

**Schedule 10**  
**Key Performance Indicators**  
**(Call-Off Schedule 14)**

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Framework Ref: RM6232  
Project Version: v1.0

12608.109

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Classification: Confidential  
#49164874v7<WORK> - Schedule 10 Key Performance Indicators

# Performance Table

## 1. Definitions

1.1 In this Performance Table, the following words shall have the following meanings:

<b>"At Risk %"</b>	means the percentage figure identified as such in the Contract Data;
<b>"At Risk Amount"</b>	means in respect of a month, the amount calculated in accordance with Paragraph 3.1 of Part A of this Performance Table;
<b>"Service Provider Score"</b>	means the percentage score determined by the Scoring Scales and the corresponding Value Achieved scores as set out for each KPI Performance Measure in Annex A to Part A – KPI Paymech Model. The Service Provider Score determines the percentage of the At Risk Amount that is deducted from the Service Provider in relation to each KPI Performance Measure e.g. if the Service Provider Score is 80% and the At Risk Amount is £1,000 then the amount deducted from the Price for Service Provided to Date will be £200 (£1,000 x 20%)
<b>"Government Data"</b>	means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the <i>Client</i> or Business Units' Confidential Information, and which:  i) are supplied to the <i>Service Provider</i> by or on behalf of the <i>Client</i> and/or a Business Unit; or ii) the <i>Service Provider</i> is required to generate, process, store or transmit pursuant to the contract;
<b>"KPI At Risk Amount"</b>	means in relation to a KPI in respect of a month, the amount calculated in accordance with Paragraph 3.3 of Part A of this Performance Table;

<b>“KPI Category”</b>	means each of the categories in the columns headed "KPI Category" in the "KPI Measures" tab of the KPI PayMech Model;
<b>“KPI Category At Risk Amount”</b>	means in relation to a KPI Category in respect of a month, the amount calculated in accordance with Paragraph 3.2 of Part A of this Performance Table;
<b>"KPI Credits"</b>	any KPI Credits specified in the Annex to Part A of this Performance Table being payable by the Service Provider to the Client in respect of any failure by the Service Provider to meet one or more KPIs;
<b>"KPI Failure"</b>	means a failure to meet the KPI Performance Measure in respect of a KPI;
<b>“KPI Failure Ratchet Trigger”</b>	means a failure to achieve a Service Provider Score of greater than or equal to 90% for the KPI Performance Measure in respect of a KPI;
<b>“KPI Measure Weighting”</b>	means each of the weightings in the column headed Measure Weighting in Table 3. Measures of the KPI Measures tab of the KPI Paymech Model.
<b>"KPI Paymech Model"</b>	means the model comprised in the Excel worksheet - KPI Paymech Model, and attached in the Annex A to Part A of this Performance Table to be used for calculating any adjustments to the Prices as a result of the operation of the KPI regime in this Performance Table;
<b>"KPI Performance Measure"</b>	means each of the Performance Measures in the columns headed Measure Requirement and Measure Achievement Calculation in the KPI Measures tab of the KPI Paymech Model
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;

<b>"Performance Monitoring Reports"</b>	shall have the meaning in Part B of this Performance Table;
<b>"Performance Review Meetings"</b>	shall have the meaning in Part B of this Performance Table;
<b>"Persistent KPI Failure"</b>	means the Service Provider's actual performance against the KPIs falls to or below the standard to which Paragraph 6 of Part A of this Performance Table refers;
<b>"Prohibited Acts"</b>	<p>are:</p> <ul style="list-style-type: none"> <li>• to directly or indirectly offer, promise or give any person working for or engaged by the <i>Client</i>, the Business Units or any other public body a financial or other advantage to: <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> </li> <li>• to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the contract; or</li> <li>• committing any offence (or any activity, practice or conduct which would constitute any of the following offences if such activity, practice or conduct had been carried out in the UK): <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>ii) under legislation or common law concerning fraudulent acts or anti-competitive behaviour; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud the <i>Client</i>, a Business Unit or other public body.</li> </ul> </li> </ul>

<b>"Ratchet"</b>	shall have the meaning in Part A of this Performance Table;
<b>"Service Provider's Representative"</b>	means the representative appointed by the Service Provider named in the Contract Data;
<b>"Value Achieved"</b>	means the numerical score, expressed as a number or percentage, that is calculated in each month for each KPI Performance Measure;
<b>"Working Day"</b>	a day (other than a Saturday or Sunday) when banks in London, United Kingdom are open for business.

## 2. What happens if you don't meet the KPIs

- 2.1 The Service Provider shall at all times provide the *service* to meet or exceed the KPI Performance Measure for each KPI.
- 2.2 The Service Provider acknowledges that any KPI Failure shall entitle the Client to the rights set out in Part A of this Performance Table including the right to any KPI Credits and that any KPI Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Client as a result of the Service Provider's failure to meet any KPI Performance Measure.
- 2.3 The Service Provider shall send Performance Monitoring Reports to the Service Manager detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Performance Table.
- 2.4 Without prejudice to the Client's rights and remedies in respect of a Service Failure a KPI Credit shall be the Client's exclusive financial remedy for a KPI Failure except where:
- 2.4.1 the KPI Failure:
- (a) has arisen due to a Prohibited Act or wilful default by the Service Provider;
  - (b) results in the corruption or loss of any Government Data; and/or
  - (c) results in the Service Manager being required to make a compensation payment to one or more third parties; and/or
- 2.4.2 a Persistent KPI Failure occurs and/or the Client is otherwise entitled to or does terminate this contract pursuant to Clause 90.

- 2.4.3 the Client is entitled to or does terminate this contract pursuant to Clause 90.
- 2.5 Not more than four times in any one Contract Year, at the request of the *Client*, the *Service Manager* may:
  - 2.5.1 delete or add a KPI Performance Measure and associated KPI Measure Weighting from or to the KPI Paymech Model; and
  - 2.5.2 decrease or increase a KPI Measure Weighting and/or KPI Category Weighting.

In the event that the Client wishes to amend the KPIs pursuant to this paragraph 2.5, the *Service Manager* will issue a request to the *Service Provider* to submit its written proposals in response to the *Client's* proposed amendments to the KPIs for consideration by the *Service Manager*. The *Service Provider* shall provide the *Service Manager* with its written proposals (if any) within six weeks of the *Service Manager's* request. The *Service Provider's* proposals are not binding on the *Client* or the *Service Manager*.

- 2.6 If the *Service Manager* takes any of the actions set out in paragraphs 2.5.1-2.5.2 above, the associated payment is either reallocated evenly across the remaining KPIs or attributed to a new KPI where relevant so that the At Risk Amount, KPI Category At Risk Amount, and the KPI At Risk Amount for that month remains the same.
- 2.7 For the avoidance of doubt, the At Risk Amount, KPI Category At Risk Amount, and the KPI At Risk Amount for a month shall not be affected by the *Service Manager* taking any of the actions set out in paragraphs 2.5.1-2.5.2] above.
- 2.8 For the avoidance of doubt, if the *Service Manager* takes any of the actions set out in paragraphs 2.5.1-2.5.2 above such actions are not compensation events. However, any amendment to the KPIs which, in the *Service Manager's* opinion, results in a change to the required service levels set out in the Scope such that a change in the *Service Provider's* resources is required will be issued as an instruction changing the Scope and shall be a compensation event in accordance with Clause 60.1(1). If the effect of such a compensation event is to reduce the total Defined Cost, the Prices are reduced.

### **3. Persistent KPI Failure**

On the occurrence of a Persistent KPI Failure:

- 3.1 any KPI Credits that would otherwise have accrued during the relevant month shall not accrue; and
- 3.2 the *Service Manager* shall be entitled to withhold and retain as compensation a sum equal to any Prices relating to the Persistent KPI

Failure which would otherwise have been due to the Service Provider in respect of that month ("**Compensation for Persistent KPI Failure**"), provided that the operation of this paragraph 3 is without prejudice to the right of the Client to terminate this contract and/or to claim damages from the Service Provider for substantial failure to comply with its obligations under the contract.

# Part A: KPIs and KPI Credits

## 1. KPIs

If the level of performance of the Service Provider:

1.1 is likely to or fails to meet any KPI Performance Measure; or

1.2 is likely to cause or causes a Persistent KPI Failure to occur,

the Service Provider shall immediately notify the Service Manager in writing and the Service Manager, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Service Provider to immediately take all preventative and/or remedial action that is reasonable to mitigate the impact on the Client and to rectify or prevent a KPI Failure or Persistent KPI Failure from taking place or recurring;

1.2.2 instruct the Service Provider to submit a revised plan to the Service Manager for acceptance showing how the Service Provider plans to correct its performance;

1.2.3 if a KPI Failure has occurred, deduct the applicable KPI Credits payable by the Service Provider to the Client; and/or

1.2.4 if a Persistent KPI Failure has occurred, exercise its right to Compensation for Persistent KPI Failure (including the right to terminate for substantial failure by the Service Provider to comply with its obligations pursuant to clause 91.2).

## 2. KPI Credits

2.1 The Service Manager shall use the Performance Monitoring Reports supplied by the Service Provider to verify the calculation and accuracy of the KPI Credits, if any, applicable to each month.

2.2 KPI Credits are a reduction of the amounts payable in respect of the *service* and do not include VAT. The Service Provider shall off set the value of any KPI Credits against the appropriate invoice in accordance with the relevant calculation formula below.

## 3. KPI Credit Calculation

### 3.1 At Risk Amount

3.1.1 For each month, the At Risk Amount shall be calculated in accordance with Section 2 - Calculation of Monthly Value at Risk, of the Paymech Calc Overview tab of the KPI Paymech Model and shall apply to both the Baseline Monthly Payment for the month and the total Price for Service Orders which have been completed in the previous month.

### 3.2 KPI Category At Risk Amount

3.2.1 The KPI Category At Risk Amount shall be calculated as follows: for each KPI Category, the At Risk Amount shall be apportioned to it in accordance with the KPI Category Weightings in the column headed KPI Weighting in the KPI Table 2 of the KPI Measures tab of the KPI Paymech Model.

### 3.3 KPI At Risk Amount

3.3.1 The KPI At Risk Amount shall be calculated as follows: the KPI Category At Risk Amount that applies to the KPI Category in which the relevant KPI resides, shall be further apportioned in accordance with the KPI Measure Weightings in the column headed Measure Weighting in Table 3. Measures of the KPI Measures tab of the KPI Paymech Model.

### 3.4 KPI Credit

3.4.1 The KPI Credit to be applied to a KPI in a month for a KPI Failure shall be calculated in accordance with the KPI Measures tab of the KPI Paymech Model by:

- (a) deducting from 100% the actual standard of performance (as a percentage, calculated using the Scoring Scales tab of the KPI Paymech Model) achieved by the Service Provider against the KPI Performance Measure in that month; and
- (b) multiplying the resultant percentage by the KPI At Risk Amount.

## 4. KPI Credit Ratchet

4.1 A ratchet will apply to the calculation of KPI Credits where the KPI Failure Ratchet Trigger is met ("**Ratchet**").

4.2 The Ratchet will be applied to the calculation of KPI Credits if one or both of the following circumstances occur:

4.2.1 The KPI Failure Ratchet Trigger point is met in relation to the same KPI Performance Measure in consecutive months; and

4.2.2 The KPI Failure Ratchet Trigger point is met in relation to the same KPI Performance Measure in any four (4) or more of the immediately preceding twelve (12) months.

4.3 The value of the Ratchet and when it is to be applied pursuant to Paragraph 4.2, is set out in the Perf Ded\_Adj and Earnback Calc tab of the KPI Paymech Model.

4.4 When the Ratchet is to be applied, the relevant KPI Credit shall be the number of KPI Credits that would normally accrue for an initial KPI Failure multiplied by the value of the Ratchet, for example:

4.4.1 if the KPI Failure Ratchet Trigger point is met in relation to the same KPI Performance Measure in two (2) consecutive Months,

the KPI Credit for that KPI Performance Measure in the second of such Months will be 1.5 times the KPI Credit that would have been applicable to them for an initial KPI Failure (refer to table 1 in 4.4.3); and

4.4.2 if the KPI Failure Ratchet Trigger point is met in relation to the same KPI Performance Measure in any four (4) Months in the immediately preceding twelve (12) Months, the KPI Credit for that KPI Performance Measure in that fourth Month will be 1.75 times the KPI Credit that would have been applicable to them for an initial KPI Failure (refer to table 1 in 4.4.3).

4.4.3 Illustration of Ratchets to be applied in table form;

<b>Table 1: RATCHET OPTIONS</b>	<b>Ratchet Value</b>	<b>Consecutive Failure</b>	<b>Failure over a 12 Month Rolling Period</b>
Default	1		
Ratchet 1	1.5	2	3
Ratchet 2	1.75	3	4,5
Ratchet 3	2	4	6,7,8,9,10,11,12

4.5 If more than one Ratchet applies to a KPI Performance Measure in the same month, the Ratchet resulting in the higher KPI Credit will be used.

**5. NOT USED**

**6. Persistent KPI Failure**

6.1 A Persistent KPI Failure shall arise when one or both of the following takes place:

6.1.1 a KPI Failure in respect of the same KPI Performance Measure occurs in five (5) consecutive months;

6.1.2 a KPI Failure in respect of the same KPI Performance Measure occurs in any seven (7) months in the immediately preceding twelve (12) months.

6.2 A Persistent KPI Failure shall constitute a substantial failure by the Service Provider to comply with its obligations for the purposes of clause 91.2 of this contract.

# Annex A to Part A – KPI\_Paymech Model

Each Business Unit has its own individual KPI Paymech Model which has been attached below:



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Attachment 3 - Annex

## Part B: Performance Monitoring

### 1. Performance Monitoring and Performance Review

- 1.1 Within twenty (20) Working Days of the Contract Date the Service Provider shall provide the Service Manager with details of how the process in respect of the monitoring and reporting of KPIs will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2 The Service Provider shall provide the Service Manager with performance monitoring reports in the same format as that in the KPI Paymech Model ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 1.1 of Part B of this Performance Table which shall contain, as a minimum, the following information in respect of the relevant month just ended:
  - 1.2.1 for each KPI, the actual performance achieved over the KPI for the relevant month;
  - 1.2.2 a summary of all failures to achieve KPIs that occurred during that month;
  - 1.2.3 details of any Persistent KPI Failures;
  - 1.2.4 for any Persistent failures, actions taken to resolve the underlying cause and prevent recurrence;
  - 1.2.5 the KPI Credits to be applied in respect of the relevant month indicating the KPI Failures and KPIs to which the KPI Credits relate; and
  - 1.2.6 such other details as the Service Manager may reasonably require from time to time.
- 1.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a monthly basis. The Performance Review Meetings will be the forum for the review by the Service Provider and the Service Manager of the Performance Monitoring Reports. The Performance Review Meetings shall:
  - 1.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Service Provider at such location and time (within normal business hours) as the Service Manager shall reasonably require;
  - 1.3.2 be attended by the Service Manager (or delegated service manager, as appropriate) and the Service Provider's Representative; and
  - 1.3.3 be fully minuted by the Service Provider and the minutes will be circulated by the Service Provider to all attendees at the relevant meeting and also to the Service Manager and any other recipients agreed at the relevant meeting.

- 1.4 The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Service Provider's Representative and the Service Manager at each meeting.
- 1.5 The Service Provider shall provide to the Service Manager such documentation as the Service Manager may reasonably require in order to verify the level of the performance by the Service Provider and the calculations of the amount of KPI Credits for any specified month.

## **2. Satisfaction Surveys**

- 2.1 The Service Manager may undertake satisfaction surveys in respect of the Service Provider's provision of the *service*. The Service Manager shall be entitled to notify the Service Provider of any aspects of their performance of the provision of the *service* which the responses to the satisfaction surveys reasonably suggest are not in accordance with this contract.