

**Schedule 8**  
**Redundancy Surcharge**  
**(Call-Off Schedule 29)**

# Call-Off Schedule 29 (Redundancy Surcharge)

## Definitions

1.1 For the purposes of this contract schedule 8 (Redundancy Surcharge), the following terms shall have the following meanings and they shall supplement and be supplemented by Clause 11.2 of the core contract, contract schedule 4 (Staff Transfer) and contract schedule 7 (TUPE Surcharge):

<b>“Affected Employee”</b>	means an employee of the <i>Service Provider</i> (or, if relevant, a Relevant Subcontractor) who is at risk of redundancy as a result of the occurrence of either of the events set out in paragraph 2.1 of this schedule;
<b>“Early Retirement Right”</b>	any right to retirement benefit arising on termination for redundancy, whether such benefit is reduced or otherwise and whether such right arises on retirement or otherwise;
<b>“Redundancy Payment”</b>	<p>means any and all of the following payments which may be made by the <i>Service Provider</i> (or, if relevant, the Relevant Subcontractor) to any Affected Employee:</p> <p>a) statutory redundancy payments made in accordance with section 162 of the Employment Rights Act 1996;</p> <p>b) contractual redundancy payments (which for this purpose shall mean redundancy payments made in accordance with the terms and conditions of employment to which the relevant Affected Employee was entitled at the Reference Date and for the avoidance of doubt, in each employee's case, shall not include any ex gratia payment, payment for accrued holiday or any other payment made as compensation for the termination of employment);</p> <p>c) where it is not reasonably practicable to require the Affected Employee to work their notice period, in respect of each Affected Employee, either:</p> <p style="padding-left: 40px;">i) payment of damages for breach of the applicable statutory notice entitlement or, if higher, the notice entitlement under the terms and conditions of employment to which the relevant employee was entitled at the Reference Date; or</p> <p style="padding-left: 40px;">ii) payment in lieu of any such notice entitlement, made pursuant to such terms and conditions of employment, but for the avoidance of doubt, shall not include any payment of salary or wages or of any benefit</p>

	<p>in respect of any period of continuing employment (whether during a notice period or otherwise);</p> <p>d) any payment made in satisfaction of any Early Retirement Right to which the relevant employee was entitled under his or her terms and conditions of employment on the Reference Date;</p>
<b>“Reference Date”</b>	<p>means either:</p> <p>a) the date of commencement of employment, if the Affected Employee became employed by the <i>Service Provider</i> (or, if relevant, Relevant Subcontractor) after the Relevant Transfer Date; or</p> <p>b) the Relevant Transfer Date,</p> <p>save that where the <i>Service Provider</i> (or, if relevant, Relevant Subcontractor) and Former Service Provider are the same entity such that the Employment Regulations do not apply to transfer staff, the relevant date shall be either the Contract Date or, if the Affected Employee became employed by the <i>Service Provider</i> (or, if relevant, Relevant Subcontractor) after such date, the date of commencement of employment;</p>
<b>“Redundancy Surcharge”</b>	<p>means a surcharge on the Prices equal in amount to each relevant Redundancy Payment capped at the amount of the Redundancy Surcharge provided for in the Cost of Change (subject to any adjustment to the Cost of Change agreed in accordance with paragraph 5.1.1 of Schedule 7 (TUPE Surcharge));</p>
<b>“Service Change Redundancy Surcharge”</b>	<p>means in relation to a redundancy as described in Paragraph 4.1, a surcharge on the Prices equal in amount to the Redundancy Payment.</p>

## 2. Introduction

2.1 This contract schedule sets out the process for determining the Redundancy Surcharge in the event that:

2.1.1 Within the 12 months following a Relevant Transfer, a Transferring Former Service Provider Employee (or where the Former Service Provider becomes the *Service Provider* a Former Service Provider employee providing the Service at the Start Date) and/or a Transferring Client Employee is made redundant by the *Service Provider* or a Relevant Subcontractor as a result of an economic technical organisational reason entailing changes to the workforce;  
or

2.1.2 the *Client* makes a change to the Services which results in the removal of any Services or closure of any of the Client Affected Property.

### 3. Redundancy Surcharge

- 3.1 Where a Relevant Transfer takes place, or will take place, the *Service Provider* shall not make any Transferring Former Service Provider Employee(s) (or where the Former Service Provider becomes the *Service Provider* any Former Service Provider employee(s) providing the Services at the Start Date) and/or Transferring Client Employee(s) redundant without consulting the *Service Manager*.
- 3.2 The *Service Provider* shall mitigate the effects of any Redundancy Surcharge by:
- 3.2.1 redeploying such people where it is practicable for the *Service Provider* to do so; or
- 3.2.2 where redeployment is not practicable, taking such reasonable mitigation steps to minimise the costs of redundancy where practicable; and
- 3.2.3 complying with the Law, all contractual requirements and any reasonable instructions from the *Service Manager*.
- 3.3 The Redundancy Surcharge shall be zero unless a sum in respect of the Redundancy Surcharge is detailed in the Cost of Change (pursuant to contract Schedule 7 (TUPE Surcharge) and unless the *Service Provider* has consulted with the *Service Manager*, pursuant to paragraph 3.1 of this contract schedule 8 (Redundancy Surcharge) about the particular Transferring Former Service Provider Employee(s) (or where the Former Service Provider becomes the *Service Provider* the particular Former Service Provider employee(s) providing the Service at the Start Date) and/or Transferring Client Employee(s) and completed such redundancies within 12 months of the starting date.
- 3.4 Where redundancy is unavoidable, the *Service Provider* shall provide the *Service Manager* with its estimate of the Redundancy Surcharge and details of the salary and other employment costs of employees proposed to be made redundant and any costs savings proposed to be made by the *Service Provider* following the implementation, together with a breakdown and supporting evidence as may be reasonably necessary for the *Service Manager* to corroborate and assess the calculation of the Redundancy Surcharge and any costs savings and to evidence compliance with 3.2 above.
- 3.5 On receipt of the *Service Provider's* calculation of the Redundancy Surcharge the *Service Manager* shall either:
- 3.5.1 notify the *Service Provider* in writing of acceptance of the Redundancy Surcharge relating to the Relevant Transfer; and/or

3.5.2 request further information/evidence (and the *Service Provider* shall provide such information/evidence as the *Client* may reasonably request); and/ or

3.5.3 request a meeting to discuss/clarify the evidence provided.

3.6 Where the Redundancy Surcharge is agreed following the receipt of further information/evidence or following a meeting, the *Service Manager* shall notify the *Service Provider* in writing and if there are any costs savings for the *Service Provider* an adjustment shall be made to the Prices in respect of the relevant costs savings with effect from the date that the cost savings are realised.

3.7 In the event that the *Service Provider* and the *Service Manager* are unable to agree the Redundancy Surcharge, they shall follow the dispute provisions of the contract.

#### 4. **Building closures/removal of Service(s)**

4.1 Subject to Paragraph 4.2, Paragraph 4.3 and Paragraph 4.4 where the *Service Provider* or any notified Subcontractor makes or intends to make a Redundancy Payment in relation to any termination for redundancy made as a direct result of a *Client* instigated building closure or removal of service(s) in accordance with clause 14.3 of the contract the *Service Provider* may be entitled to a Service Change Redundancy Surcharge.

4.2 The *Service Provider* shall not be entitled to a Service Change Redundancy Surcharge under Paragraph 4.1 unless it has, before any relevant termination for redundancy is made:

4.2.1 consulted the *Service Manager* about the proposal to make any such termination for redundancy;

4.2.2 provided the *Service Manager* with written estimates of any relevant Redundancy Payment together with a breakdown of such estimates and such supporting evidence as the *Client* may reasonably request to corroborate and assess the calculations; and

4.2.3 Provided the *Service Manager* with details of the steps the *Service Provider*, or the notified Subcontractor (as applicable), has taken (or proposes to take) to mitigate such costs in accordance with paragraph 4.4

4.3 The *Service Provider* shall not be entitled to a Service Change Redundancy Surcharge under paragraph 4.1 unless it, or the notified Subcontractor (as applicable), has followed a fair dismissal procedure and complied with all contractual and legislative requirements (save for a breach of notice entitlement where payment is made on termination in satisfaction of the

employee's claim for damages) in respect of each termination for redundancy to which the Service Change Redundancy Surcharge relates.

- 4.4 The *Service Provider* shall (or, where relevant, shall procure that the notified Subcontractor shall) avoid having to make, or mitigate the extent of, any Redundancy Payment by:
  - 4.4.1 redeploying any relevant person where it is practicable to do so;
  - 4.4.2 where redeployment is not practicable, taking reasonable steps to minimise the amount of Redundancy Payment, including requiring employees to work their notice where this is practicable;
  - 4.4.3 complying with the law, all contractual requirements and any reasonable instructions of the *Service Manager*.
- 4.5 The *Service Provider* shall not be entitled to a Service Change Redundancy Surcharge under paragraph 4.1 unless:
  - 4.5.1 the *Service Provider* (or, where relevant, notified Subcontractor) has consulted with the *Service Manager*, pursuant to paragraph 4.1, within one month of receiving notice by the *Service Manager* of the building closure or removal of service(s); and
  - 4.5.2 the employment of any employee to whom the Redundancy Payment relates is terminated for redundancy no later than one month after the relevant building closure or removal of service(s).
5. **On receipt of the *Service Provider's* calculation of the Redundancy Payments in accordance with paragraph 4.2 the *Service Manager* shall either:**
  - 5.1 notify the *Service Provider* in writing of acceptance of the Service Change Redundancy Surcharge relating to the relevant building closure or removal of service(s); and/or
  - 5.2 request further information/evidence (and the *Service Provider* shall provide such information/evidence as the *Service Manager* may reasonably request); and/ or
  - 5.3 request a meeting to discuss/clarify the evidence provided.
6. Where the Service Change Redundancy Surcharge is agreed following the receipt of further information/evidence or following a meeting, the *Service Manager* shall notify the *Service Provider* in writing.
7. In the event that the *Service Provider* and the *Service Manager* are unable to agree the Service Change Redundancy Surcharge, they shall follow the dispute provisions of the contract.