**Schedule** **3 (****Charges)**

1. **Definitions**

[**Delete** Paragraph 1 if the Maximum Permitted Profit Margin is not to apply (Paragraph 5.5).]

* 1. In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

|  |  |
| --- | --- |
| **"Anticipated Contract Life Profit Margin"** | the anticipated Supplier Profit Margin over the Contract Period; |
| **"Maximum Permitted Profit Margin"** | means the Anticipated Contract Life Profit Margin plus 5%; |

1. **How Charges are calculated**
   1. The Charges:
      1. shall be calculated in accordance with the terms of this Schedule;
      2. [**Delete** if not applicable: cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in the Award Form; and]
   2. [**Delete** if not applicable: Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out in this Schedule.
2. **The pricing mechanisms**

The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in this Contract.

1. **Are costs and expenses included in the Charges**
   1. [**Delete** if Paragraph 5 is not used: Except as expressly set out in Paragraph 5 below, or otherwise stated in the Award Form] the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:
      1. incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or
      2. costs incurred prior to the commencement of this Contract.
2. **When the Supplier can ask to change the Charges**
   1. The Charges will be fixed for the first **[Insert:** number] years following the Start Date (the date of expiry of such period is a "**Review Date**"). After this Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**").
   2. The Supplier shall give the Buyer at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.
   3. Any notice requesting an increase shall include:
      1. a list of the Charges to be reviewed;
      2. for each of the Charges under review, written evidence of the justification for the requested increase including:
         1. [a breakdown of the profit and cost components that comprise the relevant part of the Charges; ]

***[Guidance Note: Consider requesting a breakdown of the cost and profit elements for each line item (or similar groups of line items) in the Charges as part of the initial procurement. This provides a benchmark against which future price reviews can be checked]***

* + - 1. [details of the movement in the different identified cost components of the relevant Charge;]
      2. [reasons for the movement in the different identified cost components of the relevant Charge;]
      3. [evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and]
      4. [evidence that the Supplier’s profit component of the relevant Charge is no greater than that applying to Charges using the same pricing mechanism as at the Effective t Date.]

***[Guidance Note: Add anything else the Buyer expects to see from Suppliers. This assumes the Supplier will not be entitled to an increase in the profit element. It may be argued by suppliers that general inflationary pressure devalues the profit element and it too should be increased by an appropriate price index.]***

* 1. The Buyer shall consider each request for a price increase. The Buyer may grant Approval to an increase at its sole discretion.
  2. [Any Approval granted by the Buyer pursuant to Paragraph 5.4 shall be on the condition that the change to the Charges will not result in the Supplier Profit Margin exceeding the Maximum Permitted Profit Margin.]
  3. Where the Buyer approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Buyer may determine at its sole discretion and Annex 1 shall be updated accordingly.

1. **Other events that allow the Supplier to change the Charges**
   1. The Charges can also be varied (and Annex 1 will be updated accordingly) due to:
      1. a Specific Change in Law in accordance with Clauses 28.6 to 28.8;
      2. **[Delete** if there is no Benchmarking Schedule: a benchmarking review in accordance with Schedule 12 (Benchmarking)];
      3. a request from the Supplier, which it can make at any time, to decrease the Charges;
      4. [**Delete** 6.1.5 if Paragraph 7 is not used: indexation, where Annex 1 states that a particular Charge or any component is “subject to Indexation” in which event Paragraph 7 below shall apply; and]
      5. verification of the Allowable Assumptions in accordance with Paragraph 9.
2. **[Delete Paragraph if not applicable: When the Charges are linked to inflation] [Guidance: see Paragraph 4.4 of the** [**MSC Guidance**](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1079116/MSC_Guidance_v2.0__1_.pdf) **document for further guidance regarding indexation. Financial Transparency Objectives can be a helpful compliment to Indexation (where proportionate to use)]**
   1. Where **[Insert** if other items are subject to variation:any amounts][the Charges] are stated to be "subject to Indexation" they shall be adjusted in line with changes in the **[Insert** name of appropriate price index (or indices) published by the Office of National Statistics or other reputable source**]** (the “**Index**”) pursuant to Paragraph 7.4. All other costs, expenses, fees and charges shall not be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier.
   2. The following costs, expenses, fees or charges included in the Charges shall not be subject to adjustment under this Paragraph 7 and shall not be included in the relevant amount or sum for the purposes of Paragraph 7.1:
      1. Any costs charged by the Supplier to the Buyer in respect of Supplier Assets or Buyer Assets (including capital costs and installation, maintenance and support costs) which are incurred by the Supplier prior to the relevant adjustment date but which remain to be recovered through the Charges.
   3. Charges shall not be indexed during the first **[Insert:** number] years following the Start Date (the “**Non-Indexation Period**”).
   4. Where Annex 1 states a Charge is subject to Indexation then it will be indexed on the date which is one year after the end of the Non-Indexation Period to reflect the percentage change in the Index during the one year period immediately following the end of the Non-Indexation Period. Subsequent adjustments shall take place on each following yearly anniversary to reflect the percentage change in the Index since the previous change.
   5. Where the Index:
      1. used to carry out an indexation calculation is updated (for example due to it being provisional) then the indexation calculation shall also be updated unless the Buyer and the Supplier agree otherwise; or
      2. is no longer published, the Buyer and the Supplier shall agree an appropriate replacement index which shall cover to the maximum extent possible the same economic activities as the original index.]
3. **[Delete** Paragraph if not applicable: When you will be reimbursed for travel and subsistence
   1. Expenses shall only be recoverable where:
      1. the Time and Materials pricing mechanism is used; and
      2. the Award Form states that recovery is permitted; and
      3. they are Reimbursable Expenses and are supported by Supporting Documentation.
   2. The Buyer shall provide a copy of their current expenses policy to the Supplier upon request. ]
4. **[Delete** Paragraph if not applicable: Allowable Assumptions

***[Buyer Guidance: Buyers may consider using this paragraph if the Supplier has any concerns about the information provided or the operating environment. The Allowable Assumptions provisions allow the Supplier to set out any identifiable risks and ensures that the contract price changes only if those risks materialise. Any change will need to be carefully considered by the Buyer because it may affect the legitimacy of the procurement process and any contract modification will need to be lawful under the Public Contracts Regulations 2015.***

***If bidders have not had the opportunity to complete their Due Diligence process it may take longer to negotiate the contract, or produce cost escalation and lead to commercial disputes post contract signing. Buyers should always try to provide the required information before using the Allowable Assumptions mechanisms. The Allowable Assumptions should only be used in exceptional circumstances, for example, when the information is not available at the requisite time.***

***Please refer to the sections on Due Diligence and Allowable Assumptions in the latest version of the*** [***Model Services Contract Guidance on Gov.uk***](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1067778/MSC-Guidance-v2.0.pdf) ***for information on how Buyers should approach this]***

* 1. Before the end of its associated Verification Period, the Supplier will determine whether each Allowable Assumption is accurate.
  2. The Buyer will provide the Supplier with reasonable assistance when it is determining if an Allowable Assumption is accurate.
  3. Within ten (10) Working Days following the end of a Verification Period, the Supplier will send a written report to the Buyer setting out its verification results for the relevant Allowable Assumption, including whether the Charges or Implementation Plan (if applicable) require adjustment.
  4. Each Allowable Assumption will be deemed to be accurate if the Supplier cannot show has an impact on the Charges or the Implementation Plan to the reasonable satisfaction of the Buyer.
  5. If the Supplier can show that an Allowable Assumption has an impact on either the Charges or the Implementation Plan (if applicable) then:
     1. the Supplier will take all reasonable steps to mitigate the impact of the Allowable Assumption;
     2. the Supplier may propose a reasonable Variation arising as a direct result of such impact and such Variation shall be limited by any constraints set out in the table in Annex 2.]

**Annex** **1: Rates and Prices**

***[Guidance Note: The below format is an example of how rates and prices could be set out for a requirement and it ties into the preceding paragraphs of this Schedule 3 (Charges). Should a Buyer wish to set out their own format for rates and prices, the preceding paragraphs of this Schedule 3 (Charges) will need to be reviewed to ensure they are consistent with the new format.]***

**Table 1: Time and Materials**

The Supplier (and its Subcontractor) shall not be entitled to include any uplift for risks or contingencies within its day rates

The rates below shall [not] be subject to variation by way of Indexation

|  |  |
| --- | --- |
| **Staff Grade** | **Day Rate (£)** |
|  |  |
|  |  |

**Table 2: Fixed/Firm Prices**

***[Guidance Note: if you wish to use indexation - select Fixed Prices below and include the following*:]**

The rates below shall be subject to variation by way of Indexation.

[Guidance Note: if you don’t wish to use indexation - select Firm Prices below and include the following:]

The rates below shall not be subject to variation by way of Indexation.

|  |  |
| --- | --- |
| **Type of Charge** | **[Fixed/Firm] Charge (£)** |
| [e.g. M3] |  |
| [e.g. SC3] |  |

**Table 3: Volume Based Prices**

The rates below shall [not] be subject to variation by way of Indexation

|  |  |  |  |
| --- | --- | --- | --- |
| **Charge Number** | **Unit** | **Number of units per Service Period** | **Charge per unit (£)** |
| [e.g. SC1] |  | [ ] - [ ] | [ ] |
| [ ] - [ ] | [ ] |
| [e.g. SC2] |  | [ ] - [ ] | [ ] |
| [ ] - [ ] | [ ] |

**Annex** **2: Allowable Assumptions**

*[****Buyer Guidance****:* ***Delete Annex if Paragraph 9 not used]***

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Column 1** | **Column 2** | **Column 3** | **Column 4** | **Column 5** | **Column 6** | **Column 7** |
| **Ref** | **Description** | **Potential time impact if not accurate** | **Potential cost impact if not accurate** | **How it will be tested** | **Maximum impact period** | **Verification period** |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
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