

Schedule 10

Key Performance Indicators

1. Introduction

- 1.1. This Schedule should be read in conjunction with Conditions 5.2 - 5.3, 7.3 - 7.6 and 7.11 of the Contract, Schedule of Requirements (Schedule 1), Schedule 2 (Statement of Requirement), Schedule 3 (Test and Acceptance Criteria), Schedule 8 (Payment Plan), and Schedule 24 (Rates).
- 1.2. This Schedule defines and establishes the performance management framework, along with the supporting processes that will be used to assess the Contractor's performance against the Key Performance Indicators (KPIs). The assessment of performance will be used to determine any applicable deduction to be applied to the sum payable by the Authority. The purpose of the KPIs is to:
 - a) Ensure that the Agreed Date¹ for each Aircraft is met; and
 - b) Assess the performance to determine any applicable deduction applied to the relevant sum payable by the Authority. The total deduction to any monthly payment will be permanent and limited to a maximum value equivalent to the agreed. The Contractor will not have the opportunity recover any deduction.

2. Performance Management: Aircraft Delivery

- 2.1. Any deduction will be applied to Table 1b Part 3 of each Milestone in Schedule 8 (Payment Plan) for the applicable Aircraft and limited to a maximum of the agreed Contract Profit Rate (CPR) of Schedule 24 (Rates) Table 6 – Contract Profit Rate.
- 2.2. The Aircraft KPI refers to the provision of each of the six (6) Jupiter HC Mk2 inclusive of modifications to the specification required by Schedule 2: Statement of Requirements. The intention is to encourage the Contractor to provide all Aircraft to the Authority in accordance with the agreed schedule.
- 2.3. Each Aircraft has a Milestone Payment Plan associated to it as shown in Schedule 8 (Payment Plan) with Agreed Dates². Schedule 8 (Payment Plan) Table 1b Part 3 of the Milestone for each Aircraft relates to provision of the Aircraft following completion of the Exit Criteria outlined in Schedule 3 (Test and Acceptance Criteria). If the Exit Criteria for an Aircraft is not completed by the Agreed Date, and therefore an Aircraft is provided late, a Negative KPI Score may be applied and a deduction up to a maximum of Contract Profit Rate as shown in Schedule 24 Table 6, shall be deducted from Table 1b Part 3 of the Milestone Payment. Any deduction made will be permanent and the Contractor will not have the opportunity to recover any deduction applied.
- 2.4. All aircraft will have the below KPI regime applied to it for each aircraft delivery. To calculate the Contractor's KPI score, and any applicable deduction, the following four step process shall be followed:
 - a) **Step 1:** The date of provision of the relevant Aircraft will be determined as the date when all the Exit Criteria [in Schedule 3: Test and Acceptance Criteria] relating to the relevant Aircraft Serial have been fulfilled and presented to the Authority.
 - b) **Step 2:** In accordance with Contract Condition 7.3 the Authority will inspect all Articles, review all documentation received and either communicate Acceptance or Rejection. The time taken by the Authority to inspect all Articles, review all documentation received and either communicate Acceptance or Rejection will not

¹ Date in last part of the Milestone Payment referenced at Schedule 8 (Payment Plan) is completed.

² Date Milestone is to be completed, in accordance with Schedule 8 (Payment Plan).

be taken into consideration when assessing Contractor performance and will not negatively impact the KPI score. Should the Contractor be notified of a rejection, the date of provision of the relevant Aircraft will be redetermined as the date when all required rectification work has been completed and the Articles and documentation are re-presented to the Authority.³

- c) **Step 3:** The date of provision of Aircraft will be compared against the Agreed Date for that Aircraft (the date shown against the last Part of the Milestone Payment for the relative Aircraft in Schedule 8 (Payment Plan)). Following consideration of the time taken for the Authority to complete the review, plus any alleviations which may have been applied for, if it is deemed that the Aircraft is provided after the Agreed Date (i.e. late) a Negative KPI Score may be applied.
- d) **Step 4:** If the Aircraft is late, and a Negative KPI Score is applied, the number of Calendar days that the Aircraft is late will be multiplied by one of the daily rates in accordance with the applicable duration of Table 1 of this document to calculate the deduction from Schedule 8 Table 1b Part 3 of the Milestone Payment for each Aircraft (Note. A day is defined as 00:00 to 23:59). The Part 3 of the Milestone Payment for the relevant Aircraft will be reduced by the amount of the deduction calculated in Step 3. If the Aircraft is provided on or before the Agreed Date no deduction will be made.
- e) **Step 5:** Should an Aircraft exceed a total delay period of 180 days, the Authority shall reserve its right to invoke Material Breach in accordance with Condition 7.11 Unsatisfactory Performance and DEFCON 514.

Calendar Days	Daily Rate (% of CPR)	Total Delay (In Calendar Days) for Period	Total for Period	Total Cumulative for period
30		30		
30		60		
30		90		
30		120		
30		150		
30		180		

Table 1: Daily Rates for each aircraft

Note: The Authority will update this table with a values after Tender return

³ Consequently, any time for rectification may be considered 'late' as part of the KPI assessment.

WORKED EXAMPLE:

Step 1 – *The Exit Criteria for Aircraft 1 is fulfilled and presented to the Authority on Monday 1 July 2023.*

Monday 1 July 2023 is determined as the date of provision for Aircraft 1.

Step 2 – *The Authority inspects all Articles, reviews all documentation, and communicates Rejection to the Contractor.*

The Contractor completes the required rectification work and represents the Articles and documentation to the Authority.

The date of provision of Aircraft 1 is redetermined as Monday 8 July 2023.

The Authority re-inspects all Articles, re-reviews all documentation and communicates Acceptance to the Contractor.

Step 3 – *The Agreed Date for Aircraft 1 (shown against the last part of the Milestone Payment for Aircraft 1 in Schedule 8(Payment Plan)) is Monday 1 July 2023.*

Aircraft 1 is 7 calendar days late. It is determined through the alleviation process that there is no credible alleviation applicable, and therefore a Negative KPI Score is applied.

Step 4 – *The daily rate applicable is [REDACTED] of CPR⁴ per day. [REDACTED] x 7 days = [REDACTED] of CPR. Schedule 8 (Payment Plan) Table 2 Part 3 shows the value of the of the Milestone Payment for Aircraft 1 is 100% CPR. This part is reduced by [REDACTED] of CPR. [REDACTED] of CPR is paid to Contractor.*

3. Procedure for Aircraft Delivery Alleviation

3.1. Where the Contractor believes this KPI measure will be impacted adversely through Authority action or inaction, the Contractor shall formally notify the Authority's Commercial Officer at the earliest reasonable opportunity. If the formal notification has been issued at the earliest reasonable opportunity this will be taken into consideration when assessing the Contractor's performance with respect to the KPI measures set out below. The formal notification must be supported by:

- a) Evidence that demonstrates the events or circumstances that have affected or are likely to affect the Contractor's performance.
- b) The claimed event's date of occurrence. This should include details of the period during which the Contractor expects that its performance against the relevant KPI will or is likely to be impacted.
- c) The actual or perceived impact;
- d) Details of the mitigation action taken by the Contractor, or evidence that mitigation action could not reasonably have been expected.
- e) Evidence that demonstrates the steps the Contractor has taken, and will take, to minimise the adverse effects of the Contractor's performance.
- f) Any other evidence that the Contractor deems relevant for consideration.

⁴ In accordance with Table 1

- 3.2. Where the Contractor's performance is negatively impacted by external factors and has provided evidence in accordance with paragraph 3.1, the Authority, following review of the objective evidence provided by the Contractor, may agree a pro-rated adjustment or alleviation in full to the KPI assessment⁵ on a case-by-case basis. Where agreement between the parties cannot be made, the Authority reserves the right to the final decision. Should the parties disagree with the final decision, the provisions of DEFCON 530 (Dispute Resolution) shall apply.

4. **Rectification Plan**

- 4.1. The Contractor shall notify the Authority at the earliest reasonable opportunity if provision of an Aircraft anticipated to be delayed by five (5) or more business days against the Agreed Date specified within Schedule 8 (Payment Plan) the Authority shall, in accordance with Condition 7.11 of the contract, request a rectification plan. Failure to improve performance may result in termination of the contract in accordance with DEFCON 514.

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⁵ The adjustment will be limited to an adjustment of either 0%, 25%, 50%, 75%, or 100%.

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7.



8. Performance Management Governing Principles

- 8.1. A negative KPI score will only apply in relation to the Contractor's performance in meeting the capability as defined in the SoR (Schedule 2). Conversely, a positive KPI score may be applied to requests in addition to the capability as defined in the SoR (Schedule 2). Where the Authority has responsibility for any part of the service, failure of the Authority to meet its obligations will not be considered as a reason for a KPI failure unless the Contractor follows the steps set out in paragraph 8.2 below.
- 8.2. Where the Contractor believes a KPI measure will be impacted adversely through Authority action or inaction, the Contractor shall formally notify the Authority PM at the point of identifying the issue. If the formal notification has been issued at the point of identifying the issue this will be taken into consideration when assessing the Contractor's performance with respect to the KPI measures set out below. The formal notification must be supported by:
- a) Evidence that demonstrates the claimed Authority action or inaction occurred.
 - b) The claimed event's date of occurrence.
 - c) The actual or perceived impact.
 - d) Details of the mitigation action taken by the Contractor, or evidence that mitigation action could not reasonably have been expected.
 - e) Any other evidence that the Contractor deems relevant for consideration.
- 8.3. Where the claimed Authority action or multiple, concurrent claimed Authority actions are not the sole cause of the degradation of the Contractor's performance against a KPI, the Contractor has evidence demonstrating steps in paragraph 8.2 were followed and the Authority accepts partial responsibility, the Authority and Contractor may agree a pro-rated adjustment to the KPI assessment⁶.
- 8.4. Where the Contractor anticipates that their performance against any KPI will attract a negative service credit, the Contractor shall formally notify the Authority at the earliest reasonable opportunity. If the formal notification has been issued at the earliest reasonable opportunity, this will be taken into consideration, on a case by case basis, when assessing the Contractor's performance with respect to the KPI measures set out below. The formal notification must be supported by:
- a) Evidence that demonstrates the events or circumstances that have affected or are likely to affect the Contractor's performance.
 - b) Evidence that demonstrates the steps the Contractor has taken and will take to minimise the adverse effects of the Contractor's performance.
 - c) Details of the period during which the Contractor expects that its performance for the relevant KPI will or is likely to be assessed as attracting a negative service credit.

⁶ The adjustment will be limited to an adjustment of either 0%, 25%, 50%, 75%, or 100% reduction.

- d) Any other evidence that the Contractor deems relevant for consideration.

8.5. Where the Contractor's performance is negatively impacted by external factors, sufficiently to cause a KPI to attract a negative service credit, which the Authority, following a fair review of quality evidence, agrees to be beyond the reasonable control of either the Contractor or the Authority, then the KPI negative service credit directly attributable to those external factors may be alleviated in full.

9. Performance Management

9.1. Performance shall be measured against the agreed Contract KPI defined in this Schedule. In accordance with the provisions of this Schedule, the Authority may withhold a portion of the monthly profit equivalent to an amount up to a maximum of 100% of the Contract Profit Rate, or in extreme circumstances as set out in Step 4 below, initiate material breach in accordance with Condition 7.11 Unsatisfactory Performance.

- a) **Step 1:** The Contractor's performance in meeting the KPIs as defined within this Schedule will be measured daily using the performance measurement scores at table 2 above. The appropriate 'daily score' will be awarded and recorded. Where the service has been delivered in accordance with the Contract, and therefore none of the events listed in table 1 occur, a '0' will be awarded as the daily score.
- b) **Step 2:** 'Daily scores' recorded under Step 1 by the Contractor will be agreed with the nominated local representative prior to the Authority conducting the monthly performance assessment.

Note : Once the 'daily score' is recorded, a weighted average over the previous 56 days is then calculated with increased importance given to the most recent performance. This 'daily average' will then be compared to the 'performance threshold' which is set at a constant value of (-0.5) and has the same relative magnitude and units as the values at Table 1. The formula used to calculate the weighted average is as follows:

$$EMA_n = P_n \frac{2}{T+1} + EMA_{n-1} \left(1 - \frac{2}{T+1}\right)$$

Where:

EMA_n = The weighted average calculated for the day in question

P_n = The Contractor's 'daily score' on the day in question

T = The 'time period' of the weighted average; in this case 56-days

EMA_{n-1} = The weighted average for the previous day

- c) **Step 3:** The number of days where the 'daily average' has dropped below the 'performance threshold' for the month in question is recorded and totalled. A 'monthly percentage' is then calculated that indicates the proportion of days that have been below the 'performance threshold'. This percentage will be notified to the Contractor and a corresponding percentage of the monthly payment withheld, up to a maximum amount equivalent to 100% of the monthly CPR.
- d) **Step 4:** Where the 'monthly percentage' of days that has fallen below the 'performance threshold' is:

- i. 100% in any given month,
or;
- ii. 50% or greater for any 2 out of 3 consecutive months;

the Authority shall reserve its right to invoke Material Breach in accordance with Condition 7.11 Unsatisfactory Performance.

10. Review

- 10.1. At the Quarterly Performance Review Meetings, the Parties will review the KPI and the associated performance management process described in this Schedule. The aim of these reviews shall be to ensure that the KPI and associated metrics remain valid in the context of this Contract and the associated processes operate smoothly and efficiently.
- 10.2. If during the Contract it becomes apparent that the KPIs fails to accurately capture the required output, the Authority may seek to change the KPIs by agreement with the Contractor at Monthly Progress Meetings. Once agreed, these changes will be implemented into the Contract and associated Schedule by formal Contract Amendment.