

Terms and Conditions for the Purchase of Goods and Services

1. **Goods**

- 1.1 The Supplier will provide the Goods to Aston in accordance with the Applicable Purchase Order and the terms set out in the Agreement.
- 1.2 The Supplier will ensure that the Goods are of satisfactory quality (within the meaning of the Sale of Goods Act 1979 as amended) and fit for purpose as expressly made known to the Supplier by Aston.
- 1.3 The Supplier will ensure that it has and maintains all licences, approvals and consents that it requires to undertake its obligations set out in the Agreement.

2. **Inspection Period**

- 2.1 Aston will have the right to inspect and test the Goods at any time prior to delivery during the Inspection Period. The Supplier will not unreasonably refuse any request made by Aston to carry out such inspection and testing and will provide Aston with all facilities reasonably required.
- 2.2 If, as a result of inspection or testing pursuant to condition 2.1, Aston is not satisfied that the Goods comply with the Applicable Purchase Order or the remainder of the Agreement, and Aston so informs the Supplier within 30 days of the inspection or testing, the Supplier will take such steps as are necessary to ensure compliance with the Applicable Purchase Order and the remainder of the Agreement.
- 2.3 Notwithstanding any such inspection or testing, the Supplier will remain fully responsible for the Goods and any such inspection or testing will not reduce or otherwise affect the Supplier's obligations under the Agreement.

3. **Delivery**

- 3.1 The Supplier will deliver the Goods to the Delivery Address on the Delivery Date.
- 3.2 The Supplier will offload the Goods at the Delivery Address at its own risk.

- 3.3 The Supplier may not deliver the Goods by separate instalments unless mutually agreed in writing with Aston.
- 3.4 The Supplier will deliver the Goods in an undamaged condition.
- 3.5 The Supplier will deliver the Goods with a delivery note setting out the Delivery Address, Delivery Date, Purchase Order Number, and details of the Goods including special storing conditions if applicable.
- 3.6 Subject to the nature of the Goods, prior to the Delivery Date, the Supplier will provide Aston with a list by name and description of any harmful or potentially harmful properties or ingredients in the Goods. Aston will rely on such information from the Supplier in order to satisfy its obligations under Applicable Law.
- 3.7 The Supplier will provide Aston with all operating and safety instructions with the Goods.
- 3.8 Aston will not be bound to pay the Supplier for any excess Goods delivered. Any excess Goods will be and will remain at the Supplier's risk and will be returnable at the Supplier's expense.
- 3.9 The Supplier will remove all packaging from the Goods upon delivery unless mutually agreed otherwise in writing with Aston.

4. **Acceptance**

Aston will be deemed to have accepted the Goods on the Acceptance Date.

5. **Acceptance Tests**

- 5.1 The Goods may be required to satisfy the Acceptance Tests to demonstrate that the Goods meet the Applicable Purchase Order before they are accepted by Aston.
- 5.2 Aston will notify the Supplier in writing as to when the Acceptance Tests will take place. The Supplier may attend and

- assist with conducting the Acceptance Tests.
- 5.3 The Supplier will be afforded the opportunity to comment on the suitability of the Acceptance Tests.
- 5.4 Aston will record the results of the Acceptance Tests.
- 5.5 Aston will notify the Supplier promptly on successful completion of the Acceptance Tests as to whether the Goods satisfy the Acceptance Tests.
- 5.6 If the Goods do not satisfy the Acceptance Tests, Aston will notify the Supplier of such failure and may (in its discretion and without prejudice to its other rights under the Agreement):
- 5.6.1 grant a further period of time during which the Supplier will be required to adapt, modify and/or otherwise correct the relevant Goods to comply with the Applicable Purchase Order so that the Goods can be re-submitted for further testing; or
- 5.6.2 accept the Goods subject to a list of written exceptions which the Supplier will rectify within the timescales agreed by the Parties; or
- 5.6.3 accept the Goods subject to receiving a refund or reduction in Price; or
- 5.6.4 reject any/all of the Goods and terminate the Agreement with immediate effect by giving written notice to the Supplier in accordance with condition 25 without any liability to the Supplier on the basis of a total failure of consideration including any liability to pay any outstanding payments of the Price which, at the time of (and but for) such termination, remain outstanding and are due to be paid to the Supplier. In the event of termination pursuant to this condition 5.6.4, the Supplier will repay Aston any amounts paid to the Supplier under the Applicable Purchase Order
- within 14 days of the date of such termination; or
- 5.6.5 complete the supply of the Goods by entering into a contract with a third party and recover from the Supplier any costs incurred by Aston in obtaining substitute Goods from a third party.
- 5.7 The Supplier will ensure that any modifications made as a result of failing to pass the Acceptance Test will not adversely impact on any previously successful Acceptance Test or (as applicable) the approval procedure in respect of any other Goods. To the extent that any such adverse impacts occur, the Supplier will be liable to Aston for Aston's reasonable costs in conducting further tests.
- 5.8 Aston will notify the Supplier within 30 days of receiving the modified Goods pursuant to condition 5.6.1 confirming whether the modified Goods meet the Applicable Purchase Order.
- 6. Spares**
- 6.1 Where appropriate to the Goods supplied, Aston may request the Supplier to make Spares available at reasonable prices and with reasonable dispatching conditions to Aston.
- 6.2 The Supplier will maintain a supply of Spares for the Spares Supply Period.
- 6.3 The Spares will be fully compatible with the Goods and maintain the same levels of performance as the Goods originally supplied, though they need not be identical to those items. The warranty given by the Supplier in condition 12 will apply to the Spares as if they were part of the original Goods.
- 6.4 During the Spares Supply Period, if the Supplier intends to discontinue the manufacture of the Spares, the Supplier will notify Aston in writing of such intention setting out the details of any third party from which the Spares will be available or any third party to which the

Supplier intends to provide the Design Information.

- 6.5 If the Supplier breaches condition 6.1 during the Spares Supply Period or becomes Insolvent, the Supplier will, so far as it is legally entitled to do so, and if so required by Aston, as soon as practicable, deliver the Design Information to Aston or its nominated third party, free of charge. Aston, or its nominated third party, may retain the Design Information for such time only as is necessary. After such time and if the Supplier requires it, Aston will return the Design Information to the Supplier at its cost.

7. **Title and Risk**

The title and risk in the Goods will pass to Aston when the Goods are delivered to the Delivery Address on the Delivery Date.

8. **Services**

- 8.1 The Supplier will perform the Services in accordance with the Applicable Purchase Order and the Key Performance Indicators as applicable.
- 8.2 The Supplier will perform the Services in accordance with Industry Standards and Good Practice.
- 8.3 The Supplier will ensure its availability at all times on reasonable notice to perform the Services and any reasonable assistance as Aston may require.
- 8.4 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.

9. **Policies and Procedures**

The Supplier will and procure that its Affiliates will comply with Aston's Policies and Regulations as applicable.

10. **Payment**

- 10.1 The Supplier will raise an Invoice to Aston at any time after the delivery of the

Goods and/or performance of Services as applicable, and the invoice will reference the Purchase Order Number.

- 10.2 Aston will pay the Invoice within 30 days of the date of the Invoice.
- 10.3 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.
- 10.4 No payment made by Aston will constitute acceptance by Aston of the Goods and/or 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.

11. **Access**

The Supplier will provide the names of any employees or persons that may require access to Aston's premises to deliver the Goods and/or perform the Services if expressly requested by Aston.

12. **Warranties**

- 12.1 The Supplier warrants and represents to Aston that the Goods will:
- 12.1.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979 and fit for purpose as specified by Aston;
- 12.1.2 be free from defects in design, material and workmanship;
- 12.1.3 correspond with the Applicable Purchase Order;
- 12.1.4 comply with all Applicable Laws in relation to their sale and supply; and
- 12.1.5 be formulated, designed, construction, finished and packaged as to be safe, durable

and without any risk to any individual.

12.2 The Supplier warrants and represents to Aston that the Services will:

12.2.1 be performed in accordance with Industry Standards and Good Practice and will correspond with the requirements set out in the Applicable Purchase Order; and

12.2.2 comply with all Applicable Laws.

12.3 The Supplier warrants that it will not behave in any manner that could detrimentally affect Aston's reputation, its employees' or students' wellbeing.

13. **Non Performance**

13.1 Without prejudice to any other rights or remedies of Aston, if the Supplier breaches any term or condition of the Agreement or Aston terminates the Agreement in accordance with conditions 24 or 25, then Aston may, irrespective of whether the Goods have been delivered or the Services have been performed:

13.1.1 where applicable, cancel any or all remaining instalments of the Goods to be delivered;

13.1.2 reject the Goods (in whole or part) and return them to the Supplier at the risk and cost of the Supplier subject to Aston receiving a full refund for the return of the Goods by the Supplier;

13.1.3 at its sole option, afford the Supplier the opportunity to remedy the defect, supply replacement Goods, or carry out necessary work to ensure that the conditions of the Agreement are met at the Supplier's cost;

13.1.4 for a period of 12 months from the Delivery Date, in respect of Goods which do not conform with the provisions set out in condition 12.1, oblige the Supplier, at Aston's discretion, to replace or repair such Goods free of charge and any repaired or replaced Goods will be

guaranteed on the terms of condition 13.1.4 for the unexpired portion of the 12 month period;

13.1.5 refuse to accept any subsequent performance of the Services which the Supplier attempts to make without any liability to Aston;

13.1.6 recover from the Supplier any additional expenditure reasonably incurred by Aston in obtaining the Services in substitution from another supplier; and/or

13.1.7 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.

14. **Indemnity**

14.1 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:

14.1.1 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 delivery of Goods and/or performance of Services as a consequence of a breach or negligent performance or failure or delay in performance of the Agreement by the Supplier; or

14.1.2 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 Goods and/or Services.

15. **Limitation of Liability**

15.1 Neither Party limits its liability for:

15.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors; or

15.1.2 fraud by it or its employees; or

15.1.3 breach of any obligation as to title implied by statute; or

15.1.4 any other act or omission, liability for which may not be limited under Applicable Law.

15.2 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 the Agreement.

16. **Intellectual Property Rights**

16.1 The Supplier warrants that the Goods and/or Services will not infringe the Intellectual Property Rights of any person or third party.

16.2 Any Intellectual Property Rights arising from the performance of the Services under the Agreement will vest in Aston.

17. **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.

18. **Anti-Bribery**

18.1 Each Party will:

18.1.1 comply with Anti-Bribery Law;

18.1.2 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;

18.1.3 have and will maintain in place, throughout the term of the Agreement, its own policies and procedures, including Adequate Procedures, to ensure compliance with Anti-Bribery Law and this condition 18, and will enforce them where appropriate; and

18.1.4 procure and ensure that all of its Associated Persons comply with this condition 18.

18.2 The Supplier will:

18.2.1 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 the Agreement and the steps taken by the Supplier to comply with this condition 18; and

18.2.2 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 condition 18.

18.3 Aston may terminate the Agreement with immediate effect if the Supplier is found in breach of this condition 18.

19. **Modern Slavery**

The Parties will comply with the Modern Slavery Act 2015 and all associated regulations. The Parties agree not to engage in any practice or conduct which would constitute an offence under the Modern Slavery Act 2015. Breach of this condition 19 will be deemed a material

breach of the Agreement. Aston may terminate the Agreement if the Supplier is found in breach of this condition 19.

20. **Freedom of Information**

- 20.1 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.
- 20.2 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).

21. **Compliance with Applicable Laws**

- 21.1 The Supplier will comply with all Applicable Laws, standards, regulations and other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and/or the performance of the Services.
- 21.2 The Supplier will monitor and keep Aston informed in writing of any changes in the Applicable Laws which may impact on the delivery of Goods and/or 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.
- 21.3 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 delivery of Goods and/or 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 deliver the Goods and/or perform the Services in accordance with the Agreement. The Supplier will use all reasonable endeavours to minimise any disruption

caused by any changes in Applicable Laws.

22. **Audit**

- 22.1 Aston may as often as reasonably necessary during the 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 the Agreement.
- 22.2 Aston will use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the delivery of the Goods and/or performance of the Services.
- 22.3 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 delivery of Goods and/or performance of the Services.
- 22.4 Aston will endeavour to (but is not obliged to) provide at least 15 Business Days' notice of its intention to conduct an audit.
- 22.5 The Parties agree that they will bear their own costs and expenses incurred in respect of compliance with this condition 22, 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.
- 22.6 If an audit identifies that the Supplier has failed to perform its obligations under the 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 the Agreement, then the remedial plan will include a requirement for the provision of all such information.
- 22.7 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.
- 22.8 If an audit identifies that Aston has underpaid any charges, Aston will pay to the Supplier the amount of the underpayment 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.
23. **Insurance**
- The Supplier will maintain the Insurances in force with a reputable insurance company.
24. **Force Majeure**
- 24.1 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.
- 24.2 If a Force Majeure continues for more than 60 days a Party in receipt of a notice pursuant to condition 24 may terminate the Agreement by giving 30 Business Days' notice to the other Party. In calculating whether a Force Majeure has continued for 60 days, the Party may ignore any period totalling 10 days or less during the 60 day period during which the Party serving the notice under condition 24.1 was able to fulfil its obligations.
- 24.3 The Party serving a notice to terminate pursuant to condition 24.1 may withdraw it if the Force Majeure ceases during the 30 Business Day notice period.
25. **Termination**
- 25.1 Aston may at any time terminate the Agreement by giving the Supplier no less than 6 months' notice.
- 25.2 Either Party may terminate the Agreement immediately by giving written notice to the other Party at any time if:
- 25.2.1 the other Party commits a material breach that cannot be remedied; or
- 25.2.2 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
- 25.2.3 the other Party commits a series of persistent breaches which, when taken together, amount to material breach; or
- 25.2.4 the other Party ceases, or threatens to cease, to carry on all or substantially the whole of its business; or
- 25.2.5 there is a change of control of the other Party (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 25.3 Aston may terminate the Agreement immediately by giving notice if the Supplier becomes Insolvent.
- 25.4 Aston may terminate one or more of the Goods and/or Services provisions by giving one months' written notice to the Supplier. The termination of those Goods and/or Service provisions will not affect the delivery, continuity and validity of any other existing Goods and/or Services provisions under the Agreement.
- 25.5 Following expiry or termination of the Agreement, conditions 6 (Spares), 14 (Indemnity), 15 (Limitation of Liability), 17 (Confidentiality), 18 (Anti-Bribery), 19 (Modern Slavery), 25 (Termination), 28 (Disputes), 29 (Conflict), and 30 (Governing Law and Jurisdiction) will continue to have effect

as will all rights and duties of the Parties accrued prior to termination.

26. Notices

26.1 The addresses of the Parties for service of notice are set out in a separate document.

26.2 If a notice has been properly sent or delivered in accordance with this condition 26, it will be deemed to have been received as follows:

26.2.1 if delivered personally, at the time of delivery; or

26.2.2 if delivered by commercial courier, at the time of signature of the courier's delivery receipt; or

26.2.3 if sent or supplied by electronic means, one hour after the notice was sent or supplied and a delivery receipt received; or

26.2.4 if sent by pre-paid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted; or

26.2.5 if deemed receipt under any of conditions 26.2 to 26.2.3 (inclusive) is not within Business Hours, receipt will be deemed on the Party's next Business Day.

26.3 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 the relevant Party and delivered to that address.

27. General Provisions

27.1 The Supplier will not assign, novate or otherwise dispose of any or all of its rights and obligations under the Agreement without the prior written consent of Aston.

27.2 Each Party acknowledges and agrees that:

27.2.1 these Terms and Conditions and the Agreement constitutes the entire agreement and

understanding between the Parties and supersedes any previous arrangement, understanding or agreement between them;

27.2.2 in entering into the Agreement neither Party has relied on any Pre-Contractual Statement; and

27.2.3 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 the Agreement will, however, limit or exclude any liability for fraud.

27.3 No variation of the Agreement will be valid unless it is in writing and signed by or on behalf of each of the Parties.

27.4 The 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.

27.5 Except as expressly provided elsewhere in the Agreement, a person who is not a party to the Agreement will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

27.6 If any provision of the Agreement is held to be unlawful, invalid or unenforceable, such provision or part will to that extent be severed from the Agreement and rendered ineffective as far as possible without modifying or affecting the legality, validity or enforceability of the remaining provisions of the Agreement which will remain in full force and effect.

28. Disputes

28.1 The Parties will use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that may arise out of or relate to the Agreement or a breach thereof.

28.2 If the Parties cannot reach a satisfactory resolution within 30 Business Days after commencing discussions the matter will

(unless either Party does not wish to do so) be referred to mediation in accordance with the model procedure of the Centre for Dispute Resolution, London (“CEDR”), such mediation to be completed within 30 Business Days of signature of the CEDR Mediation Agreement.

- 28.3 All negotiations connected with the mediation of the dispute will be conducted in complete confidence, and the Parties undertake not to divulge details of such negotiations except to their professional advisers who will also be subject to such confidentiality. Such negotiations will be without prejudice to the rights of the Parties in any future proceedings. In any such negotiations each Party will bear its own legal and other costs, unless otherwise expressly agreed in writing by the Parties.
- 28.4 If the Parties with (or without) the assistance of the mediator reach agreement on the resolution of the dispute, such agreement will be reduced to writing and once it is signed by their duly authorised representatives, will be final and binding on the Parties.
- 28.5 Nothing contained in this condition 28 will restrict either Party’s freedom to commence legal proceedings to preserve any legal right or remedy or protect any proprietary or trade secret right.

29. **Conflict**

In the event of any conflict, these Terms and Conditions will take precedence over the Applicable Purchase Order, Key Performance Indicators and Price as applicable.

30. **Governing Law and Jurisdiction**

The formation, construction, performance, validity and all aspects whatsoever of the 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.

31. **Definitions**

The following expressions will have the following meanings unless the context otherwise requires:

“**Acceptance Date**” means the earlier of the date on which the Goods pass the Acceptance Tests or in any event no more than 30 days after the Delivery Date upon which Aston will be deemed to have accepted the Goods;

“**Acceptance Period**” means the period of no more than 30 days that Aston will have to inspect the Goods which will lead to the Acceptance Date;

“**Acceptance Tests**” means the tests to be carried out by Aston to determine whether the Goods meet the Applicable Purchase Order;

“**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;

“**Agreement**” means the Applicable Purchase Order entered into between Aston and the Supplier for the purchase of Goods and/or Services as applicable that is governed by these Terms and Conditions;

“**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 the Agreement including Anti Bribery Law and Modern Slavery Law;

“**Applicable Purchase Order**” means the approved purchase order issued by Aston to the Supplier which sets out the details (and specifications as applicable), of the Goods and/or Services which the Supplier will deliver to Aston;

“**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;

“**Aston**” means Aston University of Aston Triangle, Birmingham, B4 7ET, United Kingdom;

“**Aston’s Policies and Regulations**” means the published policies, procedures and regulations of Aston as amended and updated from time to time;

“**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;

“**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);

“**Delivery Address**” means the address to where the Supplier will deliver the Goods as stipulated in the Applicable Purchase Order;

“**Delivery Date**” has the meaning given in a separate document;

“**Design Information**” means all information relating to the design, specification, formation and construction of the Goods which the Supplier will deliver to Aston in accordance with condition 6.5;

“**EIR**” 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;

“**Force Majeure**” means circumstances beyond the reasonable control of a Party including, without limitation, acts of God, governmental

actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either Party’s workforce);

“**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;

“**Goods**” means the goods to be delivered by the Supplier to Aston as set out in the Applicable Purchase Order;

“**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;
- (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-paragraphs (a) to (g);

“Inspection Period” means the period which Aston will have to inspect the Goods to ensure that the Goods correspond with the Applicable Purchase Order prior to the payment of Price;

“Insurance” means professional indemnity insurance, product liability insurance, employer liability and public liability insurance cover of not less than £5,000,000 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 set out in a separate document;

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

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

“Party” each refers to Aston and the Supplier;

“Parties” means both Aston and the Supplier;

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

“Price” means the price of the Goods and/or Services exclusive of VAT (unless Aston is in receipt of a VAT exemption form) payable by Aston to the Supplier set out in a separate document;

“Purchase Order Number” means the order ID set out in the Applicable Purchase Order;

“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 the 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 Applicable Purchase Order;

“Spares” means spare parts, bits, components and elements in relation to the Goods that Aston may request from time to time from the Supplier;

“Spare Supply Period” means the period during which the Supplier will make the Spares available to Aston as set out in a separate document;

“Supplier” means the supplier that is performing the Services to Aston identified in a separate document;

“Term” has the meaning given in a separate document;

“Terms and Conditions” means these terms and conditions; and



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

32. Interpretation of the Agreement

The headings in the Agreement are inserted for convenience only and will not affect its construction.

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.

Unless the context otherwise requires, a reference to one gender will include a reference to the other gender.

Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

A person includes a corporate or unincorporated body (whether or not having separate legal personality).

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.

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.

Any schedules and appendices to the Agreement form part of (and are incorporated into) the Agreement.