

BUYER

AND

SUPPLIER

FACILITIES MANAGEMENT MARKETPLACE CONTRACT

REF: RM3830

CALL-OFF SCHEDULE 5

CALL-OFF PRICING

This part of this schedule shall apply where the fixed pricing option is selected in the Order Form.

1. CALCULATION OF THE CHARGES

1.1 The fixed fee Charges shall be:

- 1.1.1 calculated on the basis of the rates, prices and discounts specified in the Framework Price Matrix.,
- 1.1.2 paid in respect of Service Months for full and proper performance by the Supplier of its obligations under the Call-Off Contract; and
- 1.1.3 paid by way of monthly payments ("**Monthly Payments**") which shall be calculated in accordance with paragraph 1.2 below.

1.2 Subject to paragraphs 1.3 and 1.4 below, the Monthly Payment (MP_n), in respect of a Service Month "n" shall be calculated in accordance with the following formula:

$$MP_n = BMP_n + PTC_{n-1} + WO_{n-1} + TRP_{n-1} - PA_{n-1}$$

where:

- MP_n is the Monthly Payment to be determined in respect of the Service Month "n";
- BMP_n is the Baseline Monthly Payment for Service Month "n" which is calculated in accordance with paragraph 2 below;
- PTC_{n-1} is the Pass Through Costs due in respect of the Previous Service Month which is calculated in accordance with paragraph 3 below;
- WO_{n-1} is the total price for Work Orders which have been completed in the Previous Service Month which shall be calculated in accordance with paragraph 4 below;
- TRP_{n-1} is the monthly TUPE risk premium payable for the Previous Service Month calculated in accordance with Call-Off Schedule 6 (TUPE Surcharge) ("**Monthly TUPE Risk Premium**"); and
- PA_{n-1} is the KPI Credit in respect of the Previous Service Month set off against the Earn Back Amount due (if applicable) for the current Service Month (or where the Order Form states that KPIs are not applicable then PA_{n-1} shall be deemed to be £0).

- 1.3 The Monthly Charge due in the final Service Month during the Contract Period will be calculated in accordance with the following formula which will supersede the formula in paragraph 1.2 above (and all terminology used in the following formula will have the same meaning as provided for in paragraph 1.2 above):

$$MP_n = BMP_n + PTC_{n-1} + WO_{n-1} + TRP_{n-1} - (2 \times PA_{n-1})$$

- 1.4 Following the final Service Month during the Contract Period a balancing payment will be calculated to account for:

- 1.4.1 the KPI Credit calculated in respect of the final Service Month;
- 1.4.2 the Pass Through Costs incurred within the final Service Month;
- 1.4.3 the Monthly TUPE Risk Premium payable in respect of the final Service Month;
- 1.4.4 any Earn Back Amount payable in respect of the final Service Month; and
- 1.4.5 the total price for Work Orders which have been completed in the final Service Month.

and such balancing payment will be paid to, or deducted from, the sums due to the Supplier following the assessment of the Supplier's performance in the final Service Month.

- 1.5 The Baseline Monthly Payment shall include all costs and expenses relating to the Deliverables and/or the Supplier's performance of its obligations under this Call-Off Contract and no further amounts shall be payable by the Buyer to the Supplier in respect of such performance except in relation to any amounts which are expressly recoverable as part of a Work Order payment or Pass Through Cost.

2. BASELINE MONTHLY PAYMENT

- 2.1 The baseline monthly payment ("**Baseline Monthly Payment**") payable in respect of a Service Month shall be set by reference to the Framework Pricing Matrix.

3. PASS THROUGH COSTS

- 3.1 Where the Order Form indicates that the Supplier is entitled to claim Pass Through Costs then:
- 3.1.1 only those types of Pass Through Costs set out in the Order Form shall be recoverable;
 - 3.1.2 the Pass Through Costs shall only be recoverable where they are incurred in accordance with the guidelines that the Buyer may issue to the Supplier from time to time;
 - 3.1.3 the Supplier shall not be entitled to charge any additional amount on top of the Pass Through Costs including any margin, mark up or uplift costs; and
 - 3.1.4 any claim for Pass Through Costs shall be supported by such documentation as the Buyer may request from time to time.

4. WORK ORDERS

- 4.1 The price for Work Orders shall be calculated using the mechanism set out in Schedule 4A (Billable Works & Projects).

5. INDEXATION

- 5.1 Any amounts or sums in this Call-Off Contract which are expressed in the Order Form to be "subject to Indexation" shall be adjusted in accordance with the provisions of this Paragraph 5 to reflect the effects of inflation.
- 5.2 Where Indexation applies, the relevant adjustment shall be:
- 5.2.1 applied on the dates set out in the Order Form (each such date an "**Adjustment Date**"); and
 - 5.2.2 determined by multiplying the relevant amount or sum by the percentage increase or changes in the Payment Index published since the previous Adjustment Date.
- 5.3 Except as set out in this Paragraph 5, neither the Charges nor any other costs, expenses, fees or charges shall 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 or Subcontractors of the performance of their obligations.
- 5.4 If the Payment Index has not been published for the relevant month as required for this calculation then the last published value of the index available at the Adjustment Date shall be used.
- 5.5 Where the Payment Index is no longer published, the Buyer and the Supplier shall agree a fair and reasonable replacement that will have substantially the same effect.

6. PRICING FOR VARIATIONS

- 6.1 In addition to the process outlined in paragraph 24 of the Core Terms, any change in the Charges in relation to a change in the number of buildings within the Buyer Premises or changes to a Deliverable within a building, shall be aligned with and shall use the rates and prices set out in the Fixed Fee Pricing Matrix as submitted at Further Competition.
- 6.2 Where any variation to the fixed fee Charges results in the Variation Threshold being exceeded, the Supplier shall be entitled to include the effect this has had on other elements of the Call-Off Contract within any impact assessment which is provided as part of any associated Variation Procedure. The Buyer will consider this as part of the Variation Procedure.
- 6.3 The Supplier is responsible for ensuring that a Service and/or Asset data validation exercise is undertaken and completed during the Mobilisation Period to verify the Due Diligence Information, all costs associated with this shall be borne by the Supplier. Call-Off Pricing revisions for any / all inaccuracies in the Due Diligence Information identified outside of the Mobilisation Period are not permitted.

6.4 Notwithstanding Clause 2.8 of the Core Terms, where inaccuracies in the Service or Asset data provided by the Buyer prior to signature of a Call-Off Contract are identified by the Supplier during the Call-Off Contract Mobilisation Period and could not reasonably been discovered prior to entering into the Call Off Contract, the following shall apply:

- 6.4.1.1 Where Mandatory Services under a Call-Off Contract have been priced in accordance with the maximum Framework Price unit-of-measure rate (i.e. the capped rate) under Framework Schedule 3, the Supplier may, using the Variation procedure, request an adjustment to the Call-Off Contract pricing where the Supplier can present written evidence that the Standard Service Pricing classification for the Service, which was provided by the Buyer prior to entering into the Call-Off Contract, was incorrect;
- 6.4.1.2 Where Mandatory Services under a Call-Off Contract have been priced beneath the maximum Framework Price unit-of-measure rate under Framework Schedule 3 (i.e. a more competitive rate has been submitted by the Supplier based on data provided at Call Off) , the Supplier may, using the Variation procedure, request an adjustment to the Call-Off Contract pricing where the Supplier can present written evidence that the Due Diligence Information provided by the Buyer prior to entering into the Call-Off Contract contained inaccuracies that led to incorrect pricing by the Supplier. Where a variation is agreed the Call Off price shall not exceed the capped unit-of-measure rates provided at Framework; and
- 6.4.1.3 Where Non-Mandatory Services are ordered under a Call-Off Contract (i.e. prices for Services where no Framework Contract Pricing unit-of-measure rate applies) the Supplier may, using the Variation procedure, request an adjustment to the Call-Off Contract pricing where the Supplier can present written evidence that the Due Diligence Information provided by the Buyer prior to entering into the Call-Off Contract contained inaccuracies that led to incorrect pricing by the Supplier.

7. CHANGES TO MINIMUM/LIVING WAGE

7.1 Notwithstanding Clause 24.5 (Change in Law) of the Core Terms, where the Supplier can provide evidence in the form of an Impact Assessment that a percentage increase to the Mandatory Wage in a given period has exceeded any percentage increase for the same period in the Payment Index detailed in the Order Form, the Supplier may request an increase in the Charges by using the Variation process under Clause 24 of the Core Terms.

7.2 Suppliers must include in their Impact Assessment evidence of the:

- 7.2.1 Supplier Personnel affected by the Mandatory Wage Increase and the Services that they provide;
- 7.2.2 affected Supplier Personnel's current hourly rate of pay; and
- 7.2.3 the number of hours worked by each of the affected Supplier Personnel.

7.3 The Buyer is not required to accept the Variation request under this Paragraph 7 and must not accept any variation request that:

- 7.3.1 exceeds the difference between the Indexation Rate and the current Mandatory Wage rate increase for each member of the Supplier Personnel affected by the Mandatory Wage increase;
- 7.3.2 seeks to increases in the Charges which go beyond the Services affected by the Mandatory Wage increase; and
- 7.3.3 increases the Charges in respect of those Supplier Personnel on an hourly rate already in excess of the Mandatory Wage (whether or not to maintain differentials between the affected Supplier Personnel and higher paid Supplier Personnel).

8. INVOICING

- 8.1 In addition to its obligations in clause 4 in the Core Terms (Price and payments) the Supplier shall ensure that each invoice it prepares in relation to the Charges:
 - 8.1.1 specifies the period to which the invoice relates;
 - 8.1.2 specifies the Deliverables to which the invoice relates;
 - 8.1.3 sets out the calculations used to reach the amount of the Charges that are being invoiced;
 - 8.1.4 separately itemises any expense or taxes said to be payable by the Buyer; and
 - 8.1.5 specifies the Supplier's VAT code.
- 8.2 The Supplier shall prepare a draft of each invoice and supporting information for each Service Month and submit it to the Buyer within 14 days (or such other period as the Buyer agrees) following the start of the Service Month. Following receipt of such draft invoice the Buyer shall be entitled to reject it where it does not comply with the requirements of this Call-Off Contract. The Supplier will promptly respond to any queries that the Buyer has in relation to a draft invoice. If the Buyer approves the invoice (such approval not to be unreasonably withheld) then it will notify the Buyer and the Buyer shall be entitled to prepare a final form of that invoice in the approved form. The Supplier shall only be entitled to issue and the Buyer shall not be obliged to pay for any final form invoice which has been issued in accordance with this Call-Off Contract and specifically this procedure.