

№	Question	Answer
1	<p>We calculate proforma EBITDA per the 2018 Budget as €22.9m. Please confirm if this calculation is correct, and explain why Management forecast such a material reduction in EBITDA from 2017.</p> <p>If this is the only guidance for 2018 full year available this will significantly impact value and bankability without due explanation</p>	<p>We don't understand how you came up with the EBITDA amounts quoted for 2018. Please specify the calculation method and the title of the output file used so we can answer your question.</p>
2.	<p>Without any guidance on the regulatory regime which will apply it is very challenging to make any reliable aeronautical revenue forecasts, unless very conservative assumptions are used. Please give common guidance to bidders as to what regulatory regime should be assumed in their bids</p>	<p>Please refer to the answers provided previously with reference to the methodology on setting airport charges, namely to questions NN 160 (9 Aug);1367, 1370, 1371 and 1854 (28 Sept); 1880 (1 Oct); 2091 (10 Oct); 2110 (11 Oct) from the summary table of questions and answers.</p>
3.	<p>Please urgently confirm the method by which we should be distributing confidential information to banks. A previous answer implied that we should email a list of institutions to you for approval for banks to be permitted disclosees, but there has been no response to our email.</p>	<p>With respect to the requirements of the Confidentiality Undertaking to the Data Room Rules, acknowledged and accepted by the User and concerning the information, provided in the Data Room, regarding the procedure for awarding of a works concession on Civil Airport for public use Sofia – public state property, a User has submitted a request to obtain the preliminary written consent of the Disclosing Party for the disclosure of Confidential Information to specified persons.</p> <p>The persons are not Permitted Disclosees within the meaning of item “a” and “b” of the Permitted Disclosee definition in the Confidentiality Undertaking.</p> <p>In this case, the Users may request the preliminary consent of the Disclosing Party to the disclosure of Confidential Information to third parties, as specified in item “c” of the Permitted Disclosee definition in the Confidentiality Undertaking.</p> <p>Please note that the disclosure of Confidential Information by the Users</p>

		<p>shall only take place in strict compliance with the provisions of the Confidentiality Undertaking.</p> <p>In addition, please note that pursuant to the Confidentiality Undertaking, signed by the Users, as Disclosees they are fully responsible for ensuring the confidentiality of the Confidential Information.</p>
4.	<p>Please confirm whether under the new CA there is flexibility in the capex programme for material negative shocks or traffic downturns and explain how such flexibility will operate. The current wording is ambiguous as to if the capex programme is fixed and binding or if the Grantor would be required to allow deviations in downturns, if such deviations are ‘duly justified’</p>	<p>There is a certain limited flexibility as per the provisions of the Concession Agreement.</p>
5.	<p>“Schedule 4, Part 1, Section 2, B (4) of the Tender Document – Audit of Financial Model We request you to kindly clarify as to what is the accreditation / certification required for the company which is to audit the Financial Model to be submitted along with the Application and Offer</p>	<p>The entity providing the audit be a bank or an auditing company authorized to audit financial statements pursuant to Bulgarian laws, and if such entity is based in another country, it must be a bank or an auditing company authorised to audit financial statements pursuant to the laws of such country.</p>
6.	<p>Schedule 3 - Part 1 (Application) - 4(b) (i) and Form H of the Tender Document:</p> <p>"Bidders shall demonstrate ability to finance ... starting from 1 January 2008 up to the Concession Notice Date"</p> <p>We request that the date be changed from 1 January 2008 to 1 January 2007</p>	<p>The proposal is not acceptable. There will be no change of the requirements.</p>
7.	<p>Thank you for your response to question 2 from the Q&amp;A dated 01.10.2018 regarding the inclusion of Upfront Concession Fee and related costs of debt and equity financing as part of airport charges. When calculating the costs of debt and equity financing used</p>	<p>Please refer to the answers provided previously with reference to the methodology on setting airport charges, namely to questions NN 160 (9 Aug);1367, 1370, 1371 and 1854 (28 Sept); 1880 (1 Oct); 2091 (10 Oct); 2110 (11 Oct) from the summary table of questions and answers.</p>

	for Upfront Fee payment, can we include all the capital used for the elements related to the Upfront Concession Fee, such as VAT payment, Reserve Account Funding, Fees, etc. In other words, can we only include costs of debt and equity financing to pay the EUR 281,210,535 fee, or can we use all capital used for the transaction on top of that for VAT payment, Reserve Account Funding, Fees, etc.	
8.	In the new Tender Documentation document page 106: “Can you please clarify what is meant by “Financial proforma statements to EBITDA”, p. 143 (Bulgarian version)? Is it ok if we have EBITDA shown as part of the P&L or do we need a separate schedule to derive EBITDA?	The requirements for the EBITDA Forecast are outlined in Section 3, Part B 1 and 2, (p.148 of the Bulgarian version) of the Tender Documents. The Forecast should be presented separately and not as part of the P&L.
9.	Regarding Appendix 15 to the Concession Agreement, do the Construction Insurances need to be specified in the Financial Model, or is it ok for the cost of those to be included in the total capex figures we present?	The Insurances should be presented separately and not as part of the total capex figure.
10.	Please confirm if the minimum equity capitalisation under clause 12.1.3 of the Concession Agreement is inclusive of retained earnings or if it only comprises Paid-in capital and Shareholder Loans?	The minimum equity capitalization should be exclusive of retained earnings.
11.	As per clause 14.1.6 of the Concession Agreement, from the tenth anniversary of the Concession Commencement Date, the Concessionaire’s 3 year average Senior Debt to EBITDA ratio shall be no higher than 6x. Such ratio to be tested annually. We would appreciate if you could confirm how the 3 year average ratio is calculated. Is it calculated as (i) the ratio of the latest reported Senior Debt to the Average EBITDA of the last three years; or (ii) the ratio of the last three year average Senior Debt to the Average	Our understanding is that such ratio would be calculated based on the the average of the last three years Senior Debt to EBITDA ratios, so option (iii).

	<p>EBITDA of the last three years; or (iii) the average of the last three years Senior Debt to EBITDA ratios.</p>	
<p>12.</p>	<p>Pursuant to article 133 (3) of the Concessions act, the concessionaire may enter into subcontracting agreements for actions under the concession and for the types of activities, under its object, designated by the concessionaire in the application. Whereas footnote 9 to clause 15 of Form A: Application, Part 1, Appendix 3 of the Tender Documentation states that the subcontractors' data table is filled only in case that the Bidder can point out the specific subcontractors, which it intends to use. In case the Bidder has no selected specific subcontractors as at the moment of submitting the Application, but there is a possibility to use such sometime in the future after the execution of the Concession Agreement, is the Bidder supposed to state so with the Application to the Grantor, by designating the activities, for which there is a possibility of using subcontractors? In what form is this statement supposed to be given? Finally, will the concessionaire be able to subcontract later during the concession some activities if this has not been specified in the application?</p>	<p>The Bidder may but is not obliged to designate specific subcontractors in the Application; if such are designated, then the specific requirements of the Tender Documents apply (ref. art. 86(1)2(d) and art. 133(1) of the Concessions Act).</p> <p>According to Article 133 (3) of the Concessions Act, the Concessionaire may use subcontractors only for such share of the concession and for such types of activities falling within its subject matter, which have been indicated in the Application.</p> <p>The Concessionaire may engage subcontractors after the signing of the Concession Agreement, for the activities indicated in the Application and provided that there are no ground for exclusion for such subcontractors.</p>
<p>13.</p>	<p>1. It is our understanding that the Upfront Concession Fee shall be in the total amount of EUR 337,452,642 inclusive of VAT (approx. BGN 660,000,000 inclusive of VAT calculated at EUR/ BGN – 1/ 1.95583). Please confirm.</p>	<p>Your understanding is correct.</p>

14.	2. It is our understanding that the amount of the Annual Concession Fee shall be no less than EUR 9,203,253.86 inclusive of VAT (approx. BGN 18,000,000 inclusive of VAT calculated at EUR/ BGN – 1/ 1.95583). Please confirm.	Your understanding is correct.
15.	3. Should we make the Proposal inclusive of VAT or exclusive of VAT? Please confirm.	The Proposal should be exclusive of VAT.
16.	4. Please reconsider the necessity to pay VAT over the Upfront Concession Fee, which will be a significant amount, insofar as this amount will be subject to VAT tax credit and refund under the terms and procedure of the Law on VAT. Please confirm the timing/ period in which the Concessionaire will be able to receive tax credit and refund in full of the VAT paid for the Upfront Concession Fee? The VAT amount will significantly increase the cost of financing for the project and the timeline for its refund is critical. Please clarify.	This requirement follows from the Bulgarian VAT legislation as interpreted and applied by the National Revenue Agency.
17.	5. In relation to:  a) the requirement for minimum equity capitalization of the Concessionaire, which is BGN 200 million, and which equity may be decreased down to BGN 100 million after Terminal 3 becomes fully operational, on the one hand; and  b) the "Maximum Liability Amount" capped at BGN 200 million and applicable with respect to the Shareholders and Third Parties, on the other hand;  in the draft Concession Agreement and the appendices	We will review and assess whether there is any need for further clarification and amendments.

	<p>it has not been envisaged that the Maximum Liability Amount of the Shareholders and Third Parties may be decreased under the same conditions under which the requirement for minimum equity may be decreased. Meanwhile, Clause 4.1 (c) and Clause 9.4 (d) of the Tender Documentation expressly state that the liability will be decreased in accordance with Clause 12.1.3 of the draft Concession Agreement. Please eliminate such discrepancy and include a provision in the draft Concession Agreement for the Maximum Liability Amount to decrease under the terms and conditions of Clause 12.1.3 of the draft Concession Agreement, and Clause 2.1.2 of Appendix 11a, which should be in conformity with the Tender Documentation and with the decrease of the minimum equity capitalization requirement.</p>	
18.	<p>6. In relation to the above question, please consider if it is possible to amend the draft Concession Agreement to the effect that the requirement for minimum equity capitalization remains unchanged, whereas the "Maximum Liability Amount" would decrease down to BGN 100 million in the event of Terminal 3 becoming fully operational? For economic operators it would be much more important and economically efficient to have the liability decreased/ limited, instead of decreasing the requirement for minimum equity capitalization;</p>	<p>Such an amendment is not possible.</p>
19.	<p>7. Does the Maximum Liability Amount represent:</p> <p>(i) the total maximum liability for all Shareholders in the project company/ Concessionaire; or</p> <p>(ii) the maximum liability for each Shareholder individually,</p>	<p>The joint and several liability concept under Bulgarian law is similar to other Continental European jurisdictions.</p>

	<p>and is the maximum liability of each Shareholder going to be subject to and reduced in accordance with the resources provided by such individual Shareholder, which is the respective percentage of equity participation in the project company, as it is indicated in the Guideline?</p> <p>In this respect what is the meaning of the word "jointly" with respect to the joint liability under the Concession Agreement and Schedule 11a? According to Bulgarian law joint liability means that the Grantor may seek recourse against any of the Shareholders in full amount up to the amount of the Maximum Liability Amount, and each Shareholder that has paid compensation beyond its participation share has a recourse against the other jointly liable Shareholders for the difference beyond its share participation, which contradicts the Guideline.</p>	
20.	<p>8. Please amend the draft Concession Agreement and Appendix 11a in accordance with the provisions of the Guideline, so that the liability of each of the Shareholders in the project company, jointly or severally (each Shareholder), according to Clause 12.2 of the Concession Agreement and Section 5 of Appendix 11a, be limited to the amount of its share participation, where the total liability of all Shareholders shall be capped at BGN 200 million (being decreased down to BGN 100 million in the event of Terminal 3 becoming fully operational).</p> <p>For example, in case there are 2 shareholders and 3 Third-Party support providers, is everyone separately</p>	<p>The joint and several liability concept under Bulgarian law is similar to other Continental European jurisdictions.</p>

	<p>liable up to the Maximum Liability Amount (which would add up to BGN 1bn) or is the Maximum Liability Amount a cumulative limit so that if one or more of them pay BGN 200m, the liability of the other parties go away?</p>	
<p>21.</p>	<p>9. In the context of questions 7 and 8 above, does the Maximum Liability Amount of Third Parties under Appendix 11b and Appendix 11c represent a total amount of liability for all Third Parties or it shall be applicable in full towards each Third Party? If this is a total amount for all Third Parties, the question related to joint liability described with respect to the Shareholders above stands in an identical way with respect to Third Parties, and namely should the liability of a Third Party be limited to the individual support and resource provided (according to the Guideline) or the joint liability would mean that the Grantor may seek recourse against any Third Party up to full amount of BGN 200 million?</p>	<p>The joint and several liability concept under Bulgarian law is similar to other Continental European jurisdictions.</p>
<p>22.</p>	<p>10. Please amend the draft Concession Agreement and Appendix 11b and Appendix 11c in accordance with the provisions of the Guideline, so that the liability of each Third Party, jointly or severally (each Third Party), according to Clause 12.2 of the Concession Agreement and Appendices 11b and Appendix 11c, respectively, shall be limited to the resources provided by such Third Party, while the total liability of all Third Parties shall be capped at BGN 200 million (being decreased down to BGN 100 million in the event of Terminal 3 becoming fully operational). For example, in case there are 2 shareholders and 3 Third-Party support providers, is everyone separately liable up to the maximum liability amount (which would add up to</p>	<p>The joint and several liability concept under Bulgarian law is similar to other Continental European jurisdictions.</p>

	BGN 1bn) or is the maximum liability amount a cumulative limit so that if one or more of them pay BGN 200m, the liability of the other parties go away?	
23.	11. According to Appendix 11b and Appendix 11c, each Third Party shall be liable up to BGN 200 million. What would be the liability of such Third Party if the Third Party is also a Shareholder in the project company or a Third-Party providing support in more than one capacity under the Tender Documentation, i.e. Net Worth and Experience Raising Financing? Would it be held liable up to the double or triple amount of the Maximum Liability Amount?	To the extent a "Third Party" is also taking up a shareholder role, we would deem Appendix 11c not applicable.
24.	12. Please clarify whether in case the Concessionaire fails to duly perform an obligation under the Concession Agreement not related to responsibility of a Third Party (i.e. construction works), the Grantor will be able to have recourse against any Third Party (i.e.including against the Third Party - Airport Operator)?	It is the Concessionaire who is the contractual counter-party of the Grantor and so the contractual rights and obligations are primarily between the Grantor and the Concessionaire. Third Parties providing resources may be held liable to the extent the obligations of the Concessionaire under the Concession Agreement have been supported by the relevant Third Party resources.
25.	13.With the amendments to the Tender Documentation and the Concession Agreement, announced on 6 October 2018, the liability of a Third Party - Airport Operator has been increased up to BGN 200 million. In the previous versions, the liability of Third Party - Airport Operator could have been capped at 20% of such amount (see Clause 13.2.3 and Clause 13.2.4 of the draft Concession Agreement before the amendments). Please clarify the reasons for such drastic increase of the liability for a Third Party - Airport Operator.	The amendment was made as appropriate.

26.	<p>14. In light of the wording under item 3 (a) (v) of Part I under Appendix 3 to the Tender Documentation with respect to the requirement to have operated or to operate airport, is it possible for an economic operator to acquire and hold 1 (one) share from the share capital of an airport operator as defined in item 3 (a) (v) of Part I under Appendix 3 and subject to the requirements of item 3 (a) (i) of Part I under Appendix 3 to the Tender Documentation and comply with the requirement under item 3 of Part I under Appendix 3 to the Tender Documentation, considering the wording that "such criterion will be considered to be satisfied without taking into account the percentage of shareholding held in concessionaire, special purpose vehicle or of interest held in the consortium"?</p>	<p>As provided by Schedule 3, Part 1, Paragraph 3(a)(v): Such criterion will be considered to be satisfied without taking into account the percentage of shareholding held in concessionaire, special purpose vehicle or of interest held in the consortium"</p>
27.	<p>15. Please clarify the reasons why Clause 34.4 and 34.6.1 of the draft Concession Agreement refers to Clause 34.1.4 of the Concession Agreement, where the compensation will be calculated in accordance with Clause 41.3 of the Concession Agreement. Essentially, we are asking you to clarify the reasons and rationale because of which the repeal, change in interpretation, revocation and/ or amendment to the Guideline will represent a Qualifying Change in Law that will be compensated under the terms of "Compensation upon Termination for Extensive Force Majeure". Such compensation/ refund would represent an amount that is insufficient to cover the losses in the event of changes to the Guidelines that lead to unlimited liability with respect to the resources of the Shareholders and Third Parties.</p>	<p>A repeal of the Guideline can result in effects which would distort the economic balance of the Concession. The additional termination right is the right way to proceed and we don't foresee any subsequent amendments.</p>

28.	16. For reasons of fair balance, efficiency and better communication, would you consider amending: (i) the language of the Concession Agreement to change from Bulgarian to English language; (ii) language of arbitration proceedings to change from Bulgarian to English language; and (iii) the place of arbitration – Paris, France or a place other than in Bulgaria?	The proposed revision is unacceptable.
29.	17. Please clarify and state the rationale why the amounts under Clause 40.6.1 (c) and (d) and Clause 40.6.2 (e) of the Concession Agreement to be deducted are not capped at all and deducting these amounts could potentially wipe out all the Termination Date Equity and perhaps even the Termination Date Debt amount?	These clauses follow the logic of Article 150 of the Concessions Act and it is also not customary to cap the aforesaid amounts.
30.	18. Please clarify and state the rationale under Clause 40.6.1 of the Concession Agreement for penalizing the project company for the Net Present Value (NPV) of its Equity IRR twice? It is twice because (a) the project company is losing it and (b) it is further deducted from equity. What is the connection of NPV and how does the NPV relate to the costs of termination for the Grantor who will take over the asset upon termination of the Concession Agreement?	The Concessions Act provides and in deviation to international practice for a compensation of Termination Date Equity.