

CONNECTIVITY CONSOLIDATED CONTRACT SCHEDULE

CONSOLIDATED SCHEDULE 13

PAYMENTS ON TERMINATION

for Contract Number DCNS/080

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## **CONSOLIDATED SCHEDULE 13**

### **PAYMENTS ON TERMINATION**

This Consolidated Schedule provides a consolidated version of Schedule 5.2 (*Payments on Termination*) of the Call-Off Terms and the Customer Authority's special terms relating to payments on termination.

Capitalised terms used but not defined in this Consolidated Schedule are defined in Consolidated Schedule 1 (*Definitions*).

#### **1 INTRODUCTION**

**1.1** This Consolidated Schedule to this Consolidated Contract sets out the calculation of the Termination Payment that may be paid by the Customer Authority to the Contractor in respect of termination of the Services pursuant to Clause 49 (*Payments Made on Termination*) of this Consolidated Contract.

**1.2** In particular, this Consolidated Schedule sets out provisions relating to:

- 1.2.1** termination payments payable (see Paragraph 2 below);
- 1.2.2** settlement of termination payments (see Paragraph 3 below);
- 1.2.3** calculation of termination payments (see Paragraph 4 below);
- 1.2.4** mitigation of termination payments (see Paragraph 5 below);
- 1.2.5** invoicing for termination payments (see Paragraph 6 below); and
- 1.2.6** double recovery (see Paragraph 7 below).

#### **2 TERMINATION PAYMENT FOR THE SERVICES**

The Termination Payment payable pursuant to Clause 49.3 of this Consolidated Contract shall be calculated as the sum of:

- 2.1** the Unrecovered Costs; and
- 2.2** the Breakage Costs,

but subject to the limit set out in Clause 44.3.2 of this Consolidated Contract.

#### **3 FULL AND FINAL SETTLEMENT**

Any Termination Payments made in accordance with this Consolidated Schedule, Clause 47.9 (*Termination for Convenience by the Customer Authority*) or Clause 47.19 (*Termination by the Contractor*) of this Consolidated Contract shall be in full and final settlement of any claim, demand or proceedings of the Contractor in relation to any termination by the Customer Authority pursuant to (as applicable) this Consolidated Schedule, Clause 47.9 (*Termination for Convenience by the Customer Authority*) and Clause 47.19 (*Termination by the Contractor*) of this Consolidated Contract. Accordingly, the Contractor shall be excluded from all other rights and remedies it would otherwise have been entitled to in respect of any such termination.

## **4 CONTRACTOR'S CALCULATION OF THE PAYMENTS ON TERMINATION**

- 4.1** Within twenty (20) Working Days of receiving a Termination Notice served pursuant to Clause 47.9 (*Termination for Convenience by the Customer Authority*) or Clause 47.19 (*Termination by the Contractor*), the Contractor shall deliver to the Customer Authority a detailed estimate of all of the Unrecovered Costs and the Breakage Costs relating to the Services being terminated (the "**Termination Payments Estimate**").
- 4.2** The Termination Payments Estimate shall:
- 4.2.1** include an exhaustive, itemised break-down of the relevant Unrecovered Costs (supported by a reconciliation between such Unrecovered Costs and the Financial Model) and the Breakage Costs; and
  - 4.2.2** provide a detailed description of the steps taken by (and to be taken by) the Contractor to comply with its obligations under Paragraph 5 of this Consolidated Schedule.
- 4.3** Without prejudice to Paragraph 4.1 above, within twenty (20) Working Days of the expiry of the relevant termination occurring, the Contractor shall deliver to the Customer Authority a detailed explanation of the Unrecovered Costs and the Breakage Costs related to the Services being terminated (the "**Termination Payments Calculation**").
- 4.4** The Contractor shall ensure that the Termination Payments Calculation:
- 4.4.1** is certified as being accurate and not misleading by (i) a financial director of the Contractor and (ii) an External Auditor;
  - 4.4.2** includes an exhaustive, itemised break-down of the relevant Unrecovered Costs (supported by a reconciliation between such Unrecovered Costs and the Financial Model) and the Breakage Costs; and
  - 4.4.3** provides a detailed description of the steps taken by the Contractor to comply with its obligations under Paragraph 5 of this Consolidated Schedule.
- 4.5** Without prejudice to Clause 22 (*Audits, Notifications and Record Keeping*) of this Consolidated Contract, the Contractor shall provide to the Customer Authority all information reasonably requested by the Customer Authority from time to time for the purpose of verifying the accuracy of the Termination Payments Calculation.

## **5 MITIGATION OF BREAKAGE AND UNRECOVERED COSTS**

The Contractor shall take all reasonable steps to minimise and mitigate any potential Breakage Costs and Unrecovered Costs, including by:

- 5.1** the appropriation or redeployment of Assets, employees and resources which can also be used for other purposes. If it is found that such Assets, employees and resources can be used for other purposes, then there shall be an equitable reduction in the Breakage Costs and Unrecovered Costs payable to the Contractor by the Customer Authority or a third party; and
- 5.2** in relation to contracts entered into with third parties, termination by the Contractor of those contracts at the earliest possible date without breach or where contractually permitted and, where required by the Customer Authority, assigning such contracts to the Customer Authority or a third party acting on behalf of the Customer Authority.

## **6 INVOICING FOR THE PAYMENTS ON TERMINATION**

- 6.1** All sums due under this Consolidated Schedule and Clause 47.9 (*Termination for Convenience by the Customer Authority*) of this Consolidated Contract shall be payable by the Customer Authority to the Contractor in accordance with the terms set out in Consolidated Schedule 9 (*Charges and Invoicing*).

## **7 NO DOUBLE RECOVERY**

- 7.1** If any payment pursuant to this Consolidated Schedule, Clause 47.9 (*Termination for Convenience by the Customer Authority*) or Clause 47.19 (*Termination by the Contractor*) of this Consolidated Contract relates to or arises in relation to (in whole or in part) any Transferring Assets then:
- 7.1.1** payment for any Exclusive Rights and Materials shall be included within any such payment pursuant to Clause 47.9 (*Termination for Convenience by the Customer Authority*) and Clause 49 (*Payments on Termination*) of this Consolidated Contract, in accordance with Paragraph 8.3 of Schedule 20 (*Exit Management*); and
  - 7.1.2** to the extent that the Customer Authority makes any other payments pursuant to Consolidated Schedule 20 (*Exit Management*) in respect of such Transferring Assets, such amounts shall be deducted from the amount payable pursuant to this Consolidated Schedule, Clause 47.9 (*Termination for Convenience by the Customer Authority*) or Clause 47.19 (*Termination by the Contractor*) of this Consolidated Contract (as applicable).
- 7.2** The value of the Termination Payment in respect of Bespoke Services shall be reduced or extinguished, to the extent that the Contractor has already received the Charges or the financial benefit of any other remedy given under this Consolidated Contract, so that there is no double counting in calculating the relevant payment.