



Short form Services Agreement

Contract Reference: NU **xxxxxxx**

Contract Title: **xxxxxxxxxxxxxxxx**

Short form Services Agreement

CONTRACT DETAILS

DATE:

Contract No:	[INSERT].
Contract Start Date:	[INSERT THE DATE THAT THE SERVICES WILL START TO BE PROVIDED. ALTERNATIVELY, IF THERE IS NO START DATE DETERMINED AT THE DATE OF SIGNATURE INSERT "THE DATE ON WHICH THE SUPPLIER COMMENCES PROVISION OF THE SERVICES, SUCH DATE TO BE AGREED BETWEEN THE PARTIES"].
Term:	[INSERT].
University:	means the University of Newcastle upon Tyne trading as Newcastle University.
Supplier:	Name: [INSERT [COMPANY NAME] LIMITED (No. [NUMBER])] Address: [INSERT] Email: [EMAIL ADDRESS] Telephone: [NUMBER]
Services:	[DESCRIPTION OF SERVICES].
Supplier's Liability Cap:	[£AMOUNT].
Sub-contracting:	[NO SUB-CONTRACTING PERMITTED] OR [SUB-CONTRACTING TO [] IS PERMITTED ON TERMS TO BE FIRST APPROVED BY THE UNIVERSITY, SUCH CONSENT NOT TO BE UNREASONABLY WITHHELD OR DELAYED]
Charges:	[INSERT RELEVANT DETAILS HERE].
Payment Terms:	The University will pay each invoice, within 30 days of receipt, subject to the Conditions of Contract.
Supplier's Insurance requirements:	<ul style="list-style-type: none"> professional indemnity insurance at an amount not less than £[AMOUNT] for each and every claim on and

	<p>from the date of this Contract for a period of no less than 6 years. [DN: Note that there is a 6-year limitation period for issuing claims where the Contract has been signed under hand].</p> <ul style="list-style-type: none"> public liability insurance at an amount not less than £[AMOUNT] to cover the liabilities that may arise under or in connection with this Contract. <p>[LIST OTHER INSURANCE REQUIREMENTS HERE]</p>
<p>Special terms:</p>	<p>[The parties have agreed the following special terms which will take precedence over the Agreement Conditions: [DN: use the following wording if you have agreed price increases with the Supplier. REMOVE IF NOT.]</p> <p>1. [The parties agree that clause 12.10 of the Agreement Conditions is deleted in its entirety and replaced with the new clause 12.10 below.</p> <p style="padding-left: 40px;">12.10The Supplier may increase the Charges with effect from the anniversary of the Agreement Start Date of each year in line with the percentage increases in the Consumer Price Index (CPI) (all items)(United Kingdom) during the previous year. The Supplier shall give the University not less than one month's prior written notice in writing of the proposed changes.]</p> <p>2. [INSERT OTHER SPECIAL TERMS OR SAY "NOT APPLICABLE"] [DN: You can agree other special conditions here, for example the ownership of IPR in the Deliverables.]</p>
<p>Schedules:</p>	<p>Schedule 1: Services. [NOT USED]</p> <p>Schedule 2: Charges. [NOT USED]</p> <p>Schedule 3: Data protection. [DN: Data processing clauses included in schedule 3. If no personal data is being processed under the contract then say "NOT USED" here and at Schedule 3 and delete the contents of Schedule 3.]</p> <p>Schedule 4: TUPE on exit. [NOT USED]</p> <p>Schedule 5: Service Levels/KPIs. [NOT USED]</p>

	Schedule 6: Change Control Procedure. [NOT USED]
	Schedule 7: Other Documents. [NOT USED]

1. This Contract incorporates the following documents (which, to the extent that there is any inconsistency between any of them, will be resolved in the following descending order of priority):

- (a) The Contract Details (highest priority);
- (b) The Conditions;
- (c) The Schedule(s) specified in the Contract Details (if any); and
- (c) The University's Policies (lowest priority).

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

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

Signed by [insert name of signatory]

for and on behalf of the **Supplier** Authorised signatory

Signed by [insert name of signatory]

for and on behalf of the **University** Authorised signatory

CONDITIONS OF CONTRACT

1. Interpretation

1.1 Unless the context requires otherwise, words and phrases used in this Contract shall have the meanings stated in clause 1.2 below.

1.2 Definitions:

Applicable Laws all applicable laws, statutes, regulations from time to time in force in England and Wales.

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

Change in Control has the meaning given in section 1124 of the Corporation Tax Act 2010.

Charges the charges payable by the University for the supply of the Services by the Supplier, as set out in the Contract Details.

Conditions these terms and conditions set out in clause 1 (Interpretation) to clause 10 (General) (inclusive).

Confidential Information shall mean the existence and terms of this Contract, and all other information and trade secrets relating to the University's business or students which come into the possession of, or are otherwise made available to, the Supplier pursuant to this Contract, whether orally, or in documentary, electronic or other form, including all (if any) such information held by the Supplier as of the commencement of this Contract.

Contract the contract between the University and the Supplier for the supply of the Services in accordance with the Contract Details, these Conditions and any Schedule(s).

Contract Details	the contract details front sheet attached to these terms and conditions, signed by the Supplier and the University, which sets out the details of the Services the Supplier has agreed to supply to the University together with the Charges that the University has agreed to pay.
Contract Start Date	the day on which the Supplier is to start provision of the Services, as set out in the Contract Details.
control	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of control shall be construed accordingly.
Deliverables	all documents, products and materials developed by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts).
EIR	the Environmental Information Regulations 2004.
FOIA	the Freedom of Information Act 2000.
Group	in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.
Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the

confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Services

the services, including without limitation any Deliverables, to be provided by the Supplier pursuant to the Contract, as described in the Contract Details.

Supplier IPRs

all Intellectual Property Rights either subsisting in the Deliverables (excluding any University Materials incorporated in them) or otherwise necessary or desirable to enable a University to receive and use the Services.

Supplier's Liability Cap

the amount set out in the Contract Details.

Term

means the period set out in the Contract Details.

University Materials

all materials, equipment and tools, drawings, specifications and data supplied by the University to the Supplier.

University Policies

the University's mandatory policies as amended by notification to the Supplier from time to time.

1.3 Interpretation:

1.3.1 A reference to legislation or a legislative provision:

1.3.1.1 is a reference to it as amended, extended or re-enacted from time to time; and

1.3.1.2 will include all subordinate legislation made from time to time under that legislation or legislative provision.

1.3.2 Any words following the terms **including, include, in particular, for example** or any similar expression will be construed as illustrative and will not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.3.3 A reference to **writing** or **written** excludes fax but not email.

2. Commencement and term

The Contract will commence on the Contract Start Date and will, unless terminated earlier in accordance with clause 9 (Termination), continue for the duration of the Term when it shall terminate automatically without notice.

3. Supply of services

3.1 The Supplier will supply the Services to the University from the Contract Start Date in accordance with the Contract.

3.2 In supplying the Services, the Supplier will:

3.2.1 perform the Services with best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

3.2.2 comply with all lawful and reasonable directions of the University relating to its supply of the Services and performance of the Services (including the University Policies); and

3.2.3 provide all equipment, tools, vehicles and other items required to provide the Services.

3.3 The Supplier shall notify the University in writing immediately upon the occurrence of a Change in Control of the Supplier.

4. University's obligations

The University will provide the Supplier with reasonable access at reasonable times to the University's premises for the purpose of providing the Services.

5. Data protection

5.1 The parties agree to comply with their data protection obligations as set out in Schedule 3 (if applicable).

6. Intellectual property

- 6.1 **[DN: IP clause is drafted on the basis that the Supplier retains ownership of all IPRs in the deliverables (excluding any University materials, ownership of which is retained by the customer) and licenses them to the University.]** The Supplier and its licensors shall retain ownership of all Supplier IPRs. The University and its licensors shall retain ownership of all Intellectual Property Rights in the University Materials.
- 6.2 The Supplier grants the University, or shall procure the direct grant to the University of, a fully paid-up, worldwide, non-exclusive, perpetual, irrevocable, royalty-free, licence to copy and modify the Supplier IPRs for the purpose of receiving and using the Services and the Deliverables.
- 6.3 The University may sub-license the rights granted in clause 6.2 to any of the University's Group, customers or students.
- 6.4 The University grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the University Materials for the term of the Contract for the purpose of providing the Services to the University in accordance with the Contract.
- 6.5 The Supplier warrants that neither the Deliverables nor the provision or receipt of the Services will infringe any third party Intellectual Property Rights.
- 6.6 The Supplier shall indemnify the University against all liabilities, costs, expenses, damages and losses suffered or incurred by the University arising out of or in connection with any claim brought against the University for actual or alleged infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt, use or onward supply of the Services and the Deliverables by the University and its licensees and sub-licensees. This clause 6.6 shall survive termination of the Contract.

7. Charges and payment

- 7.1 In consideration for the provision of the Services, the University shall pay the Supplier the Charges in accordance with this clause 7.
- 7.2 All amounts payable by the University exclude amounts in respect of value added tax (**VAT**) which the University shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

- 7.3 The Supplier will submit invoices for the Charges plus VAT if applicable to the University at the intervals specified in the Contract Details. Each invoice will include all supporting information reasonably required by the University.
- 7.4 The University shall pay each invoice which is properly due and submitted to it by the Supplier, within 30 days of receipt, to a bank account nominated in writing by the Supplier.
- 7.5 If the University fails to make any payment due to the Supplier under the Contract by the due date for payment, then, without limiting the Supplier's remedies under clause 9.2 (Termination), the University shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 7.6 The University may at any time, without notice to the Supplier, set off any liability of the Supplier to the University against any liability of the University to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the University may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the University of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

8. **Limitation of liability**

- 8.1 References to liability in this clause 8 include every kind of liability arising under or in connection with this Contract including but not limited to liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise.
- 8.2 Nothing in the Contract limits the Supplier's liability under clause 6.6 (IPR Indemnity) of the Contract or any liability which cannot legally be limited, including liability for:
- 8.2.1 death or personal injury caused by negligence;
 - 8.2.2 fraud or fraudulent misrepresentation; and
 - 8.2.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.3 Subject to clause 8.2 (Liabilities which cannot legally be limited):

- 8.3.1 the Supplier's total liability to the University for all loss or damage howsoever arising in connection with the Contract will not exceed the Supplier's Liability Cap for any one event or series of connected events; and
- 8.3.2 the University's total liability to the Supplier for all loss or damage howsoever arising under or in connection with the Contract shall not exceed the Charges actually paid to the Supplier at the time at which the liability arose.
- 8.4 Subject to clause 8.1 neither party shall in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for any special, indirect or consequential loss arising under or connection with the Contract.

9. **Termination**

- 9.1 Without affecting any other right or remedy available to it, the University may terminate the Contract (in whole or in part) with immediate effect by giving written notice to the Supplier if:
- 9.1.1 any circumstance(s) arise which impact the particular project to which the Services relate and the project is unable to continue as planned including where the University's funding decreases or ceases for the project to which the Services relate, in which case the University will provide as much evidence of the circumstance(s) as the Supplier reasonably requires;
- 9.1.2 there is a Change of Control of the Supplier.
- 9.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 9.2.1 the other party commits a material breach of any term of this Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- 9.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up

(whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

9.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

9.2.4 the other party's financial position deteriorates to such an extent that in the terminating party's reasonable opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

9.3 On termination or expiry of the Contract for whatever reason:

9.3.1 the Supplier shall immediately deliver to the University all Deliverables whether or not then complete, and return all University Materials; and

9.3.2 any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

9.4 Termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

10. **General**

10.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 30 days, the party not affected may terminate the Contract by giving 7 days written notice to the other party.

10.2 **Equal Opportunities and the Equality Act 2010**

10.2.1 The University is committed to a comprehensive policy of equal opportunities and to meeting its responsibilities under the Equality Act 2010 (the 'EA') and the Code of Practice on Racial Equality in Employment 2005.

10.2.2 The Supplier shall in performing the Contract comply with the provisions of section 149 of the EA as if the Supplier were a body within the meaning of Schedule 19 of the EA.

10.2.3 The Supplier shall comply with the provisions of section 41 of the EA in all dealings with sub-contractors.

10.2.4 The Supplier shall comply with all of its legal obligations regarding the prevention of discrimination, victimisation or harassment because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation, and the promotion of equality.

10.2.5 The Supplier shall, when required, answer queries raised by the University on matters referred to in this clause 10.2 and breach of statutory obligations will entitle the University to immediately terminate the Contract.

10.2.6 The Supplier shall establish, maintain and enforce its own policies and procedures, to ensure compliance with the requirements of the EA.

10.3 **Assignment and other dealings.**

10.3.1 The University may at any time, assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Contract.

10.3.2 Save as set out in the Contract Details, the Supplier may not at any time assign, mortgage, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under this Contract without the prior written consent of the University.

10.4 **Audit**

10.4.1 The Supplier shall allow the University (or its professional advisers) to access the Supplier's premises, personnel, systems and relevant records to verify that the Charges and any other sums charged to the University under this Contract are accurate.

- 10.4.2 Subject to the Supplier's confidentiality obligations, the Supplier shall provide the University (and its professional advisers) with all reasonable co-operation, access and assistance in relation to each audit.
- 10.4.3 The University shall provide at least 5 Business Days' notice of its intention to conduct an audit and any audit shall be conducted during Business Hours.
- 10.4.4 The University and its professional advisers shall have the right to take copies of any records which they reasonably require and remove such copies and the Supplier shall provide the necessary facilities to assist in copying free of charge.
- 10.4.5 The Supplier shall, and shall procure that their employees, officer, agents, sub-contractors, or anyone else acting on their behalf shall:
- 10.4.5.1 not commit any act or omission which causes or could cause it or the University to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption;
 - 10.4.5.2 not, offer or give, or agree to give either directly or indirectly, to any employee or representative of the University, any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the University, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such other contract;
 - 10.4.5.3 keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with the Contract and the steps it takes to comply with this clause 10.4 and permit the University to inspect those records as reasonably required;
 - 10.4.5.4 promptly notify the University of:
 - 10.4.5.4.1 any request or demand for any financial or other advantage received by it; and
 - 10.4.5.4.2 any financial or other advantage it gives or intends to give

10.4.5.4.3 whether directly or indirectly in connection with the Contract; and

10.4.5.5 promptly notify the University of any breach of this clause 10.4.

10.4.6 The attention of the Supplier is drawn to the criminal offences created by the Bribery Act 2010.

10.4.7 The University may terminate the Contract immediately by giving written notice to that effect to the Supplier if the Supplier is in breach of this clause 10.4.

10.5 **Corrupt Gifts**

10.5.1 The Supplier shall, and shall procure that their employees, officer, agents, sub-contractors, or anyone else acting on their behalf shall:

10.5.1.1 not commit any act or omission which causes or could cause it or the University to breach, or commit an offence under, any laws relating to anti-bribery and/or anti-corruption;

10.5.1.2 not, offer or give, or agree to give either directly or indirectly, to any employee or representative of the University, any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the University, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such other contract;

10.5.1.3 keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with the Contract and the steps it takes to comply with this clause 10.5, and permit the University to inspect those records as reasonably required;

10.5.1.4 promptly notify the University of:

10.5.1.4.1 any request or demand for any financial or other advantage received by it; and

10.5.1.4.2 any financial or other advantage it gives or intends to give whether directly or indirectly in connection with the Contract; and

10.5.1.5 promptly notify the University of any breach of this clause 10.5.

10.5.2 The attention of the Supplier is drawn to the criminal offences created by the Bribery Act 2010.

10.5.3 The University may terminate the Contract immediately by giving written notice to that effect to the Supplier if the Supplier is in breach of this clause 10.5.

10.6 **Confidentiality and Freedom of Information.**

10.6.1 Each party will, subject to clauses 10.6.2 and 10.6.3:

10.6.1.1 keep all Confidential Information secret, safe and secure;

10.6.1.2 not use or disclose the Confidential Information except for the purposes of performing its obligations under this Contract.

10.6.2 The provisions of clause 10.6.1 shall not apply to Confidential Information to the extent that it is or was:

10.6.2.1 already in the possession of the Supplier free of any duty of confidentiality on the date of its disclosure;

10.6.2.2 in the public domain other than as a result of a breach of clause 10.6.1;
or

10.6.2.3 required to be disclosed by regulatory or legal requirement.

10.6.3 Notwithstanding the provisions of clauses 10.6.1 and 10.6.2 the University is committed to meeting its responsibilities under the FOIA and EIR and the Supplier acknowledges that the University is subject to the requirements of the FOIA and EIR and shall assist and cooperate with the University (at no expense to the University) to enable the University to comply with the University's responsibilities under the FOIA and EIR.

10.7 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties,

representations and understandings between them, whether written or oral, relating to its subject matter.

10.8 Variation. No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

10.9 Waiver.

10.9.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

10.9.2 A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

10.10 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 10.10 shall not affect the validity and enforceability of the rest of the Contract.

10.11 Notices.

10.11.1 Any notice or other communication given to a party under or in connection with the Contract will be in writing and will be:

10.11.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

10.11.1.2 or sent by email to the email address specified in the Contract Details.

10.11.1.3 Any notice or communication will be deemed to have been received:

10.11.1.4 if delivered by hand, at the time the notice is left at the proper address;

10.11.1.5 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

10.11.1.6 if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In clause 10.11, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

10.11.2 This clause 10.11 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

10.12 **Third party rights.** This Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

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

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

Schedule 3

Data protection **[DN: example data protection provisions included.]**

Part 1

Data protection provisions

1. Interpretation

The following definitions and rules of interpretation apply in this Schedule 3 (Data protection).

1.1 Definitions:

- 1.1.1 **Applicable Data Protection Laws:** means: (a) to the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data; (b) to the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data; and (c) all applicable data protection and privacy legislation in force from time to time including the Data Protection Act 2018 (**DPA 2018**) (and regulations made thereunder); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
- 1.1.2 **Data Discloser:** a party that discloses Shared Personal Data to the other party.
- 1.1.3 **EU GDPR:** means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law.
- 1.1.4 **Permitted Recipients:** the Supplier and the University, the employees of each party, any third parties engaged to perform obligations in connection with this Contract, and **[ADD ANY OTHER PERMITTED RECIPIENTS]**.
- 1.1.5 **UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 1.1.6 **Shared Personal Data:** the personal data to be shared between the parties under paragraph 5.1 of this Schedule 3. Shared Personal Data shall be confined to the

following categories of information relevant to the following categories of data subject:

1.1.6.1 [type of personal data];

1.1.6.2 [type of personal data], and

1.1.6.3 [type of personal data].

1.1.7 For the purposes of this Schedule 3, the terms Commissioner, controller, data subject, personal data, personal data breach, processor and processing, shall have the meaning given to them in the UK GDPR, and supervisory authority shall have the meaning given to it in the EU GDPR.

2. **General compliance and roles**

2.1 The parties will comply with all applicable requirements of Applicable Data Protection Laws. This Schedule 3 is in addition to, and does not relieve, remove or replace a party's obligations or rights under Applicable Data Protection Laws.

2.2 The parties acknowledge that on occasion a party (**Processor**) may process personal data on another party's behalf (**Controller**). If the processing of personal data occurs then paragraph 3 below shall apply.

2.3 The parties also acknowledge that on occasion they might share personal data as separate Controllers. If the sharing of personal data occurs then paragraph 4 below shall apply.

3. **Data Processing Obligations**

3.1 The parties have determined that for purposes of the Applicable Data Protection Laws the University is the [Controller OR Processor] and the Supplier is the [Controller OR Processor]. **[DN: amend depending on the circumstances.]** Part 2 of this Schedule 3 sets out the scope, nature and purpose of processing by the Processor, the duration of the processing and the types of personal data and categories of data subject.

3.2 Without prejudice to the generality of paragraph 2.1, the Controller will ensure that it has all necessary appropriate consents and notices in place to enable the lawful transfer of the personal data to the Processor and/or lawful collection of the personal data by the Processor on behalf of the Controller for the duration of this Contract.

- 3.3 Without prejudice to the generality of paragraph 3.2, the Processor shall, in relation to any personal data processed in connection with the performance by the Processor of its obligations under this Contract:
- 3.3.1 process that personal only on the documented instructions of the Controller, unless the Processor is required by other Applicable Laws to otherwise process that personal data. Where the Processor is relying on other Applicable Laws as the basis for processing personal data, the Processor shall promptly notify the Controller of this before performing the processing required by other Applicable Laws unless those laws prohibit the Processor from so notifying the Controller on important grounds of public interest. The Processor shall immediately inform the Controller if, in the opinion of the Processor, the instructions of the Controller infringe Applicable Data Protection Laws;
 - 3.3.2 implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing of the personal data and against its accidental loss, damage or destruction, including:
 - 3.3.2.1 the pseudonymisation and encryption of personal data;
 - 3.3.2.2 the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - 3.3.2.3 the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident; and
 - 3.3.2.4 a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
 - 3.3.3 ensure, and procure, that any personnel engaged and authorised by the Processor to process personal data keep the personal data confidential;
 - 3.3.4 promptly assist the Controller, at the Processor's expense, in responding to any request from a data subject and in ensuring compliance with the Controller's obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with the Commissioner,

supervisory authorities or other regulators and, in particular, the Processor shall promptly notify the Controller if it receives any complaint, notice or communication (whether from the Commissioner, any data subject, supervisory authority or other third party) which relates to processing of personal data;

- 3.3.5 notify the Controller without undue delay (and no later than 48 hours) after becoming aware of a personal data breach and on suspecting the same, the Processor shall promptly conduct an initial assessment to determine, with a reasonable degree of certainty, whether the event or incident qualifies for notification to the Controller under this paragraph 3.3.5 and shall provide a copy of this initial assessment along with such notification; ***DN: review this wording where the University acts as the processor.***
- 3.3.6 at the written direction of the Controller, delete or return to the Controller all personal data on termination or expiry of the Contract, and certify to the Controller in writing it has done so, unless the Processor is required by Applicable Law to continue to process that personal data, in which case the Processor shall promptly notify the Controller, in writing, of what that Applicable Law is and shall only be permitted to process that personal data for the specific purpose so-notified, and all other requirements set out in this Schedule 3 shall continue to apply to such personal data notwithstanding the termination or expiry of this Contract for as long as such personal data is processed by the Processor. For the purposes of this paragraph 3.3.6 the obligation to "delete" data includes the obligation to delete data from back-up systems as well as live systems; and
- 3.3.7 maintain adequate records, and, on the Controller's request, make available such information as the Controller may reasonably request, and allow for and submit its premises and operations to audits, including inspections, by the Controller or the

Controller's designated auditor, to demonstrate its compliance with Applicable Data Protection Laws and this Schedule 3.

3.4 The Processor shall not, without the prior written consent of the Controller (and in any event subject to the Processor providing the Controller with reasonable evidence that such activity is being undertaken in full compliance with Applicable Data Protection Laws):

3.4.1 appoint or replace (or change the terms of the appointment of) any other processor in relation to the personal data or transfer any personal data to the same; or

3.4.2 carry out, via itself or via any other processor, any processing of personal data, or transfer any personal, outside of the UK, including processing personal data on equipment situated outside of the UK until the following conditions are fulfilled:

3.4.2.1 the Controller or the Processor has provided appropriate safeguards in relation to the transfer;

3.4.2.2 the data subject has enforceable rights and effective legal remedies;

3.4.2.3 the Processor complies with its obligations under the Applicable Data Protection Laws by providing an adequate level of protection to any personal data that is transferred; and

3.4.2.4 the Processor complies with reasonable instructions notified to it in advance by the Controller with respect to the processing of the personal data. **[DN: this clause will apply where you have Suppliers who are situated/processing personal data outside of the UK and will need to reviewed on a case by case basis.]**

3.5 Either party may, at any time on not less than 30 days' notice, revise the clauses in this Schedule 3 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Contract).

4. **Data Sharing Provisions**

4.1 This paragraph 4 sets out the framework for the sharing of personal data between the parties as controllers. Each party acknowledges that one party (referred to in this clause as

the **Data Discloser**) will regularly disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.

4.2 Where the parties are separate controllers of personal data, they shall each ensure their own respective compliance with the Applicable Data Protection Laws in respect of any personal data shared between them, and any material breach of the Applicable Data Protection Laws by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this Contract with immediate effect.

4.3 **Particular obligations relating to data sharing.** Each party shall:

4.3.1 ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;

4.3.2 give full information to any data subject whose personal data may be processed under this Contract of the nature of such processing. This includes giving notice that, on the termination of the Contract, personal data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;

4.3.3 process the Shared Personal Data only for the Agreed Purposes;

4.3.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;

4.3.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by these data sharing provisions;

4.3.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;

4.3.7 not transfer any personal data received from the Data Discloser outside the [UK] OR [EEA] ***DN: to be amended depending on where the parties are situated and***

where the sharing will take place. unless the transferor ensures that (i) the transfer is to a country approved under the applicable Data Protection Legislation as providing adequate protection; or (ii) there are appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Legislation; or (iii) the transferor otherwise complies with its obligations under the applicable Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; or (iv) one of the derogations for specific situations in the applicable Data Protection Legislation applies to the transfer.

4.4 Mutual assistance. Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:

- 4.4.1 consult with the other party about any notices given to data subjects in relation to the Shared Personal Data;
- 4.4.2 promptly inform the other party about the receipt of any data subject rights request;
- 4.4.3 provide the other party with reasonable assistance in complying with any data subject rights request;
- 4.4.4 not disclose, release, amend, delete or block any Shared Personal Data in response to a data subject rights request without first consulting the other party wherever possible;
- 4.4.5 assist the other party, at the cost of the other party, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, personal data breach notifications, data protection impact assessments and consultations with the Information Commissioner or other regulators;
- 4.4.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation;
- 4.4.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of the Contract unless required by law to store the Shared Personal Data;

- 4.4.8 use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from personal data transfers;
- 4.4.9 maintain complete and accurate records and information to demonstrate its compliance with this Schedule 3 and allow for audits by the other party or the other party's designated auditor; and
- 4.4.10 provide the other party with contact details of at least one employee as point of contact and responsible manager for all issues arising out of the Applicable Data Protection Laws, including the joint training of relevant staff, the procedures to be followed in the event of a data security breach, and the regular review of the parties' compliance with the Applicable Data Protection Laws.

Part 2

Parties Roles'

- 1. Where Supplier acts as processor [DETAILS OF THE PERSONAL DATA WHICH THE SUPPLIER WILL BE PROCESSING]
- 2. [[Where Supplier acts as controller] [DETAILS OF THE PERSONAL DATA WHERE THE SUPPLIER IS A CONTROLLER]]

Part 3

Parties Roles'

- 1. Scope of processing
[INSERT]
- 2. Nature of processing
[INSERT]
- 3. Types of personal data
[INSERT]
- 4. Duration of processing
[INSERT]
- 5. Categories of data subject
[INSERT]

Part 4

Technical and organisational measures

[DETAILS OF TECHNICAL AND ORGANISATIONAL MEASURES]