁸

Signature:

Date:

Name:

Position:

¹⁸ Insert the name of the other party.