**Memorial University’s Data Protection Schedule**

This Schedule forms part of the agreement between Memorial University (the “University”)

And \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Contractor”) respecting

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Agreement”).

**Definitions**

1. In this Schedule,

(a) “Acts” means the *Access to Information and Protection of Privacy Act of Newfoundland and Labrador, 2015*, (*ATIPPA, 2015*) as amended from time to time and the *Management of Information Act* (*MIA*);

(b) “Contact Information” means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;

(c) “Personal Information” means recorded information about an identifiable individual, other than Contact Information, collected or created by the Contractor as a result of the Agreement or any previous agreement between the University and the Contractor dealing with the same subject matter as the Agreement.

(d) “University Data” means any information received by the Contractor pertaining to the Agreement that (i) is not generally known in the industry in which the University is engaged, (ii) is “personal information” within the context of the Access to Information and Protection of Privacy Act, 2015 (ATIPPA 2015), S.N.L. 2015, c. A-1.2, as amended from time to time, or such other provincial legislation as is applicable, (iii) would logically be considered confidential and/or proprietary, (iv) would do the University harm if divulged, or (v) is marked “Confidential” or “Proprietary”, and shall include all reporting documentation provided by the Contractor in accordance with this Agreement.

**Purpose**

2. The purpose of this Schedule is to:

(a) enable the University to comply with its statutory obligations under the Acts with respect to University Data; and

(b) ensure that, as a service provider, the Contractor is aware of and complies with its statutory obligations under the Acts with respect to University Data.

(c) ensure the Contractor acknowledges that University is subject to the *ATIPPA, 2015* and any records Contractor supplies to University, including the terms and conditions of this Agreement, may be subject to requests under the *ATIPPA, 2015*. In the event of a request to University for third party business information in its custody and control, information can be withheld only if it meets all parts of the 3‐part harms test for non‐disclosure as stated in section 39 of the *ATIPPA, 2015*.

**Collection of Personal Information**

3. Unless the Agreement otherwise specifies or the University otherwise directs in writing, the Contractor may only collect or create Personal Information that is necessary for the performance of the Contractor’s obligations, or the exercise of the Contractor’s rights, under the Agreement.

4. Unless the Agreement otherwise specifies or the University otherwise directs in writing, the Contractor must collect Personal Information directly from the individual the information is about.

5. Unless the Agreement otherwise specifies or the University otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects Personal Information:

(a) the purpose for collecting it;

(b) the legal authority for collecting it; and

(c) the title, business address and business telephone number of the person designated by the University to answer questions about the Contractor’s collection of Personal Information.

**Accuracy of Personal Information**

6. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any Personal Information to be used by the Contractor or the University to make a decision that directly affects the individual the information is about.

**Compliance with ATIPPA, 2015 and directions**

7. The Contractor must in relation to Personal Information comply with:

(a) the requirements of *ATIPPA, 2015* applicable to the Contractor as a service provider, and

(b) any direction given by the University under this Schedule.

8. The Contractor acknowledges that it is familiar with the requirements of *ATIPPA, 2015* governing Personal Information that are applicable to it as a service provider.

**Collection, Use, Disclosure and Release of University Data**

9. If the Contractor receives a request for access to University Data from a person other than the University, the Contractor must promptly advise the person to make the request to the University unless the Agreement expressly requires the Contractor to provide such access and, if the University has advised the Contractor of the name or title and Contact Information of an official of the University to whom such requests are to be made, the Contractor must also promptly provide that official’s name or title and Contact Information to the person making the request.

10. The Contractor agrees that if there is an access to information request (on behalf of an individual) pursuant to any access to information legislation that applies to the Contractor, the Contractor will provide notice of such request to the University and the University shall work with the Contractor to compile the appropriate response. Any work required on behalf of the Contractor shall be at no additional charge to the University.

11. Unless the University otherwise directs in writing, the Contractor may only use University Data if that use is:

(a) for the performance of the Contractor’s obligations, or the exercise of the Contractor’s rights, under the Agreement and

(b) in accordance with *ATIPPA, 2015*.

12. The Contractor agrees that it will not directly or indirectly use, collect, disclose or release University Data for any purpose, including sale of the University Data, which use, collection, disclosure and release is not authorized by the University and that agrees that access, use, collection, disclosure or release of the University Data for any purpose not related to the agreement is strictly prohibited.

13. The Contractor agrees to limit access, use and disclosure of the University Data to only those who need it within its organization for purposes of the agreement.

14. If the Contractor is legally required or compelled through the service of a subpoena or warrant to disclose any of the University Data belonging to the University, it must provide the University with prompt notice of the compelled disclosure to allow the University to seek a protective order or other appropriate remedy to prevent or limit such disclosure.

**Correction of Personal Information**

15. Within 5 business days of receiving a written direction from the University to correct or annotate any Personal Information, the Contractor must annotate or correct the information in accordance with the direction.

**Protection of University Data**

16. The Contractor must protect University Data by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

17. The Contractor will implement and maintain industry security best practices to protect University Data from security attacks/vulnerabilities.  Contractor will conduct regular security assessments to ensure its environment is properly maintained and protected against known vulnerabilities.

18. Contractor agrees that to the extent that the service or software has access to or uses University Data, Contractor and its employees and agents will keep that information confidential and exercise the same degree of care, diligence and skill that it would use to safeguard Contractor’s own confidential information.

19. Contractor has implemented and will maintain administrative, physical, and technical safeguards designed to:

(a) protect against anticipated threats or hazards to the security of Confidential Information, and

(b) protect against unauthorized access to or use of University Data that could materially harm the University or violate the privacy, integrity or security of the University Data.

**Retention of University Data**

20. Unless the Agreement otherwise specifies, the Contractor must retain University Data until directed by the University in writing to dispose of it or deliver it as specified in the direction. Upon termination of the Agreement or should the Contractor cease operations, retention of University Data shall be in accordance with Section 24 below.

**Inspection of University Data**

21. In addition to any other rights of inspection the University may have under the Agreement or under statute, the University may, audit compliance with this Schedule at any time.

**Notice of non-compliance**

22. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the University of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

**Termination of Agreement**

23. In addition to any other rights of termination which the University may have under the Agreement or otherwise at law, the University may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Contractor, terminate the Agreement by giving written notice of such termination to the Contractor, upon any failure of the Contractor to comply with this Schedule in a material respect.

24. No later than thirty (30) days prior to termination of Agreement or should the Contractor cease operations, University may request a copy of all University Data. University Data will be provided by Contractor to University in an agreed upon and usable format. Contractor shall make University Data available for download by University and will notify University of the availability of University Data via email within ten (10) days of termination of Service. Contractor will make University Data available for download for thirty (30) days after notifying University of the availability of University Data, after which University Data shall be permanently deleted, including backups, by Contractor and provide written confirmation.

**General Terms**

25. The Contractor will provide the University with a completed Cloud Assessment, which may include HECVAT.

26. In the event that the Cloud Assessment is contained in the response to Request for Proposal (RFP) requirements, the Contractor’s RFP response will be appended to the main Contract.

27. The Contractor agrees that any University Data collected from the University on behalf of the University is wholly owned and managed by the University during the tenure of the agreement and upon expiration or termination of the Agreement.

28. Contractor agrees to add Memorial University as an additional insured as evidenced by the Certificate of Insurance. If there are any changes to the coverage, the Contractor agrees to send an updated certificate to the University. In the event of a security breach as outlined above caused by Contractor’s service or software, Contractor agrees to indemnify and save University harmless from any such breach, up to a maximum of $1,000,000.

29. If the Contractor is processing and/or storing credit data on behalf of the University, the Contractor warrants and represents that it will maintain the appropriate PCI compliance level and that the Contractor will immediately notify the University of any change to its PCI compliance status.

**University Data Breach Protocol**

30. The Contractor acknowledges that it is responsible for any security incident or breach related to University Data, which is not caused by any act, omission or negligence of the University. The Contractor shall notify the University in writing within seventy-two (72) hours whenever the Contractor reasonably believes that there has been an unauthorized acquisition, destruction, modification, use, disclosure of or access to the University Data (“Security Breach”). Such notification shall summarize the details of the Security Breach and any corrective action taken or to be taken by the Contractor. After providing the required notice, the Contractor will investigate the Security Breach and promptly take all necessary and advisable corrective action to eliminate or contain the exposure or situation that led to the Security Breach, and will keep the University apprised of the status of the Security Breach and all corrective measures taken, and all matters related thereto.

**Interpretation**

31. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.

32. Any reference to the “Contractor” in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with this Schedule.

33. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.

34. If a provision of the Agreement (including any direction given by the University under this Schedule) conflicts with a requirement of the Act or an applicable order of the Commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.

35. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or the law of any jurisdiction outside Canada.