DYNAMIC FRAMEWORK

SCHEDULE 7.2

1. PAYMENTS ON TERMINATION

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SCHEDULE 7.2

1. PAYMENTS ON TERMINATION
2. DEFINITIONS
   1. In this Schedule 7.2 (Payments on Termination), the definitions set out in Schedule 1 (Definitions) shall apply.
3. TERMINATION PAYMENT
   1. The Termination Payment payable pursuant to Clause 39.3 shall be an amount equal to the aggregate of the Breakage Costs Payment and the Compensation Payment.
   2. For the avoidance of doubt, there shall be no Termination Payment payable in respect of any termination of the Framework Agreement (howsoever caused).
4. BREAKAGE COSTS PAYMENT
   1. The Supplier may recover through the Breakage Costs Payment only those costs incurred by the Supplier directly as a result of the termination of the Call-Off Contract which:
      * 1. would not have been incurred had the Call-Off Contract continued until expiry of the Call-Off Term;
        2. are unavoidable, proven, reasonable, and not capable of recovery;
        3. are incurred under arrangements or agreements that are directly associated with the Call-Off Contract;
        4. are not Contract Breakage Costs relating to contracts or Sub‑contracts with Affiliates of the Supplier; and
        5. relate directly to the termination of the Services under the relevant Call-Off Contract.

**Limitation on Breakage Costs Payment**

* 1. The Breakage Costs Payment shall not exceed the lower of:
     + 1. a sum equal to the Charges paid or payable under the Call-Off Contract in the three (3) last full calendar months prior to the Termination Date of the Call-Off Contract; or
       2. any relevant limit set out in the Call-Off Order Form.

**Redundancy Costs**

* 1. The Customer shall not be liable under this Schedule for any costs associated with Supplier Personnel (whether relating to redundancy, redeployment or otherwise) other than the Redundancy Costs.
  2. Where the Supplier can demonstrate that a member of Supplier Personnel will be made redundant following termination of a Call-Off Contract, but redeployment of such person is possible and would offer value for money to the Customer when compared with redundancy, then the Customer shall pay the Supplier the actual direct costs incurred by the Supplier or its Sub‑contractor arising out of the redeployment of such person (including retraining and relocation costs) subject to a maximum amount of £30,000 (thirty thousand pounds) per relevant member of the Supplier Personnel.
  3. For the avoidance of doubt, nothing in this Schedule 7.2 (Payments on Termination) shall affect the liability in respect of Pensions Related Discretionary Actions as set out Annex D2 of Part D (Pensions) of the Relevant Staff Transfer Schedule in any situation otherwise than payment of Redundancy Costs on termination in accordance with this Schedule 7.2 (Payments on Termination).

**Contract Breakage Costs**

* 1. The Supplier shall be entitled to Contract Breakage Costs only in respect of Sub‑contracts which:
     + 1. are not assigned or novated to a Replacement Supplier at the request of the Customer in accordance with Schedule 8.5 (Exit Management); and
       2. the Supplier can demonstrate:
          1. are surplus to the Supplier's requirements after the Termination Date of the relevant Call-Off Contract, whether in relation to use internally within its business or in providing services to any of its other customers; and
          2. have been entered into by it in the ordinary course of business.
  2. The Supplier shall seek to negotiate termination of any Sub‑contracts with the Sub‑contractor using all reasonable endeavours to minimise the cancellation or termination charges.
  3. Except with the prior written agreement of the Customer, the Customer shall not be liable for any costs (including cancellation or termination charges) that the Supplier is obliged to pay in respect of:
     + 1. the termination of any contractual arrangements for occupation of, support of and/or services provided for Supplier premises which may arise as a consequence of the termination of the Call-Off Contract; and/or
       2. Assets not yet installed at the Termination Date of the relevant Call-Off Contract.

1. MITIGATION OF CONTRACT BREAKAGE COSTS and REDUNDANCY COSTS
   1. The Supplier agrees to use all reasonable endeavours to minimise and mitigate Contract Breakage Costs and Redundancy Costs by:
      * 1. the appropriation of Assets, employees and resources for other purposes;
        2. at the Customer's request, assigning any Sub‑contracts to the Customer or a third party acting on behalf of the Customer; and
        3. in relation Sub‑contracts that are not to be assigned to the Customer or to another third party, terminating those contracts at the earliest possible date without breach or where contractually permitted.
   2. If Assets, employees and resources can be used by the Supplier for other purposes, then there shall be an equitable reduction in the Contract Breakage Costs and Redundancy Costs payable by the Customer or a third party to the Supplier. In the event of any Dispute arising over whether the Supplier can use any Assets, employees and/or resources for other purposes and/or over the amount of the relevant equitable reduction, the Dispute shall be referred to an Expert for determination in accordance with the procedure detailed in Schedule 8.3 (Dispute Resolution Procedure).
2. COMPENSATION PAYMENT
   1. The Compensation Payment shall be an amount equal to the total forecast Charges (as stated in the Financial Model) multiplied over the Shortfall Period by the Aggregate Retained Percentage Amount for that Call-Off Contract.
   2. For the purposes of Paragraph 5.1, the "**Shortfall** **Period**" means:
      * 1. where the Customer terminates the Call-Off Contract pursuant to Clause 38.3.1, a number of days equal to the number of days by which the notice given falls short of 182 days; or
        2. where the Supplier terminates the Call-Off Contract pursuant to Clause 38.5.1, a number of days equal to the number of days by which the period from (and including) the date of the non‑payment by the Customer to (and including) the Termination Date of the Call-Off Contract falls short of 182 days,

but in each case subject to the limit set out in Paragraph 3.2.

1. FULL AND FINAL SETTLEMENT

Any Termination Payment and/or Compensation Payment paid shall be in full and final settlement of any claim, demand and/or proceedings of the Supplier in relation to any termination by the Customer pursuant to Clause 38.3.1 or termination by the Supplier pursuant to Clause 38.5.1 (as applicable), and the Supplier shall be excluded from all other rights and remedies it would otherwise have been entitled to in respect of any such termination.

1. INVOICING FOR THE PAYMENTS ON TERMINATION
   1. Subject to Paragraph 7.2, all sums due under this Schedule shall be payable by the Customer to the Supplier in accordance with the payment terms set out in Schedule 7.1 (Charges and Invoicing).
   2. The Customer shall be under no obligation to make a payment to the Supplier of the Termination Payment (or any part thereof) unless and until the Customer is satisfied (acting reasonably) that the Supplier has completed all of its obligations to the reasonable satisfaction of the Customer as set out in Schedule 8.5 (Exit Management) in relation to the termination of the Call-Off Contract.
2. SET OFF

The Customer shall be entitled to set off any outstanding liabilities of the Supplier against any amounts that are payable by it pursuant to this Schedule.

1. NO DOUBLE RECOVERY
   1. If any amount payable under this Schedule (in whole or in part) relates to or arises from any Transferring Assets then, to the extent that the Customer makes any payments pursuant to Schedule 8.5 (Exit Management) in respect of such Transferring Assets, such payments shall be deducted from the amount payable pursuant to this Schedule.
   2. The value of the Termination Payment and/or the Compensation Payment shall be reduced or extinguished to the extent that the Supplier has already received the Charges or the financial benefit of any other rights or remedy given under the Call-Off Contract so that there is no double counting in calculating the relevant payment.
   3. Any payments that are due in respect of the Transferring Assets shall be calculated in accordance with the provisions of the Exit Plan.