

SCHEDULE 20

Compensation on Termination

1 GENERAL

- 1.1 This Schedule 20 (Compensation on Termination) sets out the calculation of the Termination Compensation on the termination of this Contract.
- 1.2 All calculations should be made in accordance with the Financial Model and Schedule 31 (Transparency and Financial Models) where applicable.

2 COMPENSATION PAYABLE ON TERMINATION FOR CONTRACTOR DEFAULT

- 2.1 On termination of the Contract by the Authority pursuant to Clause 56 (Termination for Contractor Default), the Termination Compensation payable by the Contractor to the Authority shall be an amount equal to:
- (a) any costs and expenses incurred by the Authority in relation to Replacement Services for the period from and including the Termination Date to and including the Expiry Date, including:
 - (i) any costs and expenses incurred in retendering the Services, including the procurement of Replacement Services; and
 - (ii) any sums payable to any Replacement Contractor in respect of the Replacement Services (including any increased costs in relation to the Replacement Services, compared to the Services) in excess of those that would have been payable by the Authority to the Contractor;
 - (b) any costs and expenses incurred by the Authority in relation to the provision of services equivalent to the Services from and including the Termination Date to and including the commencement of any Replacement Services;
 - (c) the Authority's costs and expenses incurred in transferring the provision of the Services (including any relevant personnel, equipment, assets and documentation) to the Authority or to a Replacement Contractor;
 - (d) any costs and expenses reasonably incurred by the Authority in rectifying any defects caused by the Contractor during the Contract Term;
 - (e) any costs and expenses incurred by the Authority in relation to any failure by the Contractor to act in accordance with Clause 33 (Sub-contracting) and/or Clause 34 (Key Sub-Contracts) and/or the terms of any Sub-Contract of Key Sub-Contract; and
 - (f) any outstanding amounts payable to the Authority by the Contractor, less any outstanding amounts payable to the Contractor by the Authority and subject to any adjustment calculated in accordance with the terms of Schedule 4 (Payment, Performance and Incentivisation Mechanism).

3 COMPENSATION PAYABLE ON TERMINATION FOR AUTHORITY DEFAULT OR TERMINATION DUE TO THE EXERCISE OF THE AUTHORITY VOLUNTARY TERMINATION RIGHT

3.1 On termination of the Contract by the Contractor pursuant to Clause 57 (Termination for Authority Default) or termination of the Contract by the Authority pursuant to Clause 59 (Authority Voluntary Termination Right), the Termination Compensation payable by the Authority to the Contractor shall be an amount equal to:

- (a) the cost of any materials or goods ordered, or Sub-Contracts placed, by the Contractor prior to the date of the Termination Notice that cannot be cancelled without losses being incurred;
- (b) any Sub-Contractor breakage costs subject to Paragraph 3.2 below;
- (c) the cost of early demobilisation incurred by the Contractor, including the relocation of equipment or assets used in connection with the Contract;
- (d) the cost of any redundancy payments made to the Contractor's employees that have been made redundant as a direct result of the termination of the Contract by the pursuant to Clause 57 (Termination for Authority Default) or Clause 59 (Authority Voluntary Termination Right);
- (e) the unrecovered profit for the Contract Term, discounted back to Termination Date; and
- (f) capital expenditure (including milestone payments) incurred by the Contractor (including to a Key Sub-Contractor, where applicable) in accordance with the Financial Model (and the terms of the relevant Key Sub-Contract, where applicable) which has not been recovered by the Contractor as at the Termination Date provided that, had the Contract not been terminated, such payments would have been recoverable in accordance with the terms of Schedule 4 (Payment, Performance and Incentivisation Mechanism),

subject to the Contractor taking all reasonable steps to mitigate its losses, and the Contractor submitting a fully itemised and costed list of its losses, with supporting evidence, reasonably and actually incurred by the Contractor as a result of the termination of the Contract pursuant to Clause 57 (Termination for Authority Default) or Clause 59 (Authority Voluntary Termination Right).

3.2 The Contractor shall be entitled to Sub-Contractor breakage costs pursuant to Paragraph 3.1(b) above only in respect of those Sub-Contracts which are not assigned or novated to a Replacement Contractor at the request of the Authority in accordance with Schedule 21 (Exit Management) and where the Contractor can demonstrate that such Sub-Contracts:

- (i) are surplus to the Contractor's requirements after the Termination Date, whether in relation to use internally within its business or in providing services to any of its other customers; and

- (ii) have been entered into by it in the ordinary course of business.

4 COMPENSATION PAYABLE FOR TERMINATION FOR PROHIBITED ACTS

- 4.1 On termination of the Contract by the Authority pursuant to Clause 58 (Termination for Prohibited Acts), the Termination Compensation payable by the Contractor to the Authority shall be an amount equal to:
- (a) those costs and expenses set out in Paragraphs 2.1(a) to 2.1(f) (inclusive) above;
 - (b) the amount or value of any such gift, consideration and commission resulting in termination of the Contract pursuant to Clause 58 (Termination for Prohibited Acts); and
 - (c) the amount of any other loss sustained in consequence of, or in relation to, any Prohibited Act by the Contractor which has resulted in the termination of the Contract pursuant to Clause 58 (Termination for Prohibited Acts).

5 FULL AND FINAL SETTLEMENT

- 5.1 Any Termination Compensation paid under this Schedule 20 (Compensation on Termination) shall be in full and final settlement of any claim, demand and/or proceedings of the Contractor in relation to any termination of the Contract by the Authority pursuant to Clauses 56 (Termination for Contractor Default), 58 (Termination for Prohibited Acts) and 59 (Authority Voluntary Termination Right) or termination of the Contract by the Contractor pursuant to Clause 57 (Termination for Authority Default) (as applicable), and the Contractor shall be excluded from all other rights and remedies it would otherwise have been entitled to in respect of any such termination.

6 PAYMENT OF TERMINATION COMPENSATION

- 6.1 Any Termination Compensation payable by the Authority in accordance with this Schedule 20 (Compensation on Termination) shall be made by the Authority following receipt of a valid invoice from the Contractor and in accordance with the payment terms set out in Clause 20 (Payment and Recovery of Sums Due) of the Contract.
- 6.2 Any Termination Compensation payable by the Contractor in accordance with this Schedule 20 (Compensation on Termination) shall be made by the Contractor within thirty (30) calendar days of receipt of a valid invoice from the Authority.

7 NO DOUBLE RECOVERY

- 7.1 Any Termination Compensation that would be payable by the Authority pursuant to this Schedule 20 (Compensation on Termination) shall be reduced or extinguished to the extent that the Contractor has already received the financial benefit through the payment of the Charges or any of its other rights or remedies under this Contract (including any insurance payments received by the Contractor), to ensure that in calculating the Termination Compensation there is no double recovery.

- 7.2 Any Termination Compensation made by the Contractor shall not limit, exclude or be in settlement of any rights of the Authority, arising out of or in connection with any of the Project Documents or otherwise, provided that the Authority shall not be entitled to recover a sum more than once from the Contractor in respect of the same loss.

8 PAYMENTS FOR ASSETS

- 8.1 Any payments that are due in respect of the Assets that the Authority requires to be transferred to the Authority and/or a Replacement Contractor pursuant to Schedule 21 (Exit Management) shall be calculated and paid in accordance with Schedule 21 (Exit Management) and the provisions of this Schedule 20 (Compensation on Termination) shall not apply to such payments.