SCHEDULE 17

Surplus Share

1. This schedule shall be applied to calculate the overall Excess Surplus/Deficit generated as a result of the management of the Facilities.

2. Subject to paragraph 6, within three (3) months of the end of each Contract Year following the Commencement Date the Operator shall provide to the Authority a calculation of the Operating Surplus/Deficit, Excess Surplus/Deficit and Average Excess Surplus for the previous Contract Year, subject to the calculation being audited by the Operator's auditors if an audited calculation cannot be provided within the required timescale. The calculation shall be in the form of a statement and certificate signed by the Operator's auditors or another registered auditor (the **"Operating Surplus Statement"**) confirming the figures for Income and Expenditure and presented in the same format as in the LOBTA and setting out details of the Operating Surplus/Deficit, Excess Surplus/Deficit and Average Excess Surplus/Deficit for that previous Contract Year.

3. The Operating Surplus/Deficit for each Contract Year, as set out in each Operating Surplus Statement, shall be calculated in accordance with the formula:

   OS/D = A – B, where

   OS/D means the Operating Surplus/Deficit for the relevant Contract Year

   A means the Income received by and/or due to the Operator in relation to the Services during the relevant Contract Year

   B means all the Expenditure actually paid (or incurred but not paid) by the Operator during the relevant Contract Year.

4. The Excess Surplus/Deficit (ES/D) shall be calculated in accordance with the formula:

   ES/D = OS/D – the Operator's Projected Surplus

5. The Average Excess Surplus (AES) attributable to a Contract Year shall be calculated by the Operator in accordance with the provisions of this paragraph 5 on the dates specified at paragraph 6 of this Schedule. The AES shall be the total ES/D for the preceding three (3) Contract Years divided by the number of Contract Years and shall be calculated using the following formula:

$$AES = \frac{\left(ES/D_{y-1} + ES/D_{y-2} + ES/D_{y-3}\right)}{3}$$

   where:

   AES = means the Average Excess Surplus attributable to the Contract Year

   ES/D_{y-1} = means the ES/D for the Contract Year ending immediately before the Contract Year during which the calculation is taking place

   ES/D_{y-2} = means the ES/D for the Contract Year immediately preceding ES/D_{y-1}

   ES/D_{y-3} = means the ES/D for the Contract Year immediately preceding ES/D_{y-2}

6. The first Average Excess Surplus calculation shall be undertaken by the Operator at the same time as the Excess Surplus/Deficit calculation following the expiry of the third (3rd) Contract Year following the Commencement Date. Subsequent Average Excess Surplus calculations shall be undertaken annually by the Operator at the same time as the Excess Surplus/Deficit Calculation for the relevant Contract Year.

7. Where the Operating Surplus Statement shows a positive Average Excess Surplus, the Average Excess Surplus shall be divided between the parties according to the following table:

Operator's share of the Average Excess Surplus	Authority's share of the Average Excess Surplus
[redacted]	[redacted]

8. Any dispute between the parties regarding the Operating Surplus Statement shall be dealt with in accordance with the Dispute Resolution Procedure.

9. Following agreement or as determined in accordance with paragraph 8, the Authority's share of any Average Excess Surplus shall be used at the discretion of the Authority.

10. The Operator shall pay the Authority's share of the Average Excess Surplus to the Authority within thirty (30) Business Days of agreement or determination.

Part A - Worked Example *(excluding any inflationary impacts)*

The following worked example assumes a Deficit Annual Payment of £1,000,000 when taking into account total modelled income (£2,000,000) less total modelled expenditure (£3,000,000). Total modelled expenditure includes Base Profit costs of £100,000 and Base Head Office Costs of £100,000.

Income (A) = £3,000,000 (all income including the Deficit Annual Payment)

Expenditure (B) = £2,800,000 (all expenditure excluding Base Profit of £100,000 and Base Head Office Costs of £100,000)

In the base model, the Operating Surplus/Deficit is £200,000 surplus which is equal to the Operator's Projected Surplus (Base Profit plus Base Head Office Costs = £200,000) i.e. no Excess Surplus.

OS/D = A – B = £3,000,000 - £2,800,000 = £200,000 Operating Surplus

ES/D** = £200,000 - £200,000 = **£0

If at the end of Year 1 there has been an increase in income:

Income (A) = £3,300,000 (all income including the Deficit Annual Payment)

Expenditure (B) = £2,800,000 (all expenditure excluding Base Profit of £100,000 and Base Head Office Costs of £100,000)

OS/D = A – B = £3,300,000 – £2,800,000 = £500,000 Operating Surplus

ES/D1** = OS/D (£500,000) – the Operator's Projected Surplus (£200,000) = **£300,000 Excess Surplus

If at the end of Year 2 there have been savings in expenditure:

Income (A) = £3,300,000 (all income including the Deficit Annual Payment)

Expenditure (B) = £2,700,000 (all expenditure excluding Base Profit of £100,000 and Base Head Office Costs of £100,000

OS/D = A – B = £3,300,000 – £2,700,000 = £600,000 Operating Surplus

ES/D2** = OS/D (£600,000) – the Operator's Projected Surplus (£200,000) = **£400,000 Excess Surplus

If at the end of Year 3 there has been a decrease in income:

Income (A) = £2,950,000 (all income including the Deficit Annual Payment)

Expenditure (B) = £2,700,000 (all expenditure excluding Operator's Base Profit of £97,500 and Base Head Office Costs of £97,500)

OS/D = A – B = £2,950,000 – £2,700,000 = £250,000 Operating Surplus

ES/D3** = OS (£250,000) – the Operator's Projected Surplus (£200,000) = **£50,000 Excess Surplus

The AES for this period is

$$AES = \frac{\left(ES/D_{y-1} + ES/D_{y-2} + ES/D_{y-3}\right)}{3} = \frac{(£300{,}000 + £400{,}000 + £50{,}000)}{3} = £230{,}000$$

shared between the Operator and Authority on a 50:50 basis

Operator – £115,000

Authority – £115,000

***Part B - Worked Example** (excluding any inflationary impacts)*

The following worked example assumes a Surplus Annual Payment of £200,000 when taking into account total modelled income (£2,500,000) less total modelled expenditure (£2,300,000). Total modelled expenditure includes Base Profit costs of £100,000 and Base Head Office Costs of £100,000.

Income (A) = £2,500,000 (all income)

Expenditure (B) = £2,300,000 (all expenditure excluding Base Profit of £100,000 and Base Head Office Costs of £100,000 but including the Surplus Annual Payment)

In the base model, the Operating Surplus/Deficit is £200,000 surplus which is equal to the Operator's Projected Surplus (Base Profit plus Base Head Office Costs = £200,000) i.e. no Excess Surplus.

OS/D = A – B = £2,500,000 - £2,300,000 = £200,000 Operating Surplus

ES/D** = £200,000 - £200,000 = **£0

If at the end of Year 1 there has been an increase in income:

Income (A) = £2,800,000 (all income)

Expenditure (B) = £2,250,000 (all expenditure excluding Operator's Base Profit of £100,000 and Base Head Office Costs of £100,000 but including the Surplus Annual Payment

OS/D = A – B = £2,800,000 – £2,250,000 = £550,000 Operating Surplus

ES/D1** = OS/D (£550,000) – the Operator's Projected Surplus (£200,000) = **£350,000 Excess Surplus

If at the end of Year 2 there have been savings in expenditure:

Income (A) = £2,800,000 (all income)

Expenditure (B) = £2,150,000 (all expenditure excluding Operator's Base Profit of £100,000 and Base Head Office Costs of £100,000 but including the Surplus Annual Payment

OS/D = A – B = £2,800,000 – £2,150,000 = £650,000 Operating Surplus

ES/D2 *= OS/D (£650,000) – the Operator's Projected Surplus (£200,000) =* ***£450,000 Excess Surplus***

If at the end of Year 3 there has been a decrease in income:

Income (A) = £2,450,000 (all income)

Expenditure (B) = £2,150,000 (all expenditure excluding Operator's Base Profit of £100,000 and Base Head Office Costs of £100,000 but including the Surplus Annual Payment

OS/D = A – B = £2,450,000 – £2,150,000 = £300,000 Operating Surplus

ES/D3 *= OS (£300,000) – the Operator's Projected Surplus (£200,000) =* ***£100,000 Excess Surplus***

The AES for this period is

$$AES = \frac{\left(ES/D_{y-1} + ES/D_{y-2} + ES/D_{y-3}\right)}{3} = \frac{(£350{,}000 + £400{,}000 + £100{,}000)}{3} = £283{,}333.33$$

shared between the Operator and Authority on a 50:50 basis

Operator –£141,667

Authority – £141,667