

Schedule 24 (Financial Difficulties)

1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"Financial Distress Service Continuity Plan" a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with the Contract in the event that a Financial Distress Event occurs; and

"Monitored Company" the Supplier or any Key Subcontractor.

2. When this Schedule applies

- 2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the Monitored Companies and the consequences of a change to that financial standing.
- 2.2 The terms of this Schedule shall survive under the Contract until the termination or expiry of the Contract.

3. What happens when your credit rating changes

- 3.1 The Supplier warrants and represents to the Buyer that as at the Start Date the long term credit ratings issued for the Monitored Companies by each of the Rating Agencies are as set out in the Award Form.
- 3.2 The Supplier shall promptly (and in any event within five (5) Working Days) notify the Buyer in writing if there is any downgrade in the credit rating issued by any Rating Agency for a Monitored Company.
- 3.3 If there is any downgrade credit rating issued by any Rating Agency for the Monitored Company the Supplier shall ensure that the Monitored Company's auditors thereafter provide the Buyer within 10 Working Days of the end of each Contract Year and within 10 Working Days of written request by the Buyer (such requests not to exceed 4 in any Contract Year) with written calculations of the quick ratio for the Monitored Company as at the end of each Contract Year or such other date as may be requested by the Buyer. For these purposes the "quick ratio" on any date means:

$$\frac{A + B + C}{D}$$

where:

A is the value at the relevant date of all cash in hand and at the bank of the Monitored Company;

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- B is the value of all marketable securities held by the Supplier the Monitored Company determined using closing prices on the Working Day preceding the relevant date;
- C is the value at the relevant date of all account receivables of the Monitored Company; and
- D is the value at the relevant date of the current liabilities of the Monitored Company.

3.4 The Supplier shall:

- 3.4.1 regularly monitor the credit ratings of each Monitored Company with the Rating Agencies; and
- 3.4.2 promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

4. What happens if there is a financial distress event

- 4.1 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Buyer becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2 In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Buyer shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier ten (10) Working Days to:
 - 4.2.1 rectify such late or non-payment; or
 - 4.2.2 demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.
- 4.3 The Supplier shall and shall procure that the other Monitored Companies shall:
 - 4.3.1 at the request of the Buyer meet the Buyer as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of the Contract and delivery of the Deliverables in accordance the Contract; and

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- 4.3.2 where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1) that the Financial Distress Event could impact on the continued performance of the Contract and delivery of the Deliverables in accordance with the Contract:
- a) submit to the Buyer for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event); and
 - b) provide such financial information relating to the Monitored Company as the Buyer may reasonably require.
- 4.4 If the Buyer does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is Approved by the Buyer or referred to the Dispute Resolution Procedure.
- 4.5 If the Buyer considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not remedy the relevant Financial Distress Event, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.
- 4.6 Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:
- 4.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance the Contract and delivery of the Deliverables in accordance with the Contract;
 - 4.6.2 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 4.6.1, submit an updated Financial Distress Service Continuity Plan to the Buyer for its Approval, and the provisions of Paragraphs 4.5 and 4.6 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and
 - 4.6.3 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to

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it) no longer exists, it shall notify the Buyer and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 4.6.

5. When the Buyer can terminate for financial distress

The Buyer shall be entitled to terminate this Contract for material Default if:

- 5.1 the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 3.4.2;
- 5.2 the Buyer and the Supplier fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- 5.3 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6.3.

6. What happens If your credit rating is still good

Without prejudice to the Supplier's obligations and the Buyer's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

- 6.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- 6.2 the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2b).