

**SCHEDULE 12**

**CHARGING**

**(Clause 6)**

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**SCHEDULE 12****CHARGING****1. INTRODUCTION**

- 1.1 The purpose of this Schedule is to set out the Charges, profit sharing regime and other financial arrangements for the Services provided by the CONTRACTOR to the AUTHORITY under this Agreement.
- 1.2 This Schedule is divided into the following parts:
- 1.2.1 Part Two comprises the composition and payment of the Charges for the Basic Services;
  - 1.2.2 Part Three describes the impact of the Predicted Volumes on the Charges;
  - 1.2.3 Part Four describes the Annual Review Process;
  - 1.2.4 Part Five describes the regime for Additional Services;
  - 1.2.5 Part Six sets out the calculation of the profit sharing regime;
  - 1.2.6 Part Seven describes the basis for the calculation of the Termination Charges; and
  - 1.2.7 Part Eight describes the provisions relating to pensions.
- 1.3 The Schedule further contains the following Appendices:
- 1.3.1 Appendix 1 - The Financial Model;
  - 1.3.2 Appendix 2 – The Fixed Charges;
  - 1.3.3 Appendix 3 – The Variable Charges;
  - 1.3.4 Appendix 4 – The indicative Notifiable Costs;
  - 1.3.5 Appendix 5 – The Predicted Volumes;
  - 1.3.6 Appendix 6 – The Additional Services Resource Costs;
  - 1.3.7 Appendix 7 – Output Definitions; and
  - 1.3.8 Appendix 8 – CONTRACTOR's Actuarial Assumptions.
- 1.4 The Contractor shall maintain the Financial Model at Appendix 1 for the term of this Agreement using the principles of Open Book Accounting as detailed in Clause 10.2.

## **2. CHARGES**

### **2.1 Introduction**

- 2.1.1 In consideration of the supply of the Services the AUTHORITY shall pay to the CONTRACTOR the Fixed Charges and Variable Charges specified in this Schedule 12.
- 2.1.2 All Charges and costs are expressed in Pounds Sterling.
- 2.1.3 The Charges for the Basic Services shall be as set out in Appendices 2 and 3 to this Schedule 12.
- 2.1.4 The Charges for any Additional Services shall be calculated with reference to the provisions of Part 5 of this Schedule 12.
- 2.1.5 The Charges shall be invoiced, and payment settled, in accordance with the provisions of Schedule 13.
- 2.1.6 The Notifiable Costs shall be payable in accordance with Paragraph 2.4 of this Schedule 12 and shall be invoiced in accordance with the provisions of Paragraph 5 of Schedule 13.
- 2.1.7 In the event of a dispute arising between the AUTHORITY and the CONTRACTOR over any matter relating to charging under this Schedule 12, such dispute shall be dealt with in accordance with the Alternative Dispute Resolution Procedure.
- 2.1.8 The Charges set out in Appendices 2 and 3 to this Schedule 12 are deemed to be inclusive of all costs (other than Notifiable Costs) and profit amounts relevant to the provision of the Basic Services. The Charges set out in Schedule 31 are deemed to be inclusive of all costs (other than Notifiable Costs) and profit accounts relevant to the provision of the Optional Services.
- 2.1.9 For the avoidance of doubt, the Charges for any Optional Services shall be as specified in Schedule 31 of this Agreement.

### **2.2 Fixed Charges**

- 2.2.1 The Fixed Charges, as detailed in Appendix 2 of this Schedule 12, are payable monthly by the AUTHORITY in accordance with Schedule 13.
- 2.2.2 Subject to Paragraph 2.2.6 below the Fixed Charges may only be changed in accordance with Part 3 of this Schedule 12 following changes in the volumes of Referrals.
- 2.2.3 In the event that any Fixed Charges shall become payable for a Month in which the CONTRACTOR has been responsible for the provision of the Services for only a part of that Month, such Fixed Charges shall be calculated in accordance with the principles specified in this Schedule 12, but shall be reduced in accordance with the ratio of the number of Working Days in the Month that the Services were provided by the CONTRACTOR, to the total number of Working Days in that Month.
- 2.2.4 Accommodation-related costs shall be included in the Fixed Charges where the CONTRACTOR is providing its own accommodation not covered by the Property Agreements for Transferring Properties in connection with the provision of the

Services.

- 2.2.5 For the avoidance of doubt any Outputs listed in Appendix 3 delivered by Permanent Medical Staff employed by the CONTRACTOR shall be charged to the AUTHORITY as a Variable Charge and shall not be charged as a Fixed Charge for Permanent Medical Staff.
- 2.2.6 Fixed Charges for costs relating to own accommodation as described in Paragraph 2.2.4 of this Schedule 12 are subject to adjustment pursuant to Clause 3.6 to reflect the reasonable additional costs of the CONTRACTOR in providing such additional accommodation. In the event of a dispute arising between the AUTHORITY and the CONTRACTOR over such additional costs, such dispute shall be dealt with in accordance with the Alternative Dispute Resolution Procedure.
- 2.2.7 Subject to Clauses 10.3 and 10.5 the AUTHORITY guarantees the payment to the CONTRACTOR of the Fixed Charges.

### 2.3 Variable Charges

- 2.3.1 Variable Charges are all charges not included as Fixed Charges (or Notifiable Costs) and are payable by the AUTHORITY on the basis of the variable output prices as listed in Appendix 3 to this Schedule 12.
- 2.3.2 In the event that any Variable Charges shall become payable for a Month in which the CONTRACTOR has been responsible for the provision of the Services for only a part of that Month, such Variable Charges shall be calculated in respect of the number of Outputs for the period within the Month in which the CONTRACTOR is responsible for the provision of the Services.
- 2.3.3 Subject to the provisions of Part 3 of this Schedule 12, Variable Charges shall be charged as a single variable output price per unit irrespective of the business volumes.
- 2.3.4 The constituent elements of the unit price with respect to each Output shall include but not be limited to those set out in Appendix 7 to this Schedule 12.
- 2.3.5 The AUTHORITY shall pay the Variable Charges in accordance with the calculation set out below:

Unit Price x (Number of relevant Outputs in that Month LESS Reworks)

- 2.3.6 Any Reworks will be performed by the CONTRACTOR at no additional charge.
- 2.3.7 The CONTRACTOR shall charge for a specific Output when the Output Definition as defined in Appendix 7 has been fully complied with, and the relevant written report has been provided to the AUTHORITY.
- 2.3.8 For the avoidance of doubt, the AUTHORITY will not guarantee a minimum payment for the Variable Charges.

### 2.4 Notifiable Costs

- 2.4.1 The parties shall issue invoices and credit notes in accordance with Paragraph 5 of Schedule 13 to ensure that the actual Notifiable Costs are not borne by the CONTRACTOR.

- 2.4.2 The indicative Notifiable Costs contained in Appendix 4 of this Schedule 12 are for information only. The actual Notifiable Costs incurred by the CONTRACTOR will be reconciled by the parties and invoiced in accordance with Paragraph 5 of Schedule 13.
- 2.4.3 For the avoidance of doubt, the Notifiable Costs will not form part of the Charges.

**3. VOLUMES**

- 3.1 Appendix 5 to this Schedule identifies the Predicted Volumes of Referrals for different Services over the term of this Agreement.
- 3.2 The AUTHORITY shall inform the CONTRACTOR of any changes to the forecasted volumes of Referrals and/or Outputs as detailed in Appendix 5 in the remaining years of the Agreement in accordance with the Service Specification.
- 3.3 If for any three (3) consecutive Months the actual total volume of Referrals is greater than 120% of the total Predicted Volumes of Referrals then either party may request, pursuant to Paragraph 4.1.4:
- 3.3.1 a change to the Charges;
  - 3.3.2 a change to the Service Levels; and/or
  - 3.3.3 a change to the Predicted Volumes of Referrals for the remaining term of the Agreement.
- 3.4 If for any three (3) consecutive Months the actual total volume of Referrals is less than 80% of the total Predicted Volumes of Referrals, then either party may request, pursuant to Paragraph 4.1.4:
- 3.4.1 a change to the Charges;
  - 3.4.2 a change to the Service Levels; and/or
  - 3.4.3 a change to the Predicted Volumes of Referrals for the remaining term of the Agreement.
- 3.5 Neither party will be permitted to request a change to the Charges where the actual volume of Referrals is greater than or equal to 80% of the Predicted Volumes of Referrals but less than or equal to 120% of the Predicted Volumes in any three (3) consecutive Months.
- 3.6 For the avoidance of doubt, neither party will be permitted to request a change to the Charges for any change to the Predicted Volume of Outputs as detailed in Appendix 5.
- 3.7 Any changes to the Charges, Service Levels or Service Credits in accordance with Paragraphs 3.3 and 3.4 shall be subject to agreement in accordance with the Change Control Procedures and the Changes shall be calculated utilising the Financial Model.

#### 4. ANNUAL REVIEW

##### 4.1 Annual Review Process

- 4.1.1 The parties shall undertake an Annual Review of the Services and Charges in each year. The first Annual Review shall take place no earlier than the first anniversary of the Cutover Date and no later than fifteen (15) months from the Cutover Date. Subsequent Annual Reviews shall take place on the anniversaries of the first Annual Review or such other dates as the AUTHORITY and the CONTRACTOR may agree.
- 4.1.2 No later than one (1) month after each Annual Review the CONTRACTOR shall prepare proposed profit share calculations, duly supported by audited accounts and reconciliations to the Financial Model.
- 4.1.3 During each Annual Review, the parties shall:
  - 4.1.3.1 apply indexation to the Charges in accordance with Paragraph 4.2 below;
  - 4.1.3.2 initiate the profit share mechanism outlined in Part 6 of this Schedule 12;
  - 4.1.3.3 review the existing Service Levels with a view to identifying potential improvements in the Service Levels and the delivery of the Services; and the unit value of the Service Credits and the termination thresholds for such Service Credits specified in Schedule 25.
  - 4.1.3.4 review the existing cost Abatement rate in relation to any external contract examination carried out in accommodation listed in Schedule 10 Appendix 6.
- 4.1.4 Any changes to the Charges, Service Levels or Service Credits in accordance with Paragraph 4.2 shall be subject to agreement in accordance with the Change Control Procedures and the Charges shall be calculated utilising the Financial Model.
- 4.1.5 In the event of a dispute arising between the AUTHORITY and the CONTRACTOR at Annual Review, such dispute shall be dealt with in accordance with the Alternative Dispute Resolution Procedure.

**Paragraphs 4.2 to 8.2.3 & Appendices 1 – 8 are redacted as they contain information which is exempt under Section 43 of the Freedom of Information Act 2000, due to the information being commercially sensitive.**