# SCHEDULE 7.1

CHARGES AND INVOICING

(Fixed Price Cost Model)

**Charges and Invoicing**

## DEFINITIONS

In this Schedule,the following definitions shall apply:

|  |  |
| --- | --- |
| **“Certificate of Costs”**  | a certificate of costs signed by the Supplier’s Chief Financial Officer or Director of Finance (or equivalent as agreed in writing by the Authority in advance of issue of the relevant certificate) and substantially in the format set out in Annex 3; |
| **“Costs”** | the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Services:1. the cost to the Supplier or the Key Sub‑contractor (as the context requires), calculated per Man Day, of engaging the Supplier Personnel, including:
	* 1. base salary paid to the Supplier Personnel;
		2. employer’s national insurance contributions;
		3. pension contributions;
		4. car allowances;
		5. any other contractual employment benefits;
		6. staff training;
		7. work place accommodation;
		8. work place IT equipment and tools reasonably necessary to perform the Services (but not including items included within limb (b) below); and
		9. reasonable recruitment costs, as agreed with the Authority;
2. costs incurred in respect of those Assets which are detailed on the Registers and which would be treated as capital costs according to UKGAAP, which shall include the cost to be charged in respect of Assets by the Supplier to the Authority or (to the extent that risk and title in any Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Assets. In both cases limited to the charges to the profit and loss account (such as depreciation or amortisation) according to generally accepted accounting principles within the UK;
3. operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the delivery of the Services;
4. Reimbursable Expenses to the extent these are properly incurred in delivering the Services in accordance with Paragraph 3 of Part A of Schedule 7.1 (Charges and Invoicing) but excluding:
5. Overhead;
6. financing or similar costs;
7. maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Term, whether in relation to Assets or otherwise;
8. taxation;
9. fines and penalties;
10. any amounts payable to the Authority as Service Credits and Delay Payments;
11. any amounts payable under Schedule 7.3 (*Value For Money*); and
12. non‑cash items (including depreciation, amortisation, impairments and movements in provisions);
 |
| **“Man Day”** | 8 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day; |
| **“Man Hours”** | the hours spent by the Supplier Personnel properly working on the Services including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks; |
| **“Milestone Retention”** | has the meaning given in Paragraph 1.3 of Part B; |
| **“Overhead”** | those amounts which are intended to recover a proportion of the Supplier’s or the Key Sub‑contractor’s (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Personnel and accordingly included within limb (a) of the definition of “Costs”;  |
| **“Reimbursable Expenses”** | reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Authority's expenses policy current from time to time, but not including:* + 1. travel expenses incurred as a result of Supplier Personnel travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Authority otherwise agrees in advance in writing; and
		2. subsistence expenses incurred by Supplier Personnel whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
 |
| **“Supporting Documentation”** | sufficient information in writing to enable the Authority reasonably to assess whether the Charges, Reimbursable Expenses and other sums due from the Authority detailed in the information are properly payable, including copies of any applicable Milestone Achievement Certificates or receipts; |

# PART A: Pricing

## INTRODUCTION

### This Schedule 7.1 (*Charges and Invoicing*) is to set out the provisions relating to:

#### Milestone Payments;

#### Service Charges;

#### expenses and capital assets;

#### adjustments to the Charges, including Service Credits, Delay Payments and payments for Delays due to Authority Cause;

#### changes to the Charges;

#### [Charges for the provision of Termination Services]; and

#### invoicing and payment terms.

## FIXED PRICE MILESTONE PAYMENTS OR SERVICE CHARGES

## Where the Financial Model indicates that a Milestone Payment or Service Charge is to be calculated by reference to a Fixed Price pricing mechanism, the relevant Charge shall be the amount set out against that Charge in the Financial Model.

## EXPENSES

## Where the Authority so agrees in writing, the Supplier shall be entitled to be reimbursed by the Authority for Reimbursable Expenses (in addition to being paid the relevant Charges), provided that such Reimbursable Expenses are supported by Supporting Documentation.

## The Authority shall provide a copy of its current expenses policy to the Supplier upon request.

## Except as expressly set out in Paragraph 3.1, the Charges shall include all costs and expenses relating to the Deliverables, the Services and/or the Supplier’s performance of its obligations under this Agreement and no further amounts shall be payable by the Authority to the Supplier in respect of such performance, including in respect of matters such as:

## any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document and report reproduction, shipping, desktop and office equipment costs required by the Supplier Personnel, including network or data interchange costs or other telecommunications charges; or

## any amount for any services provided or costs incurred by the Supplier prior to the Effective Date.

## CAPITAL ASSETS

## If the Supplier procures on behalf of the Authority any capital assets from third parties on a pass‑through basis, the Supplier shall not be entitled to apply any margin to the costs charged by such third parties to the Supplier in its pass‑through charge to the Authority.

# PART B: Charging Mechanisms

## DEFINITIONS

1. In this Part B,the following definitions shall apply:

|  |  |
| --- | --- |
| “**Milestone Retention**” | has the meaning given in Paragraph 1.3 of this Part. |

## MILESTONE PAYMENTS

### Subject to the provisions of Paragraph 2.5 of Part C in relation to the deduction of Delay Payments, on the Achievement of a Milestone the Supplier shall be entitled to invoice the Authority for the Milestone Payment associated with that Milestone less the applicable Milestone Retention in accordance with this Part B.

### Each invoice relating to a Milestone Payment shall be supported by a Milestone Achievement Certificate and the relevant Supporting Documentation.

### The “**Milestone Retention**” for each Milestone shall be 10% of the Charges for that Milestone and, in the case of a Key Milestone, prior to deduction from the Milestone Payment of any Delay Payment attributable to that Key Milestone.

**Release of Milestone Retentions**

### On Achievement of a CPP Milestone relating to the Supplier Solution or one or more Services (as the case may be), the Supplier shall be entitled to invoice the Authority for an amount equal to all Milestone Retentions that relate to Milestones identified in the *“CPP Milestone Charge Number”* column of Table 1 (or, in relation to Milestone Retentions in respect of Optional Services, Table 3) of Annex 2 as corresponding to the CPP Milestone Charge Number for that Achieved CPP Milestone provided that such amount has not been paid before such CPP Milestone.

## SERVICE CHARGES

### Each Service to which a Service Charge relates shall commence on the Achievement of the Milestone set out against that Service in the “*Service Charge Trigger Event*” column of Table 2 of Annex 2.

### If the relevant Service commences on a day other than the first day of a month; and/or ends on a day other than the last day of a month, the Service Charge for the relevant Service Period shall be pro‑rated based on the proportion which the number of days in the month for which the Service is provided bears to the total number of days in that month.

### Service Charges shall be invoiced by the Supplier for each Service Period in arrear in accordance with the requirements of Part E.

## CHARGES FOR TERMINATION SERVICES

### Termination Services are charged on a Fixed Price basis as referred to in the Financial Model].

### The Parties shall, as part of an Exit Plan, agree the Milestones in respect of Termination Services (each an "**Exit Milestone**") and the milestone achievement criteria against which such Charges shall be payable.

## Exit Milestone Payments

### On the Achievement of an Exit Milestone, the Supplier shall be entitled to invoice the Authority for the payment associated with that Exit Milestone less the applicable Exit Milestone Retention in accordance with this paragraph 5.

### Each invoice relating to an Exit Milestone payment shall be supported by:

#### a Milestone Achievement Certificate; and

#### where the Exit Milestone Payment is to be calculated by reference to a Time and Materials pricing mechanism, a Certificate of Costs with Supporting Documentation.

### The “**Exit** **Milestone Retention**” for each Exit Milestone shall be 10% of the Charges for that Milestone.

### No earlier than [90] days following Achievement of the last Exit Milestone, the Supplier shall be entitled to invoice the Authority for an amount equal to all Exit Milestone Retentions that relate to Exit Milestones which have not been paid previously.PART C: Adjustments to the Charges

## DEFINITIONS

1. In this Part C,the following definitions shall apply:

|  |  |
| --- | --- |
| “**Delay Payment Rate**” | has the meaning given in Paragraph 2.1 of this Part. |
| “**Allowable Assumption**" | means the assumptions set out in Annex 5; |
| “**Verification Period**” | in relation to an Allowable Assumption, the period from (and including) the Effective Date to (and including) the date at which the relevant Allowable Assumption expires, as set out against the relevant Allowable Assumption in column 10 in the table in Annex 5. |

## DELAY PAYMENTS

### If a Key Milestone has not been Achieved on or before the relevant Milestone Date, the Supplier shall pay a Delay Payment to the Authority in respect of that Key Milestone. Delay Payments shall accrue:

#### at the daily rate (the “**Delay Payment Rate**”) determined in accordance with Paragraph 2.2;

#### from (but excluding) the relevant Milestone Date to (and including) the earlier of:

##### the date on which the Key Milestone is Achieved; and

##### the expiry of the Delay Deduction Period (which for the avoidance of doubt shall be 30 (thirty) calendar days from the relevant Milestone Date); and

#### on a daily basis, with any part day’s Delay counting as a day,

#### except that the Authority shall not be entitled to receive Delay Payments to the extent that the Achievement of any Milestone is affected by a Force Majeure Event.

### Where a Delay Payment is payable in respect of a Key Milestone, the Delay Payment Rate shall be:

#### where the Supplier has given the Authority less than three (3) months’ prior notice of the Delay, the amount set out in column 4 of Table 1 of Annex 2 for the Key Milestone;

#### where the Supplier has given the Authority between three (3) months’ and 6 months’ prior notice of the Delay, the amount set out in column 5 of Table 1 of Annex 2 for the Key Milestone; or

#### where the Supplier has given the Authority more than six (6) months’ prior notice of the Delay, the amount set out in column 6 of Table 1 of Annex 2 for the Key Milestone.

### The Parties agree that Delay Payments calculated in accordance with the applicable Delay Payment Rates:

#### in each case a genuine pre‑estimate of the Losses which the Authority will incur as a result of any failure by the Supplier to Achieve the relevant Key Milestone by the Milestone Date; and

#### do not impose a detriment on the Supplier out of all proportion to the legitimate interests of the Authority.

### Delay Payment Rates are stated exclusive of VAT.

### The Delay Payment in respect of a Key Milestone shall be shown as a deduction from the amount due from the Authority to the Supplier in the next invoice due to be issued by the Supplier after the date on which the relevant Key Milestone is Achieved or the expiry of the Delay Deduction Period (as the case may be). If the relevant Key Milestone is not Achieved by the expiry of the Delay Deduction Period and no invoice is due to be issued by the Supplier within ten (10) Working Days of expiry of the Delay Deduction Period, then the Supplier shall *within ten (10) Working Days of expiry of the Delay Deduction Period:*

#### issue a credit note to the Authority in respect of the total amount of the Delay Payment in respect of the Key Milestone; and

#### pay to the Authority as a debt a sum equal to the total amount of the Delay Payment in respect of the Key Milestone together with interest on such amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from (and including) the due date up to (but excluding) the date of actual payment, whether before or after judgment.

### Delay Payments shall be the Authority's exclusive financial remedy for the Supplier’s failure to Achieve a Key Milestone by its Milestone Date except where:

#### the Authority is entitled to or does terminate this Agreement pursuant to Clause 33.1(b) (Termination by the Authority); or

#### the Delay exceeds the Delay Deduction Period.

## PAYMENTS FOR DELAYS DUE TO AUTHORITY CAUSE

### If the Supplier is entitled in accordance with Clause 31.1 (*Authority Cause*) to compensation for failure to Achieve a Milestone by its Milestone Date, then, subject always to Clause 25 (*Limitations on Liability*), such compensation shall be determined in accordance with the following principles:

#### the compensation shall reimburse the Supplier for additional Costs incurred by the Supplier that the Supplier:

##### can demonstrate it has incurred solely and directly as a result of the Authority Cause; and

##### is, has been, or will be unable to mitigate, having complied with its obligations under Clause 31 (Authority Cause)

together with an amount equal to the Anticipated Contract Life Profit Margin thereon;

#### the compensation shall not operate so as to put the Supplier in a better position than it would have been in but for the occurrence of the Authority Cause;

#### the compensation shall include such amount as is appropriate to maintain the Supplier Profit Margin set out in respect of the relevant Milestone in the Cost Model; and

#### where the Milestone Payment includes any Charges which are capped, then to the extent that the compensation agreed pursuant to this Paragraph 3 results in the Authority paying additional Time and Materials Charges for resources or effort which the Supplier demonstrates are required as a result of the Authority Cause, such additional Time and Materials Charges shall be disregarded for the purposes of calculating the relevant cap.

### The Supplier shall provide the Authority with any information the Authority may require in order to assess the validity of the Supplier's claim to compensation.

## SERVICE CREDITS

### Any Service Credits that accrue during a Service Period shall be calculated in the following Service Period and shall be deducted from the Services Charges in such next Service Period. For the avoidance of doubt, by way of a worked example, in respect of the Services performed in Service Period 1, the total number of Service Points accumulated in Service Period 1 shall be calculated during Service Period 2 and the resulting Service Credits shall be deducted from the invoice relating to Service Period 2. Where any Service Credits would have otherwise been due in the final Service Period, the Supplier shall issue a credit note to the Authority in the month following the final Service Period and make payment to the Authority to the value of such credit note within 10 Working Days of issue of the credit note. An invoice for a Service Charge shall not be payable by the Authority unless all adjustments (including Service Credits) relating to the Service Charges for the immediately preceding Service Period have been agreed.

## CHANGES TO CHARGES

### Any changes to the Charges shall be developed and agreed by the Parties in accordance with Schedule 8.3 (*Change Control Procedure*).

## FINANCIAL MANAGEMENT

### The Supplier shall comply with its obligations with respect to Financial Management set out **in Paragraph 1.1 of Schedule 7.5 (*Financial Reports and Audit Rights*).**

### The Supplier shall on written demand indemnify the Authority, and keep the Authority indemnified, against all Losses incurred by, awarded against or agreed to be paid by the Authority arising from a breach by the Supplier of its Financial Management obligations set out in Schedule [7.5 (*Financial Reports and Audit Rights*)] including without limitation any Losses which may arise as a consequence of any erroneous payments made by the Authority following instructions received by the Supplier.

# [PART D: Cost model

## COST MODEL

### The Supplier shall ensure that the Cost Model shall:

#### provide sufficient detail for the Authority to have visibility of all the costs to be incurred by the Supplier and of the Charges to be paid in respect of the provision of the Services;

#### provide visibility of the input costs for providing the Services throughout the Term, excluding mark-up;

#### provide a reasonably skilled and experienced individual with a full analysis of the Supplier's capital and operating costs and the assumptions used to develop and modify the Charges set out in this Schedule 7.1 (Charges and Invoicing);

#### be laid out in a clear and logical manner. The overall flow of information in the Cost Model shall flow from inputs, to calculations, to outputs, with the final output being in tables. Any formulae in the Cost Model shall not contain a mixture of inputs and calculations. Any column labelling in the Cost Model shall be consistent between worksheets;

#### clearly show the calculation of any financing charges associated with outstanding balances (between costs incurred and revenue received); and

#### provide visibility of profit (and the calculation of profit) both as a value and as a percentage, including Supplier Profit, Supplier Profit Margin and the Anticipated Contract Life Profit Margin; and

#### ensure that each iteration to the Cost Model is a true and fair reflection of the Costs, anticipated Supplier Profit, anticipated Supplier Profit Margin and Anticipated Contract Life Profit Margin forecast by the Supplier.

### The Supplier shall, if requested by the Authority, provide (or procure the provision of) the above level of information in relation to the costs and expenses to be incurred by any of its Sub-contractors or third party suppliers.

**REDACTED**

# PART E: Invoicing and Payment Terms

## SUPPLIER INVOICES

### The Supplier agrees and acknowledges that it shall not raise an invoice without having procured a purchase order number generated with HMRC’s e-Portal trading system (myBUY) in accordance with Clause 10.2 of this Agreement and that discrete purchase order numbers shall be used in respect of each Service and each Order.

### The Supplier shall prepare and provide to the Authority for approval of the format a template invoice within ten (10) Working Days of the completed Compliance Report, as a minimum, the details set out in Paragraph 1.3 together with such other information as the Authority may reasonably require to assess whether the Charges that will be detailed therein are properly payable. If the template invoice is not approved by the Authority then the Supplier shall make such amendments as may be reasonably required by the Authority.

### The Supplier shall ensure that each invoice contains the following information:

#### the date of the invoice;

#### a unique invoice number;

#### the Service Period or other period(s) to which the relevant Charge(s) relate;

#### the correct reference for this Agreement;

#### the reference number of the purchase order to which it relates;

#### the dates between which the Services that are the subject of each of the Charges detailed on the invoice were performed;

#### a description of the Services;

#### the pricing mechanism used to calculate the Charges (such as Guaranteed Maximum Price with Target Cost, Fixed Price, Time and Materials etc);

#### any payments due in respect of Achievement of a Milestone, including the Milestone Achievement Certificate number for each relevant Milestone;

#### the total Charges gross and net of any applicable deductions and, separately, the amount of any Reimbursable Expenses properly chargeable to the Authority under the terms of this Agreement, and, separately, any VAT or other sales tax payable in respect of each of the same;

#### details of any Service Credits or Delay Payments or similar deductions that shall apply to the Charges detailed on the invoice;

#### reference to any reports required by the Authority in respect of the Services to which the Charges detailed on the invoice relate (or in the case of reports issued by the Supplier for validation by the Authority, then to any such reports as are validated by the Authority in respect of the Services);

#### a contact name and telephone number of a responsible person in the Supplier's finance department in the event of administrative queries;

#### the banking details for payment to the Supplier via electronic transfer of funds (i.e. name and address of bank, sort code, account name and number);

#### For Service Charges charged on a Fixed Price Mechanism, the invoice shall contain the “top line” detail of the relevant Service; and

#### for Service Charges charged on a consumption basis, the Supplier shall use the measurement period from the 16th of the preceding Service Period to the 15th of the Service Period to which the invoice relates.

### The Supplier shall invoice the Authority in respect of Services in accordance with the requirements of Part B. The Authority has implemented an Ariba based electronic transaction system (myBUY). Each draft schedule of Charges, invoice and any Supporting Documentation required to be submitted in accordance with this Part E shall be submitted, as directed by the Authority from time to time, via the Authority’s electronic transaction system either:

### The Supplier shall on the first Working Day of the Service Period following the Service Period to which the proposed invoice relates, submit to the Authority:

#### in a format specified by the Authority, a draft schedule of Charges payable for the Services performed by the Supplier in the preceding Service Period; and

#### all applicable Supporting Documentation (in a format specified by the Authority). Any assessment by the Authority as to what constitutes Supporting Documentation shall not be conclusive and the Supplier undertakes to provide to the Authority any other documentation reasonably required to the Authority from time to time to substantiate an invoice.

### Each draft schedule of Charges will be submitted using the Authority’s electronic transaction system. The Parties shall endeavour to agree the draft schedule of Charges within five (5) Working Days of its receipt by the Authority, following which the Supplier shall be entitled to submit its invoice via the electronic transaction system.

### All Supplier invoices shall be expressed in sterling or such other currency as shall be permitted by the Authority in writing.

### The Authority shall regard an invoice as valid only if it complies with the provisions of this Part E. Where any invoice does not conform to the Authority's requirements set out in this Part E, the Authority shall promptly return the disputed invoice to the Supplier and the Supplier shall promptly issue a replacement invoice which shall comply with such requirements.

### If the Authority fails to consider and verify an invoice in accordance with Paragraphs 1.6 and 1.8, the invoice shall be regarded as valid and undisputed for the purpose of Paragraph 2.1(*Payment in 30 days*) after a reasonable time has passed.

### The Supplier may only raise invoices as follows:

#### In respect of Milestones (both in respect of Transition and Termination Services), no earlier than the Achievement of the relevant Milestone; and

#### For Service Charges on the second Working Day of the Service Period following the Service Period to which the Charge relates.

## PAYMENT TERMS

### Subject to the relevant provisions of this Schedule, the Authority shall make payment to the Supplier within thirty (30) days of verifying that the invoice is valid and undisputed.

### Unless the Parties agree otherwise in writing, all Supplier invoices shall be paid in sterling by electronic transfer of funds to the bank account that the Supplier has specified on its invoice.

# ANNEX 1: FINANCIAL MODEL

## FIXED PRICES

|  |  |
| --- | --- |
| **Charge** | **Fixed Charge (£)** |
| REDACTED | REDACTED |
| REDACTED | REDACTED |

# ANNEX 2: Charging MECHANISM AND adjustments

## TABLE 1: MILESTONE PAYMENTS AND DELAY PAYMENTS

| **Service Component** | **Charge Number** | **CPP Milestone Charge Number** | **Delay Payments (if Key Milestone)** **(£ per day)** |
| --- | --- | --- | --- |
| **<3 months’ notice** | **3-6 months’ notice** | **>6 months’ notice** |
| N/A |  |  |  |  |  |
| N/A |  |  |  |  |  |

## TABLE 2: SERVICE CHARGES

| **Service Component** | **Charge Number** | **Service Charge Trigger Event** | **Service Charge Expiration Trigger Event** |
| --- | --- | --- | --- |
| N/A |  |  |  |
| N/A |  |  |  |

## [TABLE 3: OPTIONAL SERVICES MILESTONE PAYMENTS]

| **Service Component** | **Charge Number** | **CPP Milestone Charge Number** | **Delay Payments (if Key Milestone)** **(£ per day)** |
| --- | --- | --- | --- |
| N/A |  |  |  |
| N/A |  |  |  |

## [TABLE 4: OPTIONAL SERVICES SERVICE CHARGES]

| **Service Component** | **Charge Number** | **Service Charge Trigger Event** | **Service Charge Expiration Trigger Event** |
| --- | --- | --- | --- |
| N/A |  |  |  |
| N/A |  |  |  |

# ANNEX 3: Pro-forma Certificate of Costs

I **[*name of CFO or Director of Finance or equivalent as agreed in advance in writing with the Authority*]** of [***insert name of Supplier***], certify that the financial information provided as part of this Certificate of Costs, incurred in relation to the [***insert name/reference for the Agreement****]* (**the** “**Agreement**”) in relation to the following [Milestone/Milestone Group]:

[***Insert details of Milestone/Milestone Group***]

1. has been reasonably and properly incurred in accordance with [*name of Supplier*]’s books, accounts, other documents and records;
2. is accurate and not misleading in all key respects; and
3. is in conformity with the Agreement and with all generally accepted accounting principles within the United Kingdom.

Signed [***Director of Finance or equivalent***]

[***Name of Supplier***]

# ANNEX 4: COST MODEL

REDACTED