

OFFICIAL - SENSITIVE - COMMERCIAL

HMRC Standard Goods and Services Model Contract v1.0

SCHEDULE 7.4

FINANCIAL DISTRESS

Financial Distress

DEFINITIONS

In this Schedule, the following definitions shall apply:

“Credit Rating Level”	a credit rating level as specified in Annex 2;
“Credit Rating Threshold”	the minimum Credit Rating Level for the Monitored Company as set out in Annex 3;
“Financial Distress Event”	<p>the occurrence of one or more of the following events:</p> <ul style="list-style-type: none">(a) the Monitored Company issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;(b) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Monitored Company;(c) the Monitored Company committing a material breach of covenant to its lenders;(d) a Key Subcontractor (where applicable) notifying the Authority that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute; or(e) any of the following:<ul style="list-style-type: none">(i) commencement of any litigation against the Monitored Company with respect to financial indebtedness or obligations under a contract;(ii) non-payment by the Monitored Company of any financial indebtedness;(iii) any financial indebtedness of the Monitored Company becoming due as a result of an event of default; or(iv) the cancellation or suspension of any financial indebtedness in respect of the Monitored Company, <p>in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued</p>

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	performance and delivery of the Services in accordance with this Agreement;
“Financial Distress Service Continuity Plan”	a plan setting out how the Supplier will ensure the continued performance and delivery of the Services in accordance with this Agreement in the event that a Financial Distress Event occurs;
“Monitored Company”	the Supplier,

1 CREDIT RATING

- 1.1 The Supplier shall update the Authority on its financial health and standing at quarterly Service review meetings.
- 1.2 The Authority may periodically monitor the Investors section of the Supplier’s web site at: <https://investors.bottomline.com/overview/default.aspx>

2 DUTY TO NOTIFY

- 2.1 The Supplier shall:
 - (a) promptly notify (or shall procure that its auditors promptly notify) the Authority in writing:
 - (i) following the occurrence of a Financial Distress Event; and
 - (ii) of 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.

3 CONSEQUENCES OF A FINANCIAL DISTRESS EVENT

- 3.1 Immediately upon notification of the Financial Distress Event (or if the Authority 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 Authority shall have the rights and remedies as set out in Paragraphs 3.3 to 3.6.
- 3.2 In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Authority that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then the Authority shall not exercise any of its rights or remedies under Paragraph 3.3 without first giving the Supplier ten (10) Working Days to:
 - (a) rectify such late or non-payment; or

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- (b) demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.
- 3.3 The Supplier shall (and shall procure that the other Monitored Companies shall):
 - (a) at the request of the Authority, meet the Authority 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 or such other period as the Authority may permit and notify to the Supplier in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Agreement; and
 - (b) where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 3.3(a)) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Agreement:
 - (i) submit to the Authority 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 or such other period as the Authority may permit and notify to the Supplier in writing); and
 - (ii) provide such financial information relating to the Monitored Company as the Authority may reasonably require.
- 3.4 If the Authority 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 Authority within five (5) Working Days of the rejection of the first or subsequent (as the case may be) draft. This process shall be repeated until the Financial Distress Service Continuity Plan is approved by the Authority or referred to the Dispute Resolution Procedure.
- 3.5 If the Authority 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.
- 3.6 Following approval of the Financial Distress Service Continuity Plan by the Authority, the Supplier shall:
 - (a) 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 and delivery of the Services in accordance with this Agreement;
 - (b) where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 3.6(a), submit an updated Financial Distress Service Continuity Plan to the Authority for its approval, and the provisions of Paragraphs 3.4 and 3.5 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and

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- (c) comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

3.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and, subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 3.6.

4 TERMINATION RIGHTS

4.1 The Authority shall be entitled to terminate this Agreement under Clause 33.1(b) (*Termination by the Authority*) if:

- (a) the Supplier fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 2.1;
- (b) the Parties fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 3.3 to 3.5; and/or
- (c) 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 3.6(c).