

TRADER SUPPORT SERVICE

SCHEDULE 7.5

FINANCIAL REPORTS AND AUDIT RIGHTS

Financial Reports and Audit Rights

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Audit Agents”	<ul style="list-style-type: none">(a) the Authority’s internal and external auditors;(b) the Authority’s statutory or regulatory auditors;(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;(d) HM Treasury or the Cabinet Office;(e) any party formally appointed by the Authority to carry out audit or similar review functions provided always that such is not a direct competitor of the Supplier; and(f) successors or assigns of any of the above;
“Contract Amendment Report”	the contract amendment report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;
“Financial Model”	the Contract Inception Report, as updated by any Financial Report;
“Financial Reports”	the Contract Inception Report and the reports listed in the table in Paragraph 1.1 of Part B;
“Financial Representative”	a reasonably skilled and experienced member of the Supplier’s staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the Open Book Data and Financial Reports;
“Financial Transparency Objectives”	has the meaning given in Paragraph 1 of Part A;
“Material Change”	<p>a Change which:</p> <ul style="list-style-type: none">(a) materially changes the profile of the Charges; or(b) varies the total Charges payable during the Term (as forecast in the latest Financial Model) by:

(i) ■% or more; or

(ii) £■ or more;

“Open Book Data”

the complete and accurate financial information set out in the latest approved version of the Financial Model;

“Re-baselining Report”

the re-baselining report to be provided by the Supplier to the Authority pursuant to Paragraph 1 of Part B;

“Regulatory Audit”

has the meaning given to it in paragraph 1.2 of Part C; and

“Regulatory Authorities”

all governmental, statutory or regulatory bodies and any other competent authorities or entities in any jurisdiction having responsibility for the regulation or governance of the Authority, the Services or the activities which are comprised in all or some of the Services or the use or application of the output from any part of the Services, and **“Regulatory Authority”** means any of them.

PART A: FINANCIAL TRANSPARENCY OBJECTIVES AND OPEN BOOK DATA

1 FINANCIAL TRANSPARENCY OBJECTIVES

1.1 The Supplier acknowledges that the provisions of this Schedule are designed (inter alia) to facilitate, and the Supplier shall co-operate with the Authority in order to achieve, the following objectives:

(a) **Understanding the Charges**

- (i) for the Authority to understand any payment sought from it by the Supplier including an analysis of the Costs, Overhead recoveries (where relevant), time spent by directors, officers, agents, consultants, contractors or employees of the Supplier in providing the Services (where applicable) and the Supplier Gross Margin;
- (ii) for both Parties to be able to understand the Financial Model and Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
- (iii) not used;

(b) **Agreeing the impact of Change**

- (i) for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Supplier's Charges;
- (ii) for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

(c) **Continuous improvement**

- (i) for the Parties to challenge each other with ideas for efficiency and improvements; and
- (ii) to enable the Authority to demonstrate that it is achieving value for money for the tax payer relative to current market prices,

(together the "**Financial Transparency Objectives**").

1.2 Without prejudice to the Supplier's compliance with its obligations pursuant to Clause 8 (Services Improvement), the Parties agree that the provision by the Supplier to the Authority of the Financial Model along with the discussion and updates to such in accordance with Part B of this Schedule 7.5 will satisfy the Supplier's obligations pursuant to paragraph 1.1 of this Part A. If, at any stage during the Term, the Authority believes that the Financial Model (and the procedures with regards to the updating of such) is insufficient to satisfy the requirements of paragraph 1.1 of this Part A then the Authority shall notify the Supplier and the Parties shall discuss to try and agree if the

Supplier will provide any further transparency, subject always to Paragraph 1.12 of Part E of Schedule 7.1 (Charges and Invoicing).

2 OPEN BOOK DATA

- 2.1 The Supplier acknowledges the importance to the Authority of the Financial Transparency Objectives and the Authority's need for complete transparency (in accordance with this Schedule 7.5 and subject always to paragraph 1.12 of Part E of Schedule 7.1 (Charges and Invoicing)) in the way in which the Charges are calculated.
- 2.2 Provided always that nothing in this Paragraph 2 shall require the Supplier to disclose or otherwise make available any information other than as set out at paragraph 3 of Part B of this Schedule 7.5 in respect of its Sub-contractors, during the Term, and for a period of 7 years following the end of the Term, the Supplier shall:
 - (a) maintain and retain the Open Book Data; and
 - (b) subject always to paragraph 1.12 of Part E of Schedule 7.1 (Charges and Invoicing), disclose to the Authority and/or the Audit Agents and allow the Authority and/or the Audit Agents access to the Open Book Data.
- 2.3 Notwithstanding any other provision of this Agreement, nothing in this Agreement, including this Schedule 7.5 shall require [REDACTED] (as a Key Sub-contractor of the Supplier) to disclose or provide access to any documents, records or information of any customer of [REDACTED] other than the Supplier, nor, without prejudice to the Clause 17 (Transfer and Licences granted by the Supplier), shall it require any access to any portion of the systems or software provided by [REDACTED] that could result in any third party having access to such documents, records or information.

PART B: FINANCIAL REPORTS

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1 PROVISION OF THE FINANCIAL REPORTS

- 1.1 The Supplier shall provide, subject always to Paragraph 1.4 of Part D of Schedule 7.1 (*Charges and Invoicing*), during the Term the following financial reports to the Authority, in the frequency specified below:

Financial Report	When to be provided	Software Package	Form of Report and content
Service Stabilisation Period Charge Report	In accordance with Paragraph 4.4 of Part B of Schedule 7.1 (<i>Charges and Reporting</i>), in respect of each Service Period during the Service Stabilisation Period	Microsoft Excel	Update to the Financial Model to be limited to an update of the Actual Incurred Costs over the immediately preceding Service Period
Re-Baselining Report	No later than the later of: (a) in the Service Period during the Service Stabilisation Period; or (b) if the Charging Model is not agreed by the end of the Service Period identified in (a), within 10 Working Days of agreement of the	Microsoft Excel	Update to the Financial Model to be limited to: (i) the Actual Incurred Costs over Service Stabilisation Period; and (ii) a revised forecast (including Costs, Supplier Gross Margin and volumes) for the remainder of the Initial Term.

	Charging Model)		
Annual Re-baselining Report	No later than in the Service Period immediately following each Re-Baselining Reference Date where a Revised Charging Model is agreed (or, if the Revised Charging Model is not agreed by the end of that Service Period, within 10 Working Days of agreement of the Revised Charging Model)	Microsoft Excel	Update the Financial Model to be limited to update of: (i) subject always to Paragraph 1.4 of Part D of Schedule 7.1 (<i>Charges and Invoicing</i>), the Actual Incurred Costs over the immediately preceding period of (of up to twelve months) prior to Re-Baselining Reference Date; and (ii) revised forecasts (including forecast Costs, forecast Supplier Gross Margin and forecast volumes) for the remainder of the Term
Contract Amendment Report	During: (a) the Stabilisation Period, within 10 Working Days of any Change being agreed between the Supplier and the Authority; and (b) during any other period during the Term, within 1 month of a Material Change being	Microsoft Excel	Update to the Financial Model to be limited to revised forecasts (including forecast Costs, forecast Supplier Gross Margin and forecast volumes) for the remainder of the Initial Term or if the update is being prepared during the Service Stabilisation Period, the Service Stabilisation Period or, if the update is being prepared during an Extension Period, the remainder of the Extension Period

	agreed between the Supplier and the Authority		
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- 1.2 The Supplier shall provide to the Authority the Financial Reports in the same software package (Microsoft Excel or Microsoft Word as indicated in Paragraph 1 of this Part B above), layout and format as the Financial Model.
- 1.3 A copy of each Financial Report shall be held by both the Authority and the Supplier.
- 1.4 Each Financial Report shall:
- (a) be completed by the Supplier using reasonable skill and care;
 - (b) incorporate and use the same financial terms as are used in this Agreement;
 - (c) quote all monetary values in pounds sterling; and
 - (d) quote all Costs as exclusive of any VAT.
- 1.5 Each Financial Report shall be certified 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 Financial Report), acting with express authority, as:
- (a) being accurate and not misleading;
 - (b) having been prepared in conformity with generally accepted accounting principles within the United Kingdom;
 - (c) being a true and fair reflection of the information included within the Supplier's management and statutory accounts; and
 - (d) compliant with the requirements of Paragraph 1.6 of this Part B.
- 1.6 The Supplier shall:
- (a) prepare each Financial Report using the same methodology as that used for the Contract Inception Report; and
 - (b) not have any other internal financial model in relation to the Services inconsistent with the Financial Model.
- 1.7 During the Term, and for a period of 18 months following the end of the Term, the Supplier shall make available the Financial Representative at reasonable times and on reasonable notice to answer any queries that the Authority may have on any of the Financial Reports and/or Open Book Data.
- 1.8 Following expiry of the Service Stabilisation Period, if the Supplier becomes aware of the occurrence, or the likelihood of the future occurrence, of an event which will or may have a material effect on the following:

- (a) the Costs incurred (or those forecast to be incurred) by the Supplier; and/or
- (b) the forecast Charges for the remainder of the Term,

the Supplier shall, as soon as practicable, notify the Authority in writing of the event in question detailing the actual or anticipated effect. For the avoidance of doubt, notifications provided in accordance with this Paragraph 1.8 of this Part B shall not have the effect of amending any provisions of this Agreement.

2 FINANCIAL MODEL

2.1 Following the delivery by the Supplier of any Financial Report (except for the Contract Inception Report and each Service Stabilisation Period Charge Report):

- (a) the Parties shall meet to discuss its contents within 5 Working Days of receipt (or such other period as the Parties (acting reasonably) shall agree). The Financial Representative shall attend the meeting;
- (b) the Supplier shall make appropriate Supplier Personnel and advisers available to discuss any variations between the relevant Financial Report and the immediately preceding Financial Report (or, where there is no preceding Financial Report, the Contract Inception Report) and to explain such variations to the satisfaction of the Authority. Without prejudice to the foregoing, if requested by the Authority prior to the meeting, the Supplier shall provide to the Authority in advance of the meeting:
 - (i) the variance between the latest Financial Model as updated and the previous version of the Financial Model (where available); and
 - (ii) the Supplier's explanation of and commentary on the reasons for the variances between the agreed versions of the Financial Model; and
- (c) the Authority (acting reasonably and in good faith) may within 10 Working Days of the meeting referred to in Paragraph 2.1(a) of this Part B notify the Supplier that:
 - (i) the relevant Financial Report contains errors or omissions in which event the Supplier shall make any necessary modifications to address any such errors or omissions; or
 - (ii) it would be beneficial for the Parties to have sight of further information in order to understand the updates to the relevant Financial Report, in which case the Parties will meet to discuss the Authority's request within 5 Working Days and, as soon as reasonably possible after the meeting, the Supplier will provide such additional information (if any) that the Parties have agreed will be provided. In exercising their respective rights and obligations under this paragraph, the

Parties will act reasonably and in good faith and in accordance with the partnering principles set out in Clause 4.12 (Partnering Principles).

- 2.2 Following delivery of the each Financial Report (except for the Contract Inception Report and each Service Stabilisation Period Charge Report which are effective as updates to the Financial Model from the date of delivery by the Supplier) that version shall become with effect from the agreement between the Parties (not to be unreasonably withheld or delayed), the current approved version of the Financial Model for the purposes of this Agreement, a version of which shall be held by both the Authority and the Supplier. Without prejudice to the foregoing, the Supplier shall make any amendments to the Financial Report:
- (a) which are agreed between the Parties in accordance with Paragraph 2.1(c) of this Part B; or
 - (b) which are required in order to correct any errors or omissions identified in accordance with Paragraph 2.1(c)(i) of this Part B.
- 2.3 If the Parties are unable to reach agreement on any Financial Report in accordance with Paragraph 2.2 of this Part B within 30 Working Days of its receipt by the Authority, the matter shall be referred for determination in accordance with Schedule 8.3 (*Dispute Resolution Procedure*).
- 2.4 For the avoidance of doubt, nothing in this Part B of Schedule 7.5 (Financial Reports and Audit) shall limit or prevent the Supplier from invoicing for any Charges or amounts that accrue or become due in accordance with any charging model or mechanism in accordance with Schedule 7.1 (*Charges and Invoicing*).

3 KEY SUB CONTRACTORS

- 3.1 The Supplier shall ensure that that the Financial Model includes the level of information set out in paragraph 1.2 of Part D of Schedule 7.1 (Charges and Invoicing) in relation to its Key Sub-contractors.

PART C: AUDIT RIGHTS

1 AUDIT RIGHTS

- 1.1 Subject to paragraph 2.7 of this Part C and paragraph 1.12 of Part E of Schedule 7.1 (*Charges and Invoicing*), the Authority, acting by itself or through its Audit Agents, shall have the right during the Term and for a period of 18 months thereafter, to assess compliance by the Supplier and/or its Key Sub-contractors with the Supplier's obligations under this Agreement, including for the following purposes:
- (a) to verify the integrity and content of any Financial Report;
 - (b) to verify the accuracy of the Charges and any other amounts payable by the Authority under this Agreement (and proposed or actual variations to such Charges and payments);
 - (c) to verify the Costs (including the amounts paid by Supplier to all Sub-contractors and any third party suppliers);
 - (d) to verify the Open Book Data;
 - (e) to verify the Supplier's and each Key Sub-contractor's compliance with this Agreement and applicable Law;
 - (f) to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
 - (g) to identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Key Sub-contractors or their ability to perform the Services;
 - (h) to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
 - (i) to review any books of account and the internal contract management accounts kept by the Supplier in connection with this Agreement;
 - (j) to carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
 - (k) to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;

- (l) to verify the accuracy and completeness of any information falling within limbs (b) and (c) of the Management Information which has been delivered or is required by this Agreement;
- (m) to review any Performance Monitoring Reports and/or other records relating to the Supplier's performance of the Services and to verify that these reflect the Supplier's own internal reports and records;
- (n) to inspect the IT Environment (or any part of it) and the wider service delivery environment (or any part of it);
- (o) to review the accuracy and completeness of the Registers;
- (p) subject always to Paragraph 2.3 of Part A, to review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
- (q) to review the Supplier's quality management systems (including all relevant Quality Plans and any quality manuals and procedures);
- (r) to review the Supplier's compliance with the Standards;
- (s) to inspect the Authority Assets, including the Authority's IPRs, equipment and facilities, for the purposes of ensuring that the Authority Assets are secure and that any register of assets is up to date; and/or
- (t) to review the integrity, confidentiality and security of the Authority Data.

1.2 Except where an audit is imposed on the Authority by a Regulatory Authority (a "**Regulatory Audit**") or where the Authority has reasonable grounds for believing that the Supplier has not complied with its obligations under this Agreement, the Authority may not conduct an audit of:

- (a) [REDACTED], more than once in any Contract Year; and
- (b) the Supplier or of any of the other Key Sub-contractors, in respect of the same Key Sub-Contractors more than twice in any Contract Year.

1.3 subject always to Paragraph 2.3 of Part A, nothing in this Agreement shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of the Key Sub-contractors for the purposes of and pursuant to applicable Law.

2 CONDUCT OF AUDITS

2.1 The Authority shall during each audit:

- 2.1.1 comply with those security, sites, systems and facilities operating procedures of the Supplier that are reasonable and are notified to the Authority by the Supplier; and
- 2.1.2 ensure that the conduct of each audit does not unreasonably disrupt the Supplier's business operations or the Services or delay the provision of the Services
- 2.2 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Authority and the Audit Agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Key Sub-contractors) in relation to each audit, including:
 - (a) all information requested by the Authority within the permitted scope of the audit (except for that, in respect of [REDACTED], any such information requested must be reasonable);
 - (b) reasonable access to any Sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - (c) access to the Supplier System (except for access to any elements of the Supplier System provided or supported by [REDACTED] shall not be provided); and
 - (d) access to Supplier Personnel.
- 2.3 The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Services against the applicable Performance Indicators at a level of detail sufficient to verify compliance with the Performance Indicators.
- 2.4 The Authority shall provide at least 15 Working Days' notice of its intention to conduct an audit unless:
 - 2.4.1 such audit is:
 - (a) a Regulatory Audit; and/or
 - (b) conducted as a result of the Authority having reasonable grounds to believe that the Supplier has not complied with its obligations under this Agreement;

in which event the Authority shall provide use reasonable endeavours to provide as much notice of the audit as possible; or
 - 2.4.2 such audit is conducted in respect of a suspected fraud or suspected security incident, in which event no notice will be required; or
 - 2.4.3 such audit relates to or involves access to any systems or any other involvement of [REDACTED], in which case 20 Working Days notice shall be required.

- 2.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 2 of this Part C, unless the audit identifies a material Default by the Supplier in which case the Supplier shall reimburse the Authority for all the Authority's reasonable costs incurred in connection with the audit.
- 2.6 If the Authority notifies the Supplier of its intention to audit as set out in Paragraph 2.4 of this Part C, the Authority shall, within 5 days of providing such notice, provide the Supplier with the following details:
- (a) the reason for and purpose of the audit;
 - (b) the proposed scope of the audit;
 - (c) a proposed timetable for the audit (including the date on which the audit is proposed to commence and the duration of the audit);
 - (d) a description of the information that the Authority requires from the Supplier;
 - (e) the proposed Audit Agent; and
 - (f) a description of the proposed audit methodology to be used to fulfil the purpose of the audit,
- (together, the “**Audit Information**”).
- 2.7 The Supplier (acting reasonably) shall notify the Authority of any comments it has on the Audit Information as soon as reasonably practicable (acting reasonably) and in any event within five (5) Working Days following receipt of the Audit Information. The Authority (acting reasonably) will (and will procure that its Audit Agents will) take the Supplier's comments into account in its conduct of the audit.

3 USE OF SUPPLIER'S INTERNAL AUDIT TEAM

- 3.1 As an alternative to the Authority's right pursuant to Paragraph 1.1 of this Part C to exercise an audit either itself or through its Audit Agents, the Authority may require in writing that an audit is undertaken by the Supplier's own internal audit function for any of the purposes set out in Paragraph 1.1 of this Part C provided always that the Supplier shall be entitled to charge the Authority in respect of its conduct of the audit (such charges to be calculated on a Time and Materials Basis provided always that the Supplier shall provide an estimate to the Authority in advance and, when agreed, such estimate shall not be exceeded without further agreement of the Authority in advance) and the Supplier shall be entitled to invoice the Authority for and the Authority shall pay such Charges in accordance with Schedule 7.1 (*Charges and Invoicing*). For the avoidance of doubt, in the event that any estimate is exceeded in accordance with this Paragraph 3.1 of this Part C, the Supplier shall not be required or obliged to conduct any further audit activities pursuant to this Paragraph 3 of this Part C unless and until a revised estimate allowing the Supplier to charge for such activities on a Time and Materials Basis has been agreed between the Parties.

3.2 Following the receipt of a request from the Authority under Paragraph 3.1 of this Part C above, the Supplier shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Authority has unfettered access to:

- (a) the resultant audit reports; and
- (b) all relevant members of the Supplier's internal audit team for the purpose of understanding such audit reports.

4 RESPONSE TO AUDITS

4.1 If an audit undertaken pursuant to paragraphs 1 or 3 of this Part C identifies that:

- (a) the Supplier has committed a Default, the Authority may (without prejudice to any rights and remedies the Authority may have) require the Supplier to correct such Default as soon as reasonably practicable and, if such Default constitutes a Notifiable Default, to comply with the Rectification Plan Process;
- (b) there is an error in a Financial Report, the Supplier shall promptly rectify the error;
- (c) the Authority has overpaid any Charges, the Supplier shall pay to the Authority:
 - (i) the amount overpaid;
 - (ii) interest on the amount overpaid at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the date of the audit report identifying the overpayment by the Authority up to the date of repayment by the Supplier; and
 - (iii) the reasonable costs incurred by the Authority in undertaking the audit,the Authority may exercise its right to deduct such amount from the Charges if it prefers; and
- (d) the Authority has underpaid any Charges, the Authority shall pay to the Supplier:
 - (i) the amount underpaid; and
 - (ii) if applicable, interest on the amount underpaid in accordance with Clause 10.3 (*Charges and Invoicing*).