

SCHEDULE 5.3

AUDIT RIGHTS

1. PART A: AUDIT RIGHTS

- 1.1 Ofwat, 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 Delivery Partner and/or its Sub-contractors with the Delivery Partner's obligations under this Agreement, including for the following purposes:
- 1.1.1 to verify the accuracy of the Charges, Reimbursable Expenses and any other amounts payable by Ofwat under this Agreement (and proposed or actual variations to such Charges, Reimbursable Expenses and payments);
 - 1.1.2 to verify the Delivery Partner's and each Sub-contractor's compliance with this Agreement and applicable Law;
 - 1.1.3 to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances Ofwat shall have no obligation to inform the Delivery Partner of the purpose or objective of its investigations;
 - 1.1.4 to identify or investigate any circumstances which may impact upon the financial stability of the Delivery Partner and/or any Sub-contractors or their ability to perform the Services;
 - 1.1.5 to obtain such information as is necessary to fulfil Ofwat's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
 - 1.1.6 to review any books of account and the internal contract management accounts kept by the Delivery Partner in connection with this Agreement;
 - 1.1.7 to carry out Ofwat's internal and statutory audits and to prepare, examine and/or certify Ofwat's annual and interim reports and accounts;
 - 1.1.8 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 Ofwat has used its resources;
 - 1.1.9 to review any reports and records relating to the Delivery Partner's performance of the Services and to verify that these reflect the Delivery Partner's own internal reports and records;
 - 1.1.10 to review the Delivery Partner's compliance with the Policies; and
 - 1.1.11 to review the integrity, confidentiality and security of Ofwat Data.
- 1.2 Except where an audit is imposed on Ofwat by a regulatory body or where Ofwat has reasonable grounds for believing that the Delivery Partner has not complied with its obligations under this Agreement, Ofwat may not conduct an audit of the Delivery Partner or of the same Sub-contractor more than twice in any Contract Year.
- 1.3 Nothing in this Agreement shall prevent or restrict the rights of the Comptroller and Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Delivery Partner and/or any of the Sub-contractors for the purposes of and pursuant to applicable Law.

2. CONDUCT OF AUDITS

- 2.1 Ofwat shall during each audit comply with those security, sites, systems and facilities operating procedures of the Delivery Partner that Ofwat deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Delivery Partner or delay the provision of the Services.
- 2.2 Subject to Ofwat's obligations of confidentiality, the Delivery Partner shall on demand provide Ofwat and the Audit Agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-contractors) in relation to each audit, including:
- 2.2.1 all information requested by Ofwat within the permitted scope of the audit;
 - 2.2.2 reasonable access to any of the Delivery Partner's premises or any third party premises from which the Services are (or are to be) provided and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - 2.2.3 access to the Delivery Partner System; and
 - 2.2.4 access to Delivery Partner Personnel.
- 2.3 The Delivery Partner shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Delivery Partner's performance of the Services.
- 2.4 Ofwat shall endeavour to (but is not obliged to) provide at least 15 Working Days' notice of its intention to conduct an audit.
- 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, unless the audit identifies a material Default by the Delivery Partner in which case the Delivery Partner shall reimburse Ofwat for all Ofwat's reasonable costs incurred in connection with the audit.

3. USE OF DELIVERY PARTNER'S INTERNAL AUDIT TEAM

- 3.1 As an alternative to Ofwat's right pursuant to Paragraph 1.1 to conduct an audit either itself or through its Audit Agents, Ofwat may require in writing that an audit is undertaken by the Delivery Partner's own internal auditors (at the Delivery Partner's own cost and provided such internal auditors are independent of the Delivery Partner) for any of the purposes set out in Paragraph 1.1.
- 3.2 Following the receipt of a request from Ofwat under Paragraph 3.1 above, the Delivery Partner shall procure that the relevant audit is undertaken as soon as reasonably practicable and that Ofwat has unfettered access to:
- 3.2.1 the resultant audit reports; and
 - 3.2.2 all relevant members of the Delivery Partner's internal audit team for the purpose of understanding such audit reports.

4. RESPONSE TO AUDITS

- 4.1 If an audit undertaken pursuant to Paragraph 1 or 3 identifies that:
- 4.1.1 the Delivery Partner has committed a Default, Ofwat may (without prejudice to any rights and remedies Ofwat may have) require the Delivery Partner to

correct such Default in accordance with the procedure set out at Clause 29 (Remedies);

4.1.2 Ofwat has overpaid any Charges or Reimbursable Expenses, the Delivery Partner shall pay to Ofwat:

- (a) the amount overpaid;
- (b) 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 overpayment by Ofwat up to the date of repayment by the Delivery Partner; and
- (c) the reasonable costs incurred by Ofwat in undertaking the audit,

and Ofwat may exercise its right to deduct such amount from the Charges or Reimbursable Expenses if it prefers; and

4.1.3 Ofwat has underpaid any Charges or Reimbursable Expenses, the Delivery Partner shall not be entitled to increase the Charges or Reimbursable Expenses paid or payable by Ofwat.