

## Schedule 5: Charges

VERSION CONTROL TABLE		
Version	Description	Date of Issue
4 Dec	Version as at contract signature	05/12/11
31.07.12	Updated for V002 – Amendment to Profit Share Formula	02/08/12
v3.0	Updated for V009 – Amendment to Revenue Credit Mechanism	28/01/13
v4.0	Updated for V012 – Incorporation of Elephant Service Group SMS Charges	23/10/13
v5.0	Updated for V013 – Rate Card for Financial Year 2013/2014	21/11/13
v6.0	Updated for V014 – Collection Charges, Relief Events and Future Developments.	23/01/14

### 1 Introduction

1.1 This Schedule comprises provisions relating to the following:

- 1.1.1 Charges;
- 1.1.2 Contractor Change Costs;
- 1.1.3 Profit Share;
- 1.1.4 Invoicing and Payment Procedures;
- 1.1.5 Taxes;
- 1.1.6 Contractor's Breakage Costs;
- 1.1.7 Cost of Exit;
- 1.1.8 Commercial Trigger;
- 1.1.9 Revenue Credit; and
- 1.1.10 Charges for extension(s) of this Agreement.

Annex 1 Collection Charges, Cost Model, Growth Methodology Principles, Profit Share and actual Bandings, p/£ Rates and Baseline Adjustment Factors

Annex 2 Legacy Payments and Overheads

Annex 3	Contractor's Forecast
Annex 4	Benchmarking

## 2 Charges

### Introduction

The BBC's funding is derived almost entirely from the Licence Fee. The effective, appropriate and proportionate management, collection, administration and enforcement of the Licence Fee is therefore central to the BBC's ability to continue to function as a public broadcaster. The commercial model upon which the Charges have been calculated is intended to provide sufficient incentive for the Contractor to invest to recover a higher proportion of Licence Fee Revenue whilst also presenting value for money to the Licence Fee payer. Increased Licence Fee Revenue collected will result in a higher profit margin to reflect the commercial risk taken by the Contractor limited in any event through an agreed Profit Share.

#### 2.1 The Charges shall consist of:

- 2.1.1 Milestone Payments;
- 2.1.2 Legacy Payments;
- 2.1.3 Collection Charges;
- 2.1.4 Creative, Print, SMS, Email and Postage Charges as described in paragraph 10;
- 2.1.5 Additional Service Charges;
- 2.1.6 Contractor Change Cost; and
- 2.1.7 Costs of Exit, as described in paragraph 18,

and shall include such variations thereto as permitted in this Agreement (the "**Charges**").

## 3 Milestone Payments

- 3.1 In consideration of the Contractor Achieving each Milestone described in the table set out in Annex 1 Part 1 of Schedule 3 (**Transition**), the BBC shall pay to the Contractor the sum shown in said table against each Milestone Achieved.
- 3.2 The Contractor shall invoice the BBC the Milestone Payment sum corresponding to the Milestone in the table set out in Annex 1 Part 1 of Schedule 3 (**Transition**).

**Table 1 – Milestone Payments**

Milestone Description	Milestone Payment (£)	Anticipated Milestone Completion Date
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The Payment Milestones are now located in the table set out in Annex 1, Part 1 of Schedule 3 ( <b>Transition</b> ).	As set out in the table set out in Annex 1, Part 1 of Schedule 3 ( <b>Transition</b> )	As set out in the table set out in Annex 1, Part 1 of Schedule 3 ( <b>Transition</b> )
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#### **4 Legacy Payments**

- 4.1 From the Start Date the Contractor shall inherit a cost base representing in part the costs of providing the Services prior to the Contractor's implementation of its Target Operating Model. The BBC shall pay to the Contractor the sums shown in Annex 2 Table 1 of this Schedule representing the Charges attributable to such Contractor costs ("Legacy Payments").
- 4.2 The Contractor shall invoice the BBC monthly in arrears for the sums described in Annex 2 Table 1 of this Schedule.

#### **5 Collection Charges**

- 5.1 The BBC shall pay to the Contractor the Collection Charges.
- 5.2 At least one (1) month prior to the start of each Financial Year the BBC shall notify the Contractor of the BBC Income Baseline that shall apply for that year. The Bandings and the p/£ Rate for that year shall be adjusted in accordance with the Cumulative Baseline Adjustment Factor used in calculating the BBC Income Baseline for the relevant Financial Year. Bandings will be multiplied by the Cumulative Baseline Adjustment Factor and the p/£ Rates will be divided by the Cumulative Baseline Adjustment Factor in order that the total amount recoverable by the Contractor at BBC Income Baseline equals that as indicated in the Pricing Model for the relevant Financial Year. The Baseline Adjustment Factor, the Cumulative Baseline Adjustment Factor and the resulting Bandings and p/£ Rates to be applied for each Financial Year shall be incorporated into Annex 1 to this Schedule 5 once agreed by the Parties.
- 5.3 The BBC Income Baseline and Bandings applicable to the period from the Start Date to the end of the first Financial Year shall be reduced proportionately to the extent that the period in question is less than a year and to take into account the seasonal phasing of Licence Fee Receipts. The BBC Income Baseline and Bandings for the final Financial Year of the Term (or part thereof in the event of expiry or termination (in whole or part) within a Financial Year) shall be adjusted proportionately by the BBC on the same basis.
- 5.4 Within ten (10) working Days of being notified of the BBC Income Baseline for each Financial Year, the Contractor shall propose to the BBC any adjustment to the Contractor's Forecast for agreement by the BBC and shall also provide a monthly breakdown of the Contractor's Forecast. In the event that the Parties cannot agree the Contractor's Forecast, the Parties shall refer the matter to the Dispute Resolution Procedure. The changes shall be documented in this Schedule 5 and agreed by the Parties in accordance with the Change Control Procedure.
- 5.5 The Contractor shall invoice the BBC in accordance with paragraph 14.1.3 monthly a sum equivalent to one twelfth of the Collection Charges due by applying the p/£ Rate to the Banding that corresponds to the Contractor's Forecast for all full Financial Years. For the period (a) from the Start Date for the remainder of the first part Financial Year a monthly sum equivalent to one ninth of the Collection Charges due; and (b) for the final part Financial Year a monthly sum

equivalent to one third of the Collection Charges due, in each instance by applying the p/£ Rate to the Banding that corresponds to the Contractor's Forecast for the Financial Years in question.

- 5.6 The Parties shall review the Contractor's Forecast at least once each month. No later than the 10th day of each month the Contractor shall provide to the BBC a draft of the Collection Charges invoice it proposes to submit for the following month. The BBC shall suggest to the Contractor any reasonable adjustment to the amount of the proposed Collection Charge invoice where in the BBC's reasonable opinion the outcome is likely to differ from the Contractor's Forecast.
- 5.7 Two reviews shall be conducted by the Parties. The first each March to balance the Charges to Licence Fee Revenue Collected for the initial eleven months of each Financial Year, the second by the end of each April to balance the final month of the Financial Year and the Contractor shall submit to the BBC within the Financial Year an invoice or refund for the balancing payment for the difference between the Collection Charges paid in respect of the Contractor's Forecast and the Collection Charges due in respect of the actual Licence Fee Revenue Collected. Any final payment or refund required must be invoiced by 30 April annually.

## **6 Growth Factor**

- 6.1 The purpose of applying the Growth Factor as part of the Baseline Adjustment Factor is to reflect as accurately as possible the growth in all populations to which the Licence Fee applies. Further information describing the BBC's approach to calculating the Growth Factor is set out in the methodology in Annex 1 to this Schedule.
- 6.2 The population to which the Growth Factor is applicable is defined as the total number of premises requiring a Licence as defined in the Regulations and the TV Licensable Places Policy. Any calculation of the Growth Factor shall use the latest available licensable premises population.
- 6.3 The BBC shall calculate the Growth Factor by applying the principles described in the methodology set out in Annex 1 as varied from time to time so as to achieve the highest accuracy of measurement, and shall share the methodology with the Contractor prior to the Start Date. The BBC shall endeavour continually to improve the Growth Factor calculation methodology to achieve the stated purpose. The BBC shall periodically commission external audits to review the calculation methodology and shall take into account any audit recommendations when seeking to improve the accuracy of the measurement. The Contractor shall have no right to veto an audit recommendation.
- 6.4 Any resetting of the underlying population to which the Growth Factor is applied (such as results of the census or retrospective corrections of growth rates based on new data) shall be applied in the Financial Year following the release date of that information but shall not result in a retrospective adjustment to the Initial Baseline, the BBC Income Baseline, the Bandings or the p/£ Rate.
- 6.5 The effect of using the Growth Factor and the Baseline Adjustment Factor calculated by reference to the Pricing Model is that the Contractor shall collect additional revenue generated from growth (as described in the Growth Factor) at no extra charge to the BBC.

**7 Television Penetration Rate Factor**

- 7.1 The purpose of the Television Penetration Rate Factor is to reflect as accurately as possible changes in the Television Penetration Rate in all populations to which the Licence Fee applies.
- 7.2 The BBC shall calculate the Television Penetration Rate Factor and shall share its methodology with the Contractor. The BBC endeavours to continually improve the accuracy of the Television Penetration Rate calculation to achieve the stated objective, and in consequence its calculation methodology may change over time. The BBC shall periodically commission external audits to review the calculation methodology and shall take into account the results of such audits when seeking to improve the accuracy of the measurement.
- 7.3 The purpose of applying the Television Penetration Rate Factor is to ensure that the Charges due from the BBC do not change as a result of changes in the Television Penetration Rate even though the BBC's income may reduce or increase.

**8 Licence Fee Rate Factor**

- 8.1 The purpose of the Licence Fee Rate Factor is to reflect any change in the full colour Licence Fee as a result of an annual fee change. It is expressed as a percentage movement from the previous year's Licence Fee.
- 8.2 The purpose of applying the Licence Fee Rate Factor is to ensure that the Charges due from the BBC do not change even though the BBC's income may reduce.

**9 Calculation of Collection Charges**

- 9.1 The annual Collection Charges are calculated by applying the p/£ Rate to each Banding up to the amount representing the total Licence Fee Revenue Collected for the Financial Year.
- 9.2 The BBC Income Baseline for each Financial Year is calculated by applying the Cumulative Baseline Adjustment Factor to the Initial Baseline.
- 9.3 The following is a worked example of how the Collection Charges are calculated:

[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]

**10 Creative, Print, SMS, Email, Fulfilment and Postage Charges**

- 10.1 The BBC shall be responsible for all creative, print, SMS, email, fulfilment and postage charges raised by the Marketing Provider including associated charges raised by its subcontractors, the Print Provider and the Postage Provider for the volume of items identified in the Cost Model.
- 10.2 The Contractor shall be responsible for all creative, print, SMS, email, fulfilment and postage charges raised in excess of those volumes stated in the Cost Model and shall reimburse the BBC on a monthly basis for the charges that the BBC incurs from its Marketing Provider, the Print Provider and Postage Provider for the said print, SMS, email, fulfilment and postage charges.
- 10.3 The BBC shall notify the Contractor of the sums charged by the Marketing Provider, the Print Provider and the Postage Provider monthly in arrears in respect of the charges that the BBC incurs described in paragraph 10.2 and the Contractor shall provide either a credit note/deduction to the Contractor's next invoice, at the BBC's discretion.
- 10.4 With effect from 1 April 2013, the Contractor shall be entitled to charge to the BBC any transaction costs appropriately and necessarily incurred by the Contractor where the SMS service is not provided by the Marketing Provider. The charges in respect of the SMS service provision shall be raised by the Contractor in accordance with the provisions of paragraph 14. For the avoidance of doubt, the Contractor shall not be entitled to apply Profit Margin or Overheads in respect of the SMS charges.

**11 Additional Service Charges**

- 11.1 In the event that the BBC requires any Additional Services, the Contractor agrees that the charges it shall propose (when requested) shall be calculated on a "cost plus" model derived from the Cost Model plus Overheads and Profit Margin stated in the Table 2 of Annex 2, for the associated Financial Year or other more favourable rates as the Contractor may choose to offer ("**Additional Service Charges**").

**12 Contractor Change Costs**

- 12.1 The Contractor shall use its reasonable endeavours to ensure that all changes to the Services improve the Contractor's Forecast or result in a cost reduction and in both cases are self funding.
- 12.2 Subject to paragraph 12.1, any Changes to this Agreement in any Financial Year other than those falling within the scope of paragraph 12.3, to the extent that they involve a net increase in the Contractor's costs in the provision of the Services, shall be priced on the basis set out in the table below:

Cumulative cost of Changes in any given Financial Year	Basis of Charges
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Up to £50,000	No increase in Charges
Between £50,000 and £500,000	Charged at cost only using the rates set out in paragraph 12.4 and the Rate Card (i.e. no Overheads or Profit Margin applied and adjusted by removing Overheads and Profit Margin at the values/percentages described in Annex 2 Table 2 )
In excess of £500,000	Charged as per the rates set out in paragraph 12.4 and the Rate Card

The mechanism to be employed by the Contractor when calculating the Contractor Change Costs is described in paragraphs 12.2.1 to 12.2.4 below.

12.2.1 The Contractor shall apply the Rate Card, third party change costs, and any applicable “partner flow through risk”, in accordance with the principle set out in paragraphs 12.4 and 12.5, to all responses to Change Requests in order to calculate the Contractor Change Costs.

12.2.2 The Contractor Change Costs shall be invoiced in accordance with any stage payments or schedule as described in the approved Change Request response.

12.2.3 The Contractor shall monitor the cumulative Contractor Change Costs to be invoiced in any Financial Year and, where applicable, apply a discount to invoices up to the values described in the table in paragraph 12.2 above. For the avoidance of doubt, the bandings in the table above are the cumulative values prior to the application of any discount.

12.2.4 Should the cumulative Contractor Change Costs due to be invoiced in any Financial Year not reach £500,000 then any remaining discount can not be carried forward in to future years.

12.3 In the event that the BBC either:

12.3.1 exercises its rights pursuant to Clause 5.10 or 44.8.3 in such a way as to either:

- (a) reduce the scale or scope of the Services provided by the Contractor under this Agreement; or
- (b) to engage any third party in connection with the collection of any Licence Fee Revenue within the Territory, and as a result the Contractor's ability to collect all of the available Licence Fee Revenue, and/or the burden of the Contractor's obligations, or the risk to the Contractor, in the collection of all of the available Licence Fees from the Territory, is thereby adversely impacted, or

12.3.2 terminates this Agreement in part for any reason,

then the Parties shall agree in good faith and implement a change to the p/£ Rate for each Banding using the actual costs within the latest available Statement of Accounts at the time of



the change as the start point for the calculation of the cost of Changes, and rates of Overhead and Profit Margin stated in Table 2 of Annex 2 to this Schedule.

- 12.4 The following rates shall be applied in order to calculate the cost of changes from 1 April 2013 (“the Rate Card”). The Contractor shall be entitled to amend the Rate Card on 1 April each subsequent Financial Year for the duration of the Term to reflect any changes in its standard rate card, such amendment to be made in accordance with the Change Control Procedure.

Role	Rate
(£)/per day	
Customer Services Darwen	
Customer Services Offshore	
Payment Processing	
Field	
Operational Management	
HR	
Legal	
Specialist and Middle Management	
Data Management	
Senior Management	
Marketing Manager	
Analytics Senior Analyst	
Analytics Junior Analyst	
Programme Director	
Programme Manager	
Enterprise Architect	
Solutions Architect	
Lead TDA	
TDA	
Technical Consultant	
Senior Project Manager	
PMO Manager	
Project Manager	
Business Consultant	
Business Analyst	
Project Office Co-ordinator	
Technical Design Lead	
Senior Implementation Engineer	
Implementation Engineer	
Test Manager	
Lead Tester	
Principal Test Analyst	
Test Analyst	
Test Automator	
Performance Tester	

**[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]**

The principles to be employed for the application of any amended Rate Card are as follows:

- 12.4.1 The Contractor Change Costs provided in response to a Change Request shall carry a validity period of thirty (30) days.

12.4.2 Where the BBC approves the Contractor Change Costs and provides authorisation to proceed with a Change Request within the validity period, irrespective of whether the expiry of the validity period occurs in the following Financial Year, then any Rate Card amendments shall not apply to that Change.

12.4.3 Where the BBC does not provide approval for a Change Request within the validity period then the Contractor shall be entitled to re-submit the Contractor Change Costs taking into consideration any amendments to the Rate Card and/or third party costs.

12.4.4 The Contractor Change Costs to apply to a Change Request are those approved by the BBC within the validity period irrespective of the Financial Year in which the Change Request is implemented.

12.5 The Contractor agrees that it shall not be entitled to charge the BBC any Overheads or other mark up (other than in accordance with the "partner flow through risk" percentage (described in the Cost Model) up to a maximum of 1.4 percent in respect of the costs of change it agrees with iQor and Computer Sciences UK Limited (or any suitable replacement provider).

### **13 Reduction in Charges - Profit Share**

13.1 The BBC as a custodian of public funds is required to ensure that such funds are used appropriately to achieve value for money to the benefit of the Licence Fee payer and therefore in order to avoid the risk of the Charges generating excessive profit for the Contractor, the provisions of this paragraph enable the BBC to recoup such excess Pre-Tax Profit by application of the mechanism set out in this paragraph and thus ensure that the Charges will represent value for money.

13.2 With effect from 1<sup>st</sup> April 2013, and each Financial Year thereafter, the Parties shall calculate the proportion of Pre-tax Profit to be shared by using the following method:

13.2.1 the Parties shall use Table 1 (including its note) below to calculate the proportion of Pre-tax Profit to be shared for any Pre-tax Profit in excess of "the Profit before Profit Share" threshold when the total Licence Fee Revenue Collected (each Financial Year or part thereof in the case of the period from the Start Date to the 31st March 2013 and from 1st April to the date of termination of the Services or expiry of the Agreement in the final part year of the Agreement) falls within Bands 1 to 4.

**Table 1**

**[Redacted under section 43 ("commercial interests") of the Freedom of Information Act]**

Notes to Table 1:

- (a) Amortised costs for initiatives to drive an increase in Licence Fee Revenue Collected may be offset against Pre-Tax Profit. The amount to be amortised and term shall be agreed in advance with the BBC and in accordance with the Accounting Principles.
- (b) Each Banding will have a unique identifier.
- (c) The value of each Banding is found in Annex 1 of Schedule 5 and must be adjusted annually in accordance with paragraph 5.2.

13.2.2 If the total Licence Fee Revenue Collected (each Financial Year or part thereof in the case of the period from the Start Date to the 31st March 2013 and from 1st April to the date of termination of the Services or expiry of the Agreement in the final part year of the Agreement) exceeds Band 4 then the amount of Pre-tax Profit to be retained by the Contractor in the Financial Year (or part thereof) in which it is earned before Profit Share (L) is calculated as follows:

$$L = (F \times G) + (((A-E) \times D/100 \times ((I \times J) - (F \times G))) / (H-E) \times D/100)$$

Where:

1. The Licence Fee Revenue Collected level for the year (A) and the Banding in which it falls (B) and the earnings to which the Contractor is entitled (C) are identified.
2. The p/£ Rate for the Banding applicable to the Licence Fee Revenue Collected is identified (D). The p/£ Rate associated with each Banding is found in Annex 1 of Schedule 5 and must be adjusted annually in accordance with paragraph 5.2 (Schedule 5).
3. The Licence Fee Revenue Collected equating to the top of the Band that precedes D (E), the percentage from the column "Profit before Profit Share" (F) from Table 1 and the total amount earned by the Contractor in the applicable period of time from the p/£ Rate, any Milestone Payments and/or the Legacy Payments relating to this (G), are identified.
4. The Licence Fee Revenue equating to the top of the Band which is applicable to the Licence Fee Revenue Collected for that year (H), the percentage from the column "Profit before Profit Share" from Table 1 (I) and the total amount earned by the Contractor in the applicable period of time from the p/£ Rate, any Milestone Payments and/or the Legacy Payments relating to this (J), are identified.
5. The BBC shall examine the Statement of Account and establish the actual amount of Pre-tax Profit earned by the Contractor in the relevant period. The Contractor retains Pre-tax Profit equivalent to L and all Pre-tax Profit earned in excess of L shall be shared in equal proportions.
6. The worked examples set out in Annex 1 to this Schedule illustrate the application of the formula.

13.3 Any sum received by the BBC in accordance with this paragraph 13 shall be deemed by the BBC for taxation purposes as a cost reduction.

## **14 Invoicing and Payment Procedures**

### **14.1 Invoicing and Payment**

14.1.1 The Contractor shall submit invoices in connection with this Agreement together with such supporting documentation as the BBC reasonably requires to verify such invoices to:

Finance Partner, Central Services  
TV Licensing  
Room 4434 White City  
201 Wood Lane  
London  
W12 7TS

14.1.2 The BBC may alter the address to which the Contractor is required to submit invoices and supporting documentation from time to time. The BBC shall inform the Contractor of any such changes as necessary. All invoices shall be in pounds sterling.

14.1.3 The Contractor shall submit monthly invoices in respect of the Charges in each case after the end of the month in relation to which such Charges apply or as otherwise provided for in this Agreement. Such invoices shall be payable by the BBC by the end of the month following the month in which the invoice is received.

### **14.2 [Redacted under section 43 ("commercial interests") of the Freedom of Information Act]**

**[Redacted under section 43 ("commercial interests") of the Freedom of Information Act]**

### **14.3 Service Credits**

The Contractor shall calculate any Service Credits Payable in accordance with Schedule 6 (**Service Level Agreement**). The Service Credits Payable shall be payable by the Contractor as a deduction to the Charges in the month following the Reporting Period in which the Service Credits in question accrued. If no Charges are payable in the month following the relevant Reporting Period, the Contractor shall forthwith issue a credit note for the proper amount of the Service Credits Payable and the amount for the Service Credits Payable shall be repayable by the Contractor as a debt on the deemed issue of a credit note or within ten (10) Working Days of issue of a credit note, or in any event by the end of the month following the end of the said relevant Reporting Period.

### **14.4 Liquidated Damages**

Liquidated Damages which accrue in any month shall be deducted from the Charges relating to the same month. If the sum of Liquidated Damages is in excess of the Charges or no Charges are payable in the said month the Contractor shall forthwith issue a credit note for the full sum of Liquidated Damages due to the BBC (or if does not issue such a credit note it shall be deemed to have done so on the first Working Day after the end of the relevant Month) and the said

amount of Liquidated Damages shall be payable by the Contractor as a debt on the deemed issue of a credit note or within thirty (30) Working Days of whichever shall be the earlier of the issue or deemed issue of the credit note.

#### 14.5 Invoice Details

14.5.1 As a minimum, any invoices submitted by the Contractor shall contain the following information:

- (a) the document must be clearly headed "INVOICE";
- (b) the Contractor's name, registered address, VAT number, and tax point date relating to the rate of VAT shown;
- (c) the BBC purchase order number and purchase order item number (if applicable) which relates to this Agreement;
- (d) the address to which confirmation of payment of the remittance by the BBC to the Contractor should be sent;
- (e) a unique invoice number;
- (f) the Services to which the invoice relates, tabulated in a manner which allows clear identification of the methodology of calculation of the amount for each Service;
- (g) the month for which the Services have been supplied;
- (h) details of any discounted Charges for early payment and the date(s) by which the invoice must be paid to take advantage of such discount;
- (i) any deductions made in respect of Service Credits or Revenue Credits;
- (j) any deductions made in respect of Liquidated Damages;
- (k) any deduction made in respect of an overpayment made by the BBC in respect of the Contractor's Forecast;
- (l) the total Charges due in that month (shown excluding VAT (or other applicable sales tax)), the VAT (or other applicable sales tax) percentage, VAT (or other applicable sales tax) value and the total Charges due in that month (shown including VAT (or other applicable sales tax)); and
- (m) the currency of the invoice submitted (pounds sterling).

14.5.2 Each invoice shall contain, or be supported by, any information that the BBC may reasonably require to validate the performance of the Services to which the invoice relates and the Charges applicable to such Services. This shall include the supporting documentation evidencing the amount invoiced.

14.5.3 All invoices shall be legible and presented in a form suited for electronic scanning by the BBC.

14.5.4 The BBC may change the information required, or the format of invoices from time to time and shall inform the Contractor of the BBC's new requirements.

#### 14.6 Credit Notes

14.6.1 Credit notes shall be issued by the Contractor to the BBC when appropriate to correct any errors of content, omission or calculation occurring in previous invoices or where a credit is due to the BBC for any other reason.

14.6.2 All credit notes shall contain, or be supported by, any information which the BBC may reasonably require to validate the issue of the credit note and as a minimum shall contain the following information:

- (a) the document shall be clearly headed "CREDIT NOTE";
- (b) a unique credit note number;
- (c) the original purchase order number to which the credit note refers;
- (d) where appropriate, the invoice number to which the credit note refers;
- (e) reason for the credit note being raised;
- (f) summary details of the credited charges; and
- (g) details of the credited VAT (or other applicable sales tax).

14.6.3 The BBC may make reasonable alterations to the information required on, or the format of credit notes from time to time and shall inform the Contractor of the BBC's new requirements.

#### 14.7 Disputed Invoices

14.7.1 The BBC shall raise any dispute regarding an invoice within a reasonable period (not exceeding thirty (30) Working Days) of the date of such invoice.

14.7.2 In the event that an invoice is disputed by the BBC, the BBC shall pay the undisputed amount within the timescales for payment of invoices specified in this Schedule and shall provide the Contractor with a written explanation of why any disputed amount has not been authorised for payment. Following resolution in respect of the disputed amount the Contractor shall invoice the BBC for the revised agreed amount and issue a credit note in accordance with paragraph 14.6.2 for an amount equal to the difference between that amount and (if higher) the amount originally invoiced and disputed. The BBC shall pay such revised agreed amount in accordance with the timescales for payment of invoices specified in this Schedule.

14.7.3 The Parties shall use all reasonable endeavours to resolve a dispute regarding invoices promptly. Where necessary such dispute shall be resolved in accordance with Clause 43.

#### 14.8 Interest for Late Payment

If either Party fails to pay by the due date any undisputed amount payable by it under this Agreement, the other Party shall be entitled but not obliged to charge that Party interest on the overdue amount, from the due date up to the date of actual payment, at the rate of four (4) per cent per annum above the Bank of England base rate. Such interest shall accrue from day to day from the due date until the date of actual payment in full. Interest shall not be payable on any disputed amount which is subsequently deemed or determined not to be payable in accordance with this Agreement.

## **15 Overheads**

The percentages applied by the Contractor in respect of any central overheads it intends to include in its Charges, and any Contractor's Breakage Costs shall be limited to the percentages shown in the column described as overheads set out in Table 2 of Annex 2 and such percentages shall be fixed for the Term ("**Overheads**").

## **16 Taxes**

- 16.1 Subject to paragraphs 16.3 and 16.4 the Charges include all taxes that the BBC is unable to recover from time to time. For the avoidance of doubt, Charges are quoted excluding VAT.
- 16.2 Any VAT (or other applicable sales tax) payable shall only be paid by the BBC on the receipt by the BBC of a valid VAT (or other applicable sales tax) invoice.
- 16.3 If the Contractor is entitled to claim back any taxes paid by the BBC in relation to this Agreement, it shall do so and pass such amounts on to the BBC immediately upon receipt by the Contractor.
- 16.4 The BBC shall, if required by the Law of any relevant jurisdiction, be entitled to withhold taxes from the Charges (or other payments, including interest payments) payable to the Contractor under this Agreement and agrees to provide the Contractor with appropriate evidence of such withholding.

## **17 Contractor's Breakage Costs**

- 17.1 In the event that the BBC exercises its right to terminate the Agreement early in whole or in part in accordance with Clause 4.5 the Contractor's Breakage Costs payable to the Contractor shall comprise:
  - 17.1.1 Payments, costs and expenses which have been made or are unavoidably committed to by the Contractor or its Subcontractors which are directly related to the Services and which cannot be recovered by the Contractor or its Subcontractors as a result of the Services being terminated by the BBC;
  - 17.1.2 outstanding committed third party costs relating to arrangements which have been made by the Contractor or its Subcontractors (and, to the extent such approval is required under the terms of this Agreement, have been approved by the BBC) in relation to the Services including leases, rentals, maintenance,

licences or third party contracts to the extent that the same cannot be avoided or deployed for the benefit of other customers of the Contractor or its Subcontractors and cannot be recovered as a result of the Services being terminated by the BBC;

17.1.3 the net book value of any Sole Use Assets acquired and used by the Contractor or its Subcontractors to deliver the Services to be terminated and which are not transferring to the BBC or a Successor Service Provider on termination (excluding any assets provided by the BBC which were used to provide services under the BBC's contract with the Incumbent); and

17.1.4 the direct cost of the redundancy of any Services Employees (as such term is defined in paragraph 10.1 of Schedule 11 (**Exit**)), subject always to the Contractor using best endeavours to redeploy such individuals within its business and Clause 30.3 (Limitation of Liability), provided that this paragraph 17.1.4 shall only apply where immediately following termination the Services (or services which are materially similar to the Services) are no longer to be provided by either a Successor Service Provider or by the BBC itself,

in each case to the extent such items relate to the part or parts of the Services which have been terminated.

17.2 On request by the BBC, the Contractor shall notify the BBC in writing within ten (10) Working Days of the estimated Contractor's Breakage Costs which it anticipates would apply if the BBC were to exercise its right to terminate the Agreement in whole or in part in accordance with either Clause 4.5 or Clause 4.6 together with such supporting information as the BBC may reasonably require. Where the BBC does not agree with the Contractor's Breakage Costs estimate, the matter shall be resolved in accordance with Clause 43.

17.3 If the BBC terminates this Agreement in accordance with either Clause 4.5 or Clause 4.6 within a period of one (1) month from the date on which it has received the most recent calculation of the Contractor's Breakage Costs from the Contractor under paragraph 17.2, the Contractor shall be bound by such calculation and the Contractor's Breakage Costs shall be fixed at an amount equivalent to the Contractor's calculation.

17.4 Once in receipt of notification from the BBC of the BBC's intention to exercise its right to terminate this Agreement in accordance with either Clause 4.5 or Clause 4.6, the Contractor shall use all reasonable endeavours to minimise any of the Contractor's Breakage Costs.

## **18 Cost of Exit**

The Contractor acknowledges that the services it provides in relation to exit of this Agreement as set out in Schedule 11 (**Exit**) are included within the Charges, save where indicated in that Schedule. To the extent that such services are not included within the Charges, the Contractor agrees to provide such services in accordance with an agreed rate card applicable at the time that the assistance and support is required to successfully achieve the Smooth Transfer of the Services (or specific Services).



**19 Charges for extension(s) of this Agreement**

19.1 The charges for those services provided under an extension to this Agreement pursuant to Clause 4.2 shall be calculated in accordance with the following provisions of this paragraph 19.

19.1.1 The p/£ Rate for each Banding of the Collection Charges applicable for the final Financial Year (or part thereof) prior to expiry of this Agreement shall be increased or decreased by the percentage change in the Consumer Price Index published by the Office of National Statistics (or any replacement body thereto) over the period from the preceding March to February inclusive prior to start of any extension. Thereafter for the duration of the said extension no further indexation adjustment shall be made to the Charges.

19.1.2 The p/£ Rate for each Banding for the period of any extension shall be increased or decreased such that the Contractor shall be returned to a position whereby it recovers before tax for the period of such extension a sum equivalent to the overall Profit Margin stated in the Cost Model for the Initial Term.

19.1.3 The Contractor acknowledges that it shall not increase its overheads beyond the percentage amount stated in the Contractor's Tender Documentation, for the period of any extension of this Agreement.

19.1.4 If there is any particular requirement for capital investment during the period of any extension, these shall be proposed by the Contractor, for agreement by the BBC.

**20 Commercial Trigger**

20.1 The following mechanism provides for the resetting of the Charges in the event of a Major Change save where the Contractor can provide satisfactory evidence to the BBC that the Major Change is directly attributable to the Contractor's performance.

20.2 The Parties shall work together in good faith to review the Contractor's predicted costs in providing the revised scope of Services for the remainder of the Term together with any proposed extension and measure the change in cost and overheads compared with those expressed in the Statement of Account/Cost Model and Tender Documentation.

20.3 The Parties shall consider and implement a revised p/£ Rate and any other appropriate adjustment to the Collection Charges or Milestone Payments (where applicable).

20.4 In the event that either Party has identified a potential Major Change, it shall promptly notify the other Party. The Parties shall meet within twenty-eight (28) days to agree the process and timescales involved in identifying whether the proposed change is a Major Change and if so, the process by which the Charges shall be amended.

20.5 Any changes shall be agreed in accordance with the Change Control Procedure.

**21 Revenue Credit**

- 21.1 In the event that the actual Licence Fee Revenue Collected in any Financial Year, other than the period from the Start Date to the end of the first Financial Year and the Financial Year commencing 1 April 2013, is less than the amount of the Licence Fee Revenue represented by the Contractor's Forecast for the same period, the Contractor shall issue a credit note to the BBC in a sum or sums equivalent to the shortfall (the "**Revenue Credit**").
- 21.2 For the period from the Start Date to the end of the first Financial Year there shall be no Revenue Credit.
- 21.3 For the Financial Year commencing 1 April 2013 the Revenue Credit shall be payable by the Contractor in the event that the actual Licence Fee Revenue Collected is less than the amount of the Licence Fee Revenue represented by the BBC Income Baseline for the same period.
- 21.4 The Revenue Credit specified in any Financial Year shall not exceed the Available Service Credit Cap. The BBC shall use any Revenue Credit received to fund methods of increasing Licence Fee Revenue. In the event that the BBC requests the Contractor to undertake additional activities to be funded by a Revenue Credit any charges proposed by the Contractor for such activities for which the BBC would be liable shall be limited to the cost to the Contractor of effecting the said activities and not include any Contractor Pre-Tax Profit.

**Annex 1: Collection Charges, Cost Model, Growth Methodology Principles, Profit Share and actual Bandings, p/£ Rates and Baseline Adjustment Factors**

[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]

**Actual Bandings, p/£ Rates and Baseline Adjustment Factors**

[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]

Financial Year 12/13

For Financial Year 12/13 three adjustments are made in order to calculate the p/£ Rate for that period. The first is to apply the Cumulative Baseline Adjustment Factor to the Bandings and the p/£ Rate for Financial Year 12/13 specified in the Pricing Model in accordance with the principles described in paragraph 5.2. The second is to reduce the Bandings proportionately to take account of the nine month period and seasonality in accordance with the principles described in paragraph 5.3. The final adjustment is to amend the p/£ Rate so that if the actual Licence Fee Revenue Collected in the nine month period is equal to the BBC Income Baseline then the Contractor recovers its costs as specified in the Pricing Model. Hence the p/£ Rates for the full year and the nine month period are slightly different as shown below.

**[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]**

Financial Year 13/14

**[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]**

**The Growth Factor – Methodology**

- 1** This note seeks for the purposes of completeness to explain in more detail what the Growth Factor is and how it is calculated. Changes to the methodology used by the BBC will be made by agreement in writing with the Contractor. For the avoidance of doubt any changes to this methodology will be notified to the Contractor (but not subject to the Change Control Procedure).
- 2** The Growth Factor is calculated by the BBC. It is defined in this Agreement as "the factor representing the rate of annual growth in all populations to which the Licence Fee applies".
- 3** At present the rate of domestic 'household' growth is calculated with reference to 80% of the total domestic population and applied across 100% of the total population of licensable premises. The domestic population is approximately 96% of licensable premises with the remaining 4% of licensable premises being businesses, MoD, students etc.
- 4** The household growth factor is calculated using a forecast of house building completions from the Department of Communities and Local Government adjusted, using historical trend data, for changes in dwelling stock growth compared to house building completes growth and changes in household growth compared to changes in dwelling stock growth. A dwelling can contain one or more households.
- 5** The BBC is applying continual improvement to this methodology, including investigating sources of data to allow individual growth measurement for the component parts of the 4% non-domestic licensable premises population.

**Annex 2: Legacy Payments and Overheads**

[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]



### Annex 3: Contractor's Forecast

[Redacted under section 43 (“commercial interests”) of the Freedom of Information Act]

## Annex 4: Benchmarking

### 1 Initiation of Benchmarking

The BBC may at its absolute discretion initiate a benchmarking process in order to compare the price and performance of all or some of the Services against prices charged and service performance delivered to customers by the industry for provision of equivalent services of equivalent quality ("**Benchmarking**"). Any such Benchmarking shall be conducted no more frequently than once every two (2) years in respect of the part(s) of the Services concerned, with the first Benchmarking to commence no earlier than two (2) years after the Start Date. Benchmarking shall be conducted in accordance with this Schedule and may be applied to individual Service areas or the Services as a whole.

### 2 Benchmark Measurement

- 2.1 In respect of each Benchmarking initiated by the BBC in accordance with this Schedule, the BBC shall appoint an independent, established and industry recognised organisation that has demonstrated significant benchmarking expertise, experience, methodology and data sources each in relation to the relevant industry and the Services to be the subject of the Benchmarking ("**Benchmarker**").
- 2.2 The BBC shall meet with the Contractor at least forty (40) Working Days prior to engaging a Benchmarker for the purpose of advising the Contractor of the BBC's proposal to Benchmark the Services (or particular part of the Service) and the BBC's proposed process for the Benchmarking. The selection of a Benchmarker and the Benchmarking process shall be reviewed and approved by the appropriate governance group or board.

### 3 Benchmarking Process

- 3.1 The Benchmarker shall be invited by the BBC to submit a Benchmarking proposal that shall include:
- 3.1.1 the methodology to be used in the Benchmarking;
  - 3.1.2 a representative sampling of the comparable third party contracts to be used for the Benchmarking (the "**Comparators**"); and
  - 3.1.3 the extent that adjustments may reasonably be made without rendering the results of the Benchmarking misleading or inaccurate,
- (the "**Benchmarking Proposal**").
- 3.2 Each Benchmarking shall be carried out by the Benchmarker in accordance with this Schedule including the following general principles and criteria:

- 3.2.1 to make the comparison meaningful, there shall be a representative, statistical sampling of relevant services that are comparable to those elements of the Services which are the subject of the proposed Benchmarking, having regard to factors such as the nature, size and location of the Comparator service provider/customer, the service levels and volumes, the technology environment and any other relevant factors ("**Comparable Services**");
  - 3.2.2 the Benchmarker's data used for the Benchmark shall be reasonably current and no older than twelve (12) months prior to the date on which the Benchmarking is commenced; and
  - 3.2.3 the Benchmarker shall make adjustments as part of the Benchmarking exercise to take account of the peculiarities of this Agreement and/or the BBC (where relevant) and of the Comparators and any other relevant issues raised by the Contractor so as to ensure that the exercise is meaningful and fair.
- 3.3 In respect of each Benchmarking, the Benchmarker shall be required to:
- 3.3.1 provide a draft report to the BBC and the Contractor for review ("**Benchmarking Report**");
  - 3.3.2 address all reports it produces to both the BBC and the Contractor and provide complete copies of written reports of the Benchmarker's findings to the BBC and the Contractor;
  - 3.3.3 consult with both the BBC and the Contractor in relation to the findings of the Benchmarking and give due consideration to any representations made by either party in relation to treatment of the data used to prepare the Benchmarking Report;
  - 3.3.4 undertake to keep results or reports produced as a result of the Benchmarking strictly confidential and comply with any further reasonable confidentiality requirements of the BBC and the Contractor;
  - 3.3.5 be bound by confidentiality obligations no less stringent than those binding the BBC in relation to the Contractor's Confidential Information under this Agreement; and
  - 3.3.6 undertake not to use any information provided by or on behalf of or accessed from or relating to the Contractor and/or its provision of the Services (including for the avoidance of doubt this Agreement and any associated agreements) in marketing activities or any other benchmarking exercise or similar exercise.
- 3.4 The Contractor shall provide full co-operation to the Benchmarker, including copies of documents, primary and/or source data and access to relevant records and Employees as reasonably requested by the Benchmarker in order for the Benchmarker to carry out the Benchmarking.
- 3.5 The BBC and the Contractor shall each bear their own costs in respect of the Parties' respective co-operation with the Benchmarker for the purpose of Benchmarking. The costs of the Benchmarker shall be borne equally by the BBC and the Contractor.

**4 Deficient Performance**

- 4.1 Subject to paragraph 6 of this Annex, if a Benchmarking shows that the Contractor's performance of any Service (including the Service Levels) is less favourable when measured against the Comparable Services ("**Deficient Performance**"), the Contractor shall assist the BBC to determine the cause of that Deficient Performance. The Contractor may at that stage adjust its performance levels or make an adjustment to its performance of the Services, in such a way as would mitigate this finding in which case no further action shall be taken under this Schedule 5.
- 4.2 Subject to paragraph 6 of this Annex, unless the Parties agree that the Deficient Performance is due to the unique requirements of the BBC and not the Contractor's performance, the Contractor shall:
- 4.2.1 within thirty (30) Working Days following the receipt by the Contractor of the Benchmarking Report, develop and submit to the BBC a proposal reasonably acceptable to the BBC that sets out the corrective action to be promptly taken by the Contractor to match the average performance achieved by the Comparable Services while maintaining competitive pricing consistent including, where appropriate, by providing additional or amended staffing, levels of training, upgrading hardware and software, introducing new and improved tools and improving processes, amending the Services and/or the Service Levels together with a timetable for such corrective action;
  - 4.2.2 the proposal described in paragraph 4.2.1 shall be submitted as a Change Request to the BBC for its approval; and
  - 4.2.3 the Contractor shall implement any action plan as set out in the subsequent Change Notice (including the details submitted in the Change Request), in accordance with that timetable. If the Contractor fails to develop a proposal described in paragraph 4.2.1 or comply in a material way with an agreed corrective action plan set out in the Change Notice, the Contractor shall be deemed to be in material breach of this Agreement.

**5 Uncompetitive Pricing**

- 5.1 Subject to paragraph 6 of this Annex, if a Benchmarking carried out under this Agreement in respect of any of the Services shows that the Charges are outside of the range of the service charges charged by the middle lower quartile of Comparators (ranked by price, with the cheapest Comparators occupying the lowest quartile), the Contractor shall within thirty (30) Working Days following receipt by the Contractor of the Benchmarking Report, develop a proposal acceptable to the BBC that sets out any corrective action that the Contractor is prepared to make to attempt to bring the Charges within the range of service charges charged by the middle lower quartile of Comparators within six (6) months of receipt by the Contractor of the Benchmarking Report. Such proposal shall include, where appropriate, provisions in relation to providing additional or amended staffing, levels of training, upgrading hardware and software, introducing new and improved tools and improving processes, amending the Services and/or the Service Levels together with a timetable for such corrective action.

- 5.2 The agreed proposal described in paragraph 5.1 shall be submitted as a Change Request to the BBC for its approval.
- 5.3 The Contractor shall implement any action plan as set out in any consequential approved Change Notice in accordance with the timetable set out in the said action plan. If the Contractor fails to develop a proposal as described in paragraph 5.1 or fails to comply in a material way with an agreed corrective action plan set out in an approved Change Notice, the Contractor shall be deemed to be in material breach of this Agreement entitling the BBC to terminate this Agreement pursuant to Clause 33.2.

## **6 Benchmarking Disputes**

Any disagreement between the Parties concerning the causes of the Deficient Performance or Uncompetitive Pricing that is not resolved by discussions between the Parties shall be resolved in accordance with Clause 43. If the Escalation Procedure fails to resolve such disagreement, then the BBC may terminate this Agreement and in such event, the BBC shall pay the Contractor's Breakage Costs.

## **7 Impact of Benchmarking**

- 7.1 The BBC agrees that the conduct of Benchmarking should not result in material disruption to or interference with the Contractor or to the Services being provided by the Contractor and that if the Benchmarking does result in such disruption or interference then the Contractor shall be relieved of its obligations to perform under this Agreement to the extent that it is not able to perform those obligations as a result of such disruption or interference.
- 7.2 The BBC reserves the right to annul any initiated Benchmarking process and to defer from acting upon the findings of any Benchmarking.
- 7.3 Both Parties agree that Benchmarking cannot lead to an increase in the Charges.