

**CONTRACT FOR PRISONER AND NON-PRISONER FOOD SUPPLY**

**SCHEDULE 18**

**FINANCIAL DISTRESS**

## Financial Distress

### 1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

<b>“Applicable Financial Indicators”</b>	means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 5.2 of this Schedule;
<b>“Annual Revenue”</b>	means revenue shown on the face of the Supplier’s Income Statement in a standard set of financial statements for each accounting year. It should exclude the entity’s share of the revenue of associates, joint ventures and any other group entities which are not fully consolidated;
<b>“Board”</b>	means the Supplier’s board of directors;
<b>“Credit Rating Level”</b>	a credit rating level as specified in Annex 1 of this Schedule;
<b>“Credit Rating Threshold”</b>	the minimum Credit Rating Level for each entity in the FDE Group as set out in Annex 2 of this Schedule;
<b>“Expected Annual Contract Value”</b>	means the annual monetary value of the Agreement, which shall be as set out in the Financial Model submitted with the Supplier Tender in the first Contract Year and thereafter shall be the total contract value incurred in the immediately preceding twelve (12) months for each subsequent Contract Year;
<b>“Financial Distress Event”</b>	shall bear the meaning as set out in Schedule 1 ( <i>Definitions</i> );
<b>“Financial Distress Remediation Plan”</b>	shall bear the meaning as set out in Schedule 1 ( <i>Definitions</i> );
<b>“Financial Indicators”</b>	in respect of the Supplier and Key Sub-contractors, means each of the financial indicators set out at Paragraph 5.1 of this Schedule; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
<b>“Financial Target Thresholds”</b>	means the target thresholds for each of the Financial Indicators set out at paragraph 5.1 of this Schedule;
<b>“Monitored Suppliers”</b>	means those entities specified at Paragraph 5.2 of this Schedule;
<b>“Rating Agencies”</b>	the rating agencies listed in Annex 1 of this Schedule.

### 2 WARRANTIES AND DUTY TO NOTIFY

2.1 The Supplier warrants and represents to the Authority for the benefit of the Authority that as at the Effective Date:

- (a) the long term credit ratings issued for the Supplier by each of the Rating Agencies are as set out in Annex 2 of this Schedule; and

- (b) the financial position or, as appropriate, the financial performance of each of the Supplier and Key Sub-contractors satisfies the Financial Target Thresholds.
- 2.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for the Supplier (and in any event within five (5) Working Days of the occurrence of the downgrade).
- 2.3 The Supplier shall:
  - (a) regularly monitor the credit ratings of the Supplier with the Rating Agencies;
  - (b) monitor and report on the Financial Indicators for the Supplier against the Financial Target Thresholds at least at the frequency set out for each at Paragraph 5.1 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the Accounting Reference Date; and
  - (c) promptly notify (or shall procure that its auditors promptly notify) the Authority 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 five (5) 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).
- 2.4 For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of Paragraphs 3.1(a), and for the purposes of determining relief under Paragraph 7.1, the credit rating of the Supplier shall be deemed to have dropped below the applicable Credit Rating Threshold if:
  - (a) any of the Rating Agencies have given a Credit Rating Level for that entity which is below the applicable Credit Rating Threshold; or
  - (b) a Rating Agency that is specified as holding a Credit Rating for an entity as set out at Annex 2 of this Schedule ceases to hold a Credit Rating for that entity.
- 2.5 Each report submitted by the Supplier pursuant to Paragraph 2.3(b) shall:
  - (a) be a single report;
  - (b) contain a sufficient level of information to enable the Authority to verify the calculations that have been made in respect of the Financial Indicators;
  - (c) include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
  - (d) be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
  - (e) include a history of the Financial Indicators reported by the Supplier in graph form to enable the Authority to easily analyse and assess the trends in financial performance.

### **3 FINANCIAL DISTRESS EVENTS**

- 3.1 The following shall be Financial Distress Events:
  - (a) the credit rating of the Supplier dropping below the applicable Credit Rating Threshold;
  - (b) not used;

- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety the Supplier;
- (d) the Supplier committing a material breach of covenant to its lenders;
- (e) not used
- (f) any of the following:
  - (i) commencement of any litigation against the Supplier with respect to financial indebtedness greater than five million pounds (£5,000,000);
  - (ii) non-payment by the Supplier of financial indebtedness of at least a value of £1,000,000;
  - (iii) a financial indebtedness of at least a value of £1,000,000 of the Supplier becoming due as a result of an event of default;
  - (iv) the cancellation or suspension of a financial indebtedness of at least a value of £1,000,000 in respect the Supplier or
  - (v) the external auditor of the Supplier expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of the Supplier ,

in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued delivery of the Products or Services in accordance with this Agreement; and
- (g) any one of the Financial Indicators set out at Paragraph 5 for the Supplier failing to meet the required Financial Target Threshold.

#### **4 CONSEQUENCES OF FINANCIAL DISTRESS EVENTS**

- 4.1 Immediately upon notification by the Supplier of a Financial Distress Event (or if the Authority becomes aware of a 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 4.3 to 4.5.
- 4.2 NOT USED
- 4.3 The Supplier shall (and shall procure that any Monitored Supplier and/or any relevant Key Sub-contractor 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 delivery of the Products or Services in accordance with this Agreement; and
  - (b) where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3(a) that the Financial Distress Event could impact on the continued and delivery of the Products or Services in accordance with this Agreement:
    - (i) submit to the Authority for its approval, a draft Financial Distress Remediation 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) to the extent that it is legally permitted to do so and subject to Paragraph 4.7, provide such information relating to the Supplier, any Monitored Supplier and/or Key Sub-contractors as the Authority may reasonably require in order to understand the risk to the delivery of the Products or Services, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.
- 4.4 The Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Authority does not approve the draft Financial Distress Remediation 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 Remediation Plan, which shall be resubmitted to the Authority within five (5) Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is either:
  - (a) approved by the Authority;
  - (b) referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Remediation Plan has not been approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Remediation Plan to be held within twenty eight (28) days of the date of the notice; or
  - (c) finally rejected by the Authority.
- 4.5 Following approval of the Financial Distress Remediation Plan by the Authority, the Supplier shall:
  - (a) on a regular basis (which shall not be less than fortnightly):
    - (i) review and make any updates to the Financial Distress Remediation Plan as the Supplier may deem reasonably necessary and/or as may be reasonably requested by the Authority, so that the plan remains adequate, up to date and ensures the continued delivery of the Products or Services in accordance with this Agreement; and
    - (ii) provide a written report to the Authority setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Supplier and/or the reasons why the Supplier may have decided not to make any changes;
  - (b) where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.5(a), submit an updated Financial Distress Remediation Plan to the Authority for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and
  - (c) comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.
- 4.6 Where the Supplier reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.5.
- 4.7 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at Paragraph 4.3(b)(ii) is available when required and on request from the Authority and within reasonable timescales. Such measures may include:

- (a) obtaining in advance written authority from Key Sub-contractors and/or Monitored Suppliers authorising the disclosure of the information to the Authority and/or entering into confidentiality agreements which permit disclosure;
- (b) agreeing in advance with the Authority, Key Sub-contractors and/or Monitored Suppliers a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Authority;
- (c) putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Authority (which may include making price sensitive information available to Authority nominated personnel through confidential arrangements, subject to their consent); and
- (d) disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

## **5 FINANCIAL INDICATORS**

- 5.1 Subject to the calculation methodology set out at Table 1 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as follows:

**Table 1 Financial Indicators**

<b>Financial Indicator</b>	<b>Calculation<sup>1</sup></b>	<b>Financial Target Threshold</b>	<b>Monitoring and Reporting Frequency</b>
1 Operating Margin	Operating Margin = Operating Profit / Revenue	<b>&lt; 5%</b>	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date.
2 Net Debt to EBITDA Ratio	(Net Debt to EBITDA ratio = Net Debt / EBITDA)	<b>&gt; 3.5 times</b>	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon Net Debt and EBITDA, for the 12 months ending on the relevant accounting reference date.
3 Net Debt + Pension Deficit to EBITDA ratio	Net Debt + Net Pension Deficit to EBITDA Ratio = (Net Debt + Net Pension Deficit) / EBITDA	<b>&gt; 5 times</b>	Tested and reported yearly in arrears within 120 days of each accounting reference date based upon EBITDA for the 12 months ending on, and the Net Debt and Net Pension Deficit at, the relevant accounting reference date

4 Net Interest Paid Cover	Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid	< 3 times	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date
5 Acid Ratio	Acid Ratio = (Current Assets – inventories) / Current Liabilities	< 0.8 times	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures at the relevant accounting reference date.
6 Net Asset Value	Net Asset Value = Net Assets	< £0	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures at the relevant accounting reference date

Key: <sup>1</sup> – See Annex 3 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

## 5.2 Monitored Suppliers

Monitored Supplier	Applicable Financial Indicators (these are the Financial Indicators from the table in Paragraph 5.1 which are to apply to the Monitored Suppliers)
N/A	N/A

## 6 TERMINATION RIGHTS

- 6.1 The Authority shall be entitled to terminate this Agreement under Clause 39.2.1 (*Termination by the Authority*) if:



- (a) the Supplier fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 2.3(c);
- (b) the Supplier fails to comply with any part of Paragraph 4.3;
- (c) the Authority Finally rejects a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- (d) the Supplier fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 4.5(c).

## **7 PRIMACY OF CREDIT RATINGS**

7.1 Without prejudice to the Supplier's obligations and the Authority's rights and remedies under Paragraph 2, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 3.1(b) to 3.1(g), the Rating Agencies review and report subsequently that the credit ratings for the Supplier do not drop below the relevant Credit Rating Thresholds specified for those entities in Annex 2 of this Schedule, then:

- (a) the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.5; and
- (b) the Authority shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3(b)(ii).

## **8 BOARD CONFIRMATION**

8.1 If this Agreement has been specified as a Critical Service Contract under Paragraph 1.1 of Part B to Schedule 26 (*Service Continuity Plan and Corporate Resolution Planning*) then, subject to Paragraph 8.4 of this Schedule, the Supplier shall within one hundred and twenty (120) days after each Accounting Reference Date or within fifteen (15) months of the previous Board Confirmation (whichever is the earlier) provide a Board Confirmation to the Authority in the form set out at Annex 4 of this Schedule., Board Confirmation is only required if:

- (a) The Supplier's creditsafe rating is below the threshold of 30
- (b) a Financial Distress Event has occurred since the later of the Effective Date or the previous Board Confirmation or is subsisting; or
- (c) any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.

8.2 The Supplier shall ensure that in its preparation of the Board Confirmation it exercises due care and diligence and has made reasonable enquiry of all relevant Supplier Personnel and other persons as is reasonably necessary to understand and confirm the position.

8.3 In respect of the first Board Confirmation to be provided under this Agreement, the Supplier shall provide the Board Confirmation within fifteen (15) months of the Effective Date if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.

8.4 Where the Supplier is unable to provide a Board Confirmation in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Supplier to submit in place of the Board Confirmation, a statement from the Board of Directors to the Authority (and where the Supplier is a Strategic Supplier, the Supplier shall send a copy of the statement to the Cabinet Office Markets and Suppliers Team) setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

## ANNEX 1: RATING AGENCIES AND THEIR STANDARD RATING SYSTEM

- Rating Agency 1 (e.g Standard and Poors)
  - Credit Rating Level 1 = AAA
  - Credit Rating Level 2 = AA+
  - Credit Rating Level 3 = AA
  - Credit Rating Level 4 = AA-
  - Credit Rating Level 5 = A+
  - Credit Rating Level 6 = A
  - Credit Rating Level 7 = A-
  - Credit Rating Level 8 = BBB+
  - Credit Rating Level 9 = BBB
  - Credit Rating Level 10 = BBB-
  - Etc.
- Rating Agency 2 (e.g Moodys)
  - Credit Rating Level 1 = Aaa
  - Credit Rating Level 2 = Aa1
  - Credit Rating Level 3 = Aa2
  - Credit Rating Level 4 = Aa3
  - Credit Rating Level 5 = A1
  - Credit Rating Level 6 = A2
  - Credit Rating Level 7 = A3
  - Credit Rating Level 8 = Baa1
  - Credit Rating Level 9 = Baa2
  - Credit Rating Level 10 = Baa3
  - Etc.
- Rating Agency 3 (Equifax)
 

○ Credit Rating Level 1 = A+, A, A-	Excellent Risk
○ Credit Rating Level 2 = B+, B, B-	Very Good
○ Credit Rating Level 3 = C+, C, C-	Above Average
○ Credit Rating Level 4 = D+, D, D-	Average Risk
○ Credit Rating Level 5 = E+, E, E-	Below Risk
○ Credit Rating Level 6 = F+, F, F-	Very High Risk
○ Credit Rating Level 9 = G	Gazette Data Filed
○ Credit Rating Level 10 = I	Insolvent Code
○ Credit Rating Level 11 = O	Out of Date Accounts
○ Credit Rating Level 12 = N/A	No Accounts have been filed
- Rating Agency 4 (Dun & Bradstreet). The following tables summarises financials strength and risks based of tangible net worth and assessment of failure.

Financial Strength Indicator	Tangible Net Worth (in £)	
Net Worth	From	To
5A	35,000,000	And Above
4A	15,000,000	34,999,999
3A	7,000,000	14,999,999
2A	1,500,000	6,999,999
1A	700,000	1,499,999

A	350,000	699,999
B	200,000	349,999
C	100,000	199,999
D	70,000	99,999
E	35,000	69,999
F	20,000	34,999
G	8,000	19,999
H	0	7999

#### **Alternate Symbols Used**

N Negative net worth (negative balance of equity after deduction of intangibles)

O Net worth undetermined (accounts unavailable or older than 2 years)

NB New Business (less than 12 months old)

NQ Out of Business: Business has ceased to trade

#### **Risk Indicator (Dun & Bradstreet Indicator)**

To generate the Risk Indicator the D&B Failure Score is combined with expert rules such as:

Minimum Data - To identify trading activity and provide substance for the score

High Risk Parent - High Risk of a parent cascades down through the corporate family tree so that subsidiaries are also marked as High Risk

Detrimental Legal Events - In addition to failure events (for example; meeting of creditors, administrator appointed, bankruptcy, etc) Detrimental Auditors Reports will also automatically mark the subject organisation as High Risk

Possible Fraudulent Activity - Our team of Severe Risk Specialists identify potential and actual fraudulent businesses and individuals. Customers are then warned and Scores / Risk Indicators are removed or shown as High Risk

Manual Overrides - Scores and Risk Indicators can be adjusted by authorised experts to reflect non statistical / catastrophic events

The following table shows the relationship between the Risk Indicator and level of risk, and provides a guide to interpretation:

#### **D&B Risk Indicator**

Indicator	Meaning	Probability of Failure
1	Minimal risk	Proceed with transaction. Offer extended terms if required

2	Low risk	Proceed with transaction
3	Slightly greater than average risk	Proceed with transaction but monitor closely
4	Significant level of risk	Take suitable assurances before extending credit - e.g. personal guarantees
-	Insufficient information to assign a risk indicator	

## ANNEX 2: CREDIT RATINGS AND CREDIT RATING THRESHOLDS

<b>Entity</b>	<b>Credit Rating (long term)</b> (insert credit rating issued for the entity at the Effective Date)	<b>Credit Rating Threshold</b> (insert the actual rating (e.g. AA-) or the Credit Rating Level (e.g. Credit Rating Level 3))
Supplier	Rating Agency 3 – Credit Rating - C and above  Creditsafe Rating Agency – a score of 30 or above	Rating Agency 3 – Credit Rating 3 - C and above  Creditsafe Rating Agency – a score of 30 or above
Relevant Parent Company	Rating Agency 3 – Credit Rating - C and above	Rating Agency 3 – Credit Rating 3 - C and above
Key Sub-contractors	Rating Agency 3 – Credit Rating 3 -C and above	Rating Agency 3 – Credit Rating 3 - C and above

### ANNEX 3: CALCULATION METHODOLOGY FOR FINANCIAL INDICATORS

The Supplier shall ensure that it uses the following general and specific methodologies for calculating the Financial Indicators against the Financial Target Thresholds:

#### General methodology

- 1 Terminology: The terms referred to in this Annex are those used by UK companies in their financial statements. Where the entity is not a UK company, the corresponding items should be used even if the terminology is slightly different (for example a charity would refer to a surplus or deficit rather than a profit or loss).
- 2 Groups: Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
- 3 Foreign currency conversion: Figures denominated in foreign currencies should be converted at the exchange rate (Bank of England Spot rate) in force at the relevant date for which the Financial Indicator is being calculated.
- 4 Treatment of non-underlying items: Financial Indicators should be based on the figures in the financial statements before adjusting for non-underlying items.

#### Specific Methodology

Financial Indicator	Specific Methodology
<b>1 Operating Margin</b>	<p>The elements used to calculate the Operating Margin should be shown on the face of the Income Statement in a standard set of financial statements.</p> <p>Figures for Operating Profit and Revenue should exclude the entity's share of the results of any joint ventures or Associates.</p> <p>Where an entity has an operating loss (i.e. where the operating profit is negative), Operating Profit should be taken to be zero.</p>
<b>2 Net Debt to EBITDA Ratio</b>	<p><b>"Net Debt"</b> = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</p> <p><b>"EBITDA"</b> = Operating profit + Depreciation charge + Amortisation charge</p> <p>The majority of the elements used to calculate the Net Debt to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <p><b>Net Debt:</b> The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members. Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing. Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p>Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.</p>

Financial Indicator	Specific Methodology
	<p><b>EBITDA:</b> Operating profit should be shown on the face of the Income Statement and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates. The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).</p>
<p><b>3</b> <b>Net Debt + Net Pension Deficit to EBITDA ratio</b></p>	<p><b>"Net Debt"</b> = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</p> <p><b>"Net Pension Deficit"</b> = Retirement Benefit Obligations – Retirement Benefit Assets</p> <p><b>"EBITDA"</b> = Operating profit + Depreciation charge + Amortisation charge The majority of the elements used to calculate the Net Debt + Net Pension Deficit to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <p><b>Net Debt:</b> The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but <b>not</b> non-designated hedges). Borrowings should also include balances owed to other group members. Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing. Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p><b>Net Pension Deficit:</b> Retirement Benefit Obligations and Retirement Benefit Assets may be shown on the face of the Balance Sheet or in the notes to the financial statements. They may also be described as pension benefits / obligations, post-employment obligations or other similar terms. Where 'Net Debt + Net Pension Deficit' is negative, the relevant Financial Target Threshold should be treated as having been met.</p> <p><b>EBITDA:</b> Operating profit should be shown on the face of the Income Statement and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates.</p> <p>The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless 'Net Debt + Net Pension Deficit' is also negative, in which case the relevant Financial Target Threshold should be regarded as having been met).</p>

Financial Indicator	Specific Methodology
<b>4</b> <b>Net Interest Paid Cover</b>	<p><b>"Earnings Before Interest and Tax"</b> = Operating profit</p> <p><b>"Net Interest Paid"</b> = Interest paid – Interest received</p> <p>Operating profit should be shown on the face of the Income Statement in a standard set of financial statements and, for the purposes of calculating this Financial Indicator, should include the entity's share of the results of any joint ventures or Associates.</p> <p>Interest received and interest paid should be shown on the face of the Cash Flow statement.</p> <p>Where Net interest paid is negative (i.e. the entity has net interest received), the relevant Financial Target Threshold should be treated as having been met.</p>
<b>5</b> <b>Acid Ratio</b>	<p>All elements that are used to calculate the Acid Ratio are available on the face of the Balance Sheet in a standard set of financial statements.</p>
<b>6</b> <b>Net Asset value</b>	<p>Net Assets are shown (but sometimes not labelled) on the face of the Balance Sheet of a standard set of financial statements. Net Assets are sometimes called net worth or 'Shareholders' Funds'. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), Net Assets should be taken inclusive of minority or non-controlling interests (as if the entity owned 100% of such entity).</p>



## ANNEX 4: BOARD CONFIRMATION

**Supplier Name:**

**Contract Reference Number:**

The Board of Directors acknowledge the requirements set out at Paragraph 8 of Schedule 18 (*Financial Distress*) and confirm that the Supplier has exercised due care and diligence and made reasonable enquiry of all relevant Supplier Personnel and other persons as is reasonably necessary to enable the Board to prepare this statement.

The Board of Directors confirms, to the best of its knowledge and belief, that as at the date of this Board Confirmation it is not aware of and has no knowledge:

- (a) that a Financial Distress Event has occurred since the later of the previous Board Confirmation and the Effective Date or is subsisting; or
- (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event

On behalf of the Board of Directors:

Chair .....

Signed .....

Date .....

Director .....

Signed .....

Date .....