**SCHEDULE 11**

**PRICING AND PAYMENT PROVISIONS**

1. Contract Price

## Pricing in relation to the Services delivered by the Contractor will operate in accordance with the following principles and pursuant to the other provisions set out in this Schedule:

a. The negotiated Contract Price for Year 1 of the Term, from 01/07/2022 through to 31/12/2022is a Firm Price. Pricing is Fixed thereafter, subject to annual VOP adjustment.

b. The negotiated Contract Price for Year 1 post 01/01/2023, 2, 3 of the Term and Option Years 4, 5 and 6 shall be determined by reference to 2022 economic conditions and is therefore subject to Annual indexation escalation at the start of each year, as per paragraph 13 of this Schedule.

1.2 The total three-year Contract Price and the pricing for Options Years 1, 2 and 3 are broken down into annual prices. The annual pricing is comprised of monthly Availability Fees and Performance Fees. The overall Contract Price can be reduced by the application of Third-Party Revenue Credits in line with the provisions of Schedule 14 of this Contract and can be adjusted by the application of Performance Profit Adjustments in line with provisions of Condition 11 below.

1.3 In accordance with Schedule 14 (Third-Party Revenue), Third-Party Revenue Credits shall be credited to the Authority annually following each annual review of the operation of the Contract. Fuel Fees, Ad Hoc Detachment Fees, Regular Detachment Fees and Miscellaneous Fees, are not included in the core Contract Price.

1.4 The Contract Price may only be varied if a Change is agreed and/or, under certain circumstances, if the Change in Law provisions of the Contract are applied and the Authority elects to pay for such changes by adjusting the Service Payments rather than paying a lump sum.

1.5 The Contractor will make its best endeavours to introduce 'no cost' options and enhancements under the Change Procedure for no increase in the Contract Price.

**2. Firm and Fixed Pricing**

## 2.1 The Contract Price comprises an Availability Fee element and a Performance Fee element set out in more detail at paragraphs 4 and 5 respectively below. The Contract Price excludes the following elements of Service Payments which shall be paid to the Contractor in accordance with the terms contained in this Schedule 11:

a. Fuel Fees

b. Ad Hoc Detachment Fees

c. Regular Detachments

d. Miscellaneous Fees

and does not include any allowance for Service Payment credits due to the Authority from time to time for:

e. Third Party Revenue Credits

## 2.2 The Contract Price (excluding VAT) for the three (3) Core Year period and three (3) Option Year Period is set out in Schedule 11A. The Contract Price is broken down into Service Payments which are set out in detail at paragraph 3 below.

**3. Service Payments**

## 3.1 The Contractor shall be entitled to be paid the Service Payments in respect of each Contract Month subject to, and in accordance with, the provisions of the Contract. The Service Payments shall be calculated in accordance with paragraph 3.2 below.

## 3.2 Calculation of the Service Payment in respect of each Contract Month

|  |  |  |
| --- | --- | --- |
| Service Payment | = | (A+P+H+R+F+M) - (T) |
| A | = | the Availability Fee (as per paragraph 4 below) |
| P | = | the Performance Fee (including any lump sum element calculated in accordance with paragraph 5 below). |
| H | = | the Ad Hoc Tasks Fee (as per paragraph 6 below) |
| R | = | the Regular Detachments Fee (as per paragraph 7 below) |
| F | = | the Fuel Fee (as per paragraph 8 below) |
| T | = | the Third Party Revenue Credits (as per paragraph 9 below) |
| M | = | the Miscellaneous Fees agreed as per paragraph 10 below) |

*T Note:*

### it is possible that T could be zero in most Contract Months with a sum being inserted following the outcome of annual reviews.

# 4. Availability Fee

4.1 This fee is 'A' for the purposes of the Service Payment element set out at paragraph 3.2 above and consists of the costs required to provide and maintain the Service. The Availability Fee for each Contract Year is detailed in Schedule 11A; This sum is then dividing by twelve (12) to obtain the fee for each calendar month in that Contract Year. For the avoidance of doubt, the Availability Fee shall include all maintenance and repair costs necessary for the Contractor to deliver the Services to a safe and satisfactory standard.

## 4.2 The Availability Fee shall be paid by the Authority monthly in arrears.

## 4.3 The Services delivered shall be subject to the terms and conditions in Schedule 12 - Key Performance Indicators.

# 5. Performance Fee

## 5.1 This Fee is 'P' for the purposes of the Service Payment set out at paragraph 3.2 above and this is the annual cost to perform the Service. The annual Performance Fee is set out in Schedule 11A.

## 5.2 The Performance Fee for a given Contract Year shall be divided by 2000 flying hours to give a rate per flying hour. Flying hours shall be measured on a 'chock to chock' basis. The number of flying hours for a given mission ordered by the Authority shall be multiplied by the rate per flying hour to give a Performance Fee for that mission.

5.3 The Performance Fee shall be paid by the Authority monthly in arrears.

## 5.4 There shall be no pre-determined number of flying hours and the Authority shall only pay the Contractor the Performance Fee based on the Performance Fee rate per flying hour multiplied by the number of flying hours actually consumed, regardless of whether the number of flying hours is less or more than 2000 hours.

## 5.5 The Contractor accepts the Authority's right to exceed 2000 flying hours outlined in this Condition 5 (flying hours in excess of 2000 flying hours, “Overfly Hours”). Overfly Hours will be provided by the Contractor on a reasonable endeavours basis, up to a maximum of 400 Overfly Hours per annum, with the following provisos:

a. Any Overfly Hours cannot be notified and consumed late in the Contract Year. It has to be consumed on a linear basis;

b. Any Overfly Hours must be balanced between specific roles, in line with contracted Simultaneous Maxima, as outlined in Schedule 9 of this Contract.

c. The rate payable by the Authority for the Overfly Hours incurred in line with this Condition shall be the applicable hourly Performance Fee in the relevant Contract Year in which the overfly hours are incurred.

## 5.6 Unless otherwise agreed in writing between the Parties, the Contractor shall not be contractually obliged to deliver any more than 2400 flying hours in each Contract Year.

# 6. Ad Hoc Tasks

## 6.1 This fee is 'H' for the purposes of the Service Payment element set out at paragraph 3.2 above. Apart from a Performance Fee for the number of flying hours flown on an Ad Hoc Task, and subject to paragraph 6.4 below, the only costs which the Authority shall accept as a result of the performance of Ad Hoc Tasks shall be Miscellaneous Fees which the Contractor necessarily and unavoidably incurs with the prior approval of the Designated Officer in accordance with Clause 10 below.

## 6.2 The Contractor shall, as a direct obligation, operate in such a way as to keep the cost for Ad Hoc Tasks to the minimum necessary for the efficient performance of the Ad Hoc Tasks. The Authority shall be entitled to request evidence from the Contractor relating to this and the Contactor shall provide such evidence within 10 Business Days.

## 6.3 Claims for payment may only be submitted after the Contractor has performed the Ad Hoc Task requirements. Receipts for expenses incurred on Ad Hoc Tasks are to be provided to the Designated Officer together with any other documentary evidence that the Designated Officer shall require and shall accompany the Contractor's claim for reimbursement of expenses. If no claim for reimbursement of expenses incurred on Ad Hoc Tasks is delivered to the Designated Officer within six (6) months of the date of completion of the Ad Hoc Task, then the Authority shall not be under any obligation to pay a late claim.

## 6.4 Any labour costs of Ad Hoc Tasks not otherwise contained within the Availability Fee and Performance Fee shall be calculated and charged in accordance with an agreed menu of labour rates, to be included as part of a future amendment.

## 6.5 Unless stated to the contrary (i.e. for overseas subsistence claims), in addition to the claim for expenses incurred on Ad Hoc Tasks, the Contractor shall be entitled to claim sums in respect of general and administrative overheads and profit at the rates applicable in the Contract.

# 7. Regular Detachments

## 7.1 This fee is 'R' for the purposes of the Service Payment element set out at paragraph 3.2 above. Apart from a Performance Fee for the number of flying hours flown on a Regular Detachment, the only costs which the Authority shall accept as a result of the performance of Regular Detachments shall be locally incurred Miscellaneous Fees which the Contractor necessarily and unavoidably incurs with the prior approval of the Designated Officer in accordance with Clause 10 below.

## 7.2 The Contractor shall, as a direct obligation, operate in such a way as to keep the bills for Regular Detachments to the absolute minimum for the efficient performance of the Regular Detachments. The Authority shall be entitled to request evidence from the Contractor relating to this and the Contactor shall provide such evidence within 10 Business Days.

## 7.3 Claims for payment may only be submitted after the Contractor has performed the Regular Detachment requirements. Receipts for expenses incurred on Regular Detachments are to be provided to the Designated Officer together with any other documentary evidence that the Designated Officer shall require and shall accompany the Contractor's claim for reimbursement of expenses. If no claim for reimbursement of expenses incurred on Regular Detachments is delivered to the Designated Officer within six (6) months of the date of completion of the Regular Detachment, then the Authority shall not be under any obligation to pay a late claim.

## 7.4 In addition to the claim for expenses incurred on Regular Detachments, the Contractor shall be entitled to claim sums in respect of general and administrative overheads and profit at the rates applicable to the Agreement.

# 8. Fuel Fees

## 8.1 This fee is 'F' for the purposes of the Service Payment element set out at paragraph 3.2 above. The Contractor shall be responsible for providing aircraft fuel at its own operating bases (and other civil bases if unavoidably necessary) for aircraft used to deliver the Services required by this Contract and the Authority shall reimburse the Contractor, at cost, for all fuel used in the delivery of the Services during the Contract Term. The Contractor undertakes to:

## a. seek to obtain the best possible prices for fuel; and

## b. operate aircraft in such a way as to keep fuel bills to the minimum necessary for the safe and economic delivery of the Services.

## The Authority shall be entitled to request evidence from the Contractor relating to Clause 8.1(a) and Clause 8.1(b) and the Contactor shall provide such evidence within 10 Business Days.

## 8.2 The Authority and the Contractor agree to keep the provision of aircraft fuel under review and if it becomes clear to either Party that fuel can be provided more cheaply by other means then the Contractor will use its best endeavours to obtain the cheaper supply of aircraft fuel.

## 8.3 If the Authority provides the Contractor with fuel, at any of its military bases or otherwise, (“Authority Fuel”), then this will be on a free of charge basis. The Authority shall not make any payments (including general and administrative overheads and profit) for Authority Fuel. In the event that invoices are received for Authority Fuel shall either amend those invoices to remove the line relating to Authority Fuel or shall return such Authority Fuel, fully intact, to the appropriate airfield.

## 8.4 The Contractor shall account for all Authority Fuel to ensure that the Authority is not charged for such Authority Fuel. To effect this, the Contractor shall maintain a log of fuel consumed on Authority tasks and deduct from this the total Authority Fuel.

## 8.5 If Authority Fuel is used in whole or in part by the Contractor to perform Third Party Revenue work, then the Contractor shall pay the Authority for that fuel at the higher of the market rate or the rate at which the Authority purchased that fuel. No general and administrative overheads or profit shall be added to this cost. The credit shall be shown as a separate line item on the Authority's monthly fuel bill as "fuel supplied by MOD used on third party tasks".

## 8.6 The exchange rate for converting US Dollars into Pounds Sterling shall be the average of the daily mid-points of the market closing rate for US Dollars against Pounds Sterling in London under the heading 'Dollar Spot Forward against the Dollar' as quoted in the Financial Times newspaper for the month prior to the month of delivery. The rate applicable for any day on which no rate is published shall be the last published rate prior to the date of delivery.

## 8.7 The following conversion factors shall be used when determining all fuel charges:

1. Pounds (lbs) of fuel per litre = 1.75; and
2. Litres per metric tonne = 125l

## 8.8 All fuel, UK and overseas, which is not supplied free of charge by the Authority, shall be charged at cost incurred plus a 10% handling fee.

## 8.9 The Contractor shall claim for fuel used monthly in arrears and the claim shall be calculated in accordance with the provisions of this paragraph 8. Claims shall show all calculations done in accordance with paragraph 8 relevant to supporting the claim so that the Authority has a clear audit trail of how the fuel claim is constructed. In addition, the Contractor shall retain receipts for fuel and any other relevant documentary evidence and shall make these available to the Authority on request.

# 9. Third Party Revenue Credits

## 9.1 This is 'T' for the purposes of the Service Payment element set out at paragraph 3.2 above. Third Party Revenue Credits shall be calculated and paid to the Authority in accordance with the provisions of Schedule 14 (Third-Party Revenue).

## 9.2 Payment of Third-Party Revenue Credits to the Authority shall take place in the month following the completion of each Annual Review of the Contract.

## 9.3 Payment shall be by means of a reduction in the Service Payment which the Contractor claims.

## 9.4 At the end of each Contract quarter, in each Quarterly Progress Report, and before the Annual Review of the operation of the Contract, in the Annual Performance Report, the Contractor shall provide to the Designated Officer (copy to the Air Commercial Team) a statement showing provisional Third Party Revenue Credits due to the Authority in the Contract Year.

# 10. Miscellaneous Fees

## 10.1 This fee is 'M' for the purposes of the Service Payment element set out at paragraph 3.2 above. The Contractor may claim the following fees or expenses only when tasked on detachments ordered by the Authority. In each case and for each detachment, the Contractor shall submit its proposals in relation to the fees / expenses to the Designated Officer for approval prior to the detachment commencing, including such evidence as the Designated Officer may require that the Contractor has obtained the best possible price for the relevant service or expense. The Designated Officer may approve or reject any Miscellaneous Fees proposal and may put forward an alternative for any miscellaneous requirement of the Contractor and the Contractor shall accept this alternative, provided it fulfils the Contractor’s needs. The Contractor may claim for fees / expenses actually incurred as provided for under this Schedule and as approved by the Designated Officer after the detachment has been completed. The Authority will recompense the Contractor for the actual bills incurred, at cost, upon production of receipts and any other documentary evidence that the Authority may request from the Contractor.

a. **Hotel Expenses**. The Contractor shall book hotels within a budget of ninety pounds (£90) per person for bed & breakfast. If this is not reasonably possible, the Contractor shall make hotel arrangements which cost as close as possible to £90 and the Authority will pay the actual hotel bed and breakfast bill. For overseas detachments the same ninety (£90) budget shall be used.

b. **Subsistence Allowance**. The Contractor may claim the fixed allowances for UK and overseas detachments as set out at <https://www.gov.uk/government/publications/scale-rate-expenses-payments-employee-travelling-outside-the-uk>. The Contractor agrees that no general and administrative overheads or profit shall be added to subsistence allowances for overseas detachments.

c. **Car Hire**. If the Contractor requires hire car facilities on a detachment, it shall book the most cost-effective hire cars arrangements. Fuel charged tor the hire period shall also be reimbursed. Hire cars shall only be used for official purposes relating to the detachment tasks and the Authority shall not be liable for any fees, insurances, fuel charges or any other costs relating to any private hire use by the Contractor (which shall be arranged at the Contractor's sole risk and for which the Contractor hereby indemnifies the Authority from all claims, fees, charges and liability). The Contractor shall maintain comprehensive insurance cover for its staff to cover all aspects of car hire.

Any excess charges shall be at the sole risk of the Contractor. The Contractor shall be entirely responsible for dealing with any insurance claims resulting from such hires, and other than reimbursing the cost of the car hire and related fuel charges, all other costs which may arise from a hire shall be borne by the Contractor.

d. **Air Freighting**. If the Contractor requires air freighting services for a detachment, it shall submit its proposals to the Designated Officer for approval. If approved, the Contractor shall book the most cost-effective air-freight arrangement.

e. **Miscellaneous Expenses**. If the Contractor necessarily and unavoidably requires other items or services on a detachment which are not included in the Contract Price for the Services, it shall put its proposal to the Designated Officer. If approved, the Contractor shall order the most cost-effective services.

f. **MOD Mess Accommodation**. If the Authority requires the Contractor's staff to use Mess accommodation, the Contractor shall submit its claim for Mess accommodation expenses after the detachment has been completed.

## g. **Euro Control Charges.** The Contractor may claim for the reimbursement of unavoidable Euro Control charges incurred in performing the delivery of the Service. Claims shall be submitted to the Designated Officer in arrears and shall show details of how the charges have been constructed and applied in relation to missions ordered by the Authority. The Authority will recompense the Contractor for the actual bills incurred on production of receipts for the Euro Control charges incurred.

11. **Performance Profit Adjustment Application**

11.1 As stated in Schedule 12 (Key Performance Indicators), the average Performance Rating for the current Contract Year shall be agreed at the Annual Performance Review, as per Schedule 10 (Governance), and shall be used to determine the Performance Profit Adjustment to be applied to that relevant Contract Year. The Profit Rate adjustment to be applied to the relevant Contract Year shall only be applied to those costs identified within Schedule 11A where profit has been applied and shall be enacted by an adjustment to the profit rate by the applicable value as determined by the average Annual Performance Rating.

12. **Contract Profit Rate**

12.1 The Contract Profit Rate shall be determined by following six steps as laid down at Regulation 11 of the Single Source Contract Regulations 2014. This is detailed in Schedule 11A. These are:

a. Step 1. Baseline Profit Rate

b. Step 2. Cost Risk Adjustment

c. Step 3. Profit on Cost Once (POCO) Adjustment

d. Step 4. Single Source Regulations Office (SSRO) Funding Adjustment

e. Step 5. Incentive Adjustment

f. Step 6. Capital Servicing Adjustment

13. **Variation of Price**

13.1 The prices stated in the Schedule 11A are FIRM up to 31/12/2022 then FIXED thereafter at 2022 economic conditions.. Pricing shall be subject to annual VOP adjustment commencing on 01 January 2023. The prices do not include provision beyond this date for increases in the market price of the Articles being purchased. Any such variation shall be calculated in accordance with the following formula:

V = P (a+b (Oi/O0)) - P

*Where:*

V represents the variation of price

P represents the FIXED price as stated in the Pricing Schedule

O represents the index CPI

O0 represents the average OUTPUT Price Index figure for the base period [..] to [..] (as above)

Oi represents the average OUTPUT Price Index figure for the period [..] to [..]

a represents the Non- Variable Element (NVE)

b represents the Variable Element

a+b=1

For the avoidance of doubt, there is no Non-Variable Element (NVE) within the Contract Price and therefore the entire Contract Price shall be subject to annual VOP adjustment in line with the CPI Index. To avoid any potential deflation in the Contract Price, the VOP adjusted price shall either be the Contract Price following CPI adjustment or the previous year’s Contract Price, whichever number is the greater.

13.2 Redacted Under FOIA Section 43

13.3 Indices published with a ‘B’ or ‘F’ marker, or a suppressed value, in the last 3 years are not valid for Variation of Price clauses and shall not be used. Where the price index has an ‘F’ marker or suppression applied to it during the term of the Contract, the Authority and the Contractor shall agree an appropriate replacement index or indices. The replacement index or indices shall cover, to the maximum extent possible, the same economic activities as the original index or indices.

13.4 In the event that any material changes are made to the indices (e.g. a revised statistical base date) during the period of the contract and before final adjustment of the final contract price, then the re-basing methodology outlined by the Office for National Statistics (ONS, the series providers) to match the original index to the new series shall be applied.

13.5 In the event the agreed index or indices cease to be published (e.g. because of a change in the Standard Industrial Classification) the Authority and the Contractor shall agree an appropriate replacement index or indices, which shall cover to the maximum extent possible the same economic activities as the original index or indices. The methodology outlined by the Office for National Statistics used for rebasing indices (as in Clause 13.4 above) shall then be applied.

13.6 Notwithstanding the above, any extant index / indices agreed in the Contract shall continue to be used as long as it is / they are available and subject to ONS revisions policy. Payments calculated using the extant index / indices during its / their currency shall not be amended retrospectively as a result of any change to the index or indices.

13.7 The Contractor shall notify the Authority of any significant changes in the purchasing / manufacturing plan on the basis of which these provisions were drawn up and agreed, or of any other factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both parties may consider whether any change in this provision would be appropriate.

13.8 Prices shall be adjusted taking into account the effect of the above formula as soon as possible after publication of the relevant indices or at a later date if so agreed between the Authority and the Contractor. Where an index value is subsequently amended, the Authority and the Contractor shall agree a fair and reasonable adjustment to the price, as necessary.

13.9 Claims under this Condition shall be submitted to the Bill Paying Branch, certified to the effect that the “requirements of this Clause 13” have been met.

14. **Redundancy**

Redacted Under FOIA Section 43

15. **RETENTION**

Redacted Under FOIA Section 43