

№	Question	Suggestion	Answer
1.	<p>It is of utmost importance that the position on the capped joint and several liability set out in Guideline no. 3K-11 dated 8 August 2018 regarding the application of the Bulgarian Concession Act (the "Guideline"), be fully reflected in the Concession Agreement and the underlying tender documentation. In your answer no. 1 in the Q&A 15.08.18/2 you have confirmed that, in light of the Guideline, you were considering including in the Concession Agreement a cap on the joint and several liability of the shareholders of the Project Company equal to the minimum capitalisation requirement and a cap on the joint and several liability of any Third Party providing financial capabilities and any Airport Operator Third Party. In order to give effect to the proposed cap, please consider our suggested drafting proposal in this respect.</p>	<p>1. Amend clause 5 (Limited Indemnities Undertaking) of Appendix 11a to the Concession Agreement as follows: "The Initial Shareholders shall bear explicit liability for the representations and warranties as well as the undertakings set out in Sections 3 and 4 hereof, the satisfaction of the obligations set out in Section 2 hereof, whether solely, jointly, jointly and severally with the Concessionaire or otherwise towards the Grantor under the Concession Agreement in relation to any obligation under the Concession Agreement, provided that the maximum amount of liability of all Initial Shareholders to the Grantor under or in connection with this Letter or the Concession Agreement shall not on any date exceed in aggregate the amount which is the result of:</p> <ul style="list-style-type: none"> (i) the aggregate amount of Share Capital and Subordinated Debt as set out in the Initial Financial Model; minus (ii) all amounts of the Concessionaire's Share Capital and Subordinated Debt actually provided to the Concessionaire as at that date; and minus (iii) all amounts previously paid out by any Initial Shareholder, any Third Party providing financial capabilities under or in connection with an undertaking as per Appendix 11(c) (the "Third Party Equity Financing Undertaking") and any Airport Operator Third Party under or in connection with an undertaking under Appendix 11 (b) (the "Airport Operator Third Party Undertaking"), in each case to the Grantor in connection with or as a result of any claim made by the Grantor against that Initial Shareholder or that Third Party (as the case may be) under or in connection with this Letter, the Third Party Financing Undertaking, the Airport Operator Third Party Undertaking or the Concession Agreement (or, if such result is less than zero, then it shall be deemed to be zero) (the "Maximum Liability Limit"). 	<p>We note and will duly consider your proposal.</p>

		<p>2. Add new section 8 to Appendix 11a to the Concession Agreement as follows: "8. Indemnity The Grantor shall indemnify and keep each of the Initial Shareholders indemnified against any loss, liability, claim, cost and expense suffered or incurred by that Initial Shareholder in connection with or as a result of the Grantor making or threatening in writing to make any claim against the Initial Shareholder in excess of the Maximum Liability Limit".</p> <p>3. Add new definition "Maximum Liability Limit" to Article 1 of the Concession Agreement as follows: ""Maximum Liability Limit" has the meaning given to it in Appendix 11(a) (Shareholder Undertaking) to this Agreement".</p>	<p>We note and will duly consider your proposal.</p>
		<p>4. Amend section 2.2 of Appendix 11b to the Concession Agreement as follows: "2.2 Guarantee of Third Party Resources We [specification of Airport Operator Third Party] hereby guarantee the due performance by the Concessionaire in relation to the Airport Operator functions being supported by the Third Party Resources (the "Third Party Supported Functions") and consequently issue this corporate guarantee in the amount not exceeding on any date the Maximum Liability Limit as at such date and undertake irrevocably and unconditionally, to pay to you, the Grantor, upon your first written demand stating that and in what respect any of the Shareholders of the Concessionaire or the Concessionaire has not fulfilled its respective contractual obligations under the Concession Agreement in respect of Third Party Supported Functions after expiry of an examination period of five (5) working days (upon receipt of a payment demand) without examining the underlying legal basis and waiving all rights of any objection, any amount not exceeding [specification of amount] the applicable Maximum Liability Limit, to an account notified by you.</p>	<p>We note and will duly consider your proposal.</p>

		<p>A demand shall (i) state the amount claimed from us and (ii) be signed by authorized representatives of the Grantor and sent to our address (via registered mail or courier) by you. This guarantee shall expire on the earlier of (i) the Maximum Liability Limit reaching zero; or (ii) all obligations under the Concession Agreement have been fulfilled or expired or [specification of date]. This guarantee is subject to the Uniform Rules of Demand Guarantees (URDG) 2010 revision, ICC Publication No. 758. This guarantee (including any non-contractual rights deriving from this Guarantee) shall be governed by Bulgarian law (excluding conflict of laws), place of jurisdiction shall be the competent courts for Sofia, Bulgaria."</p>	<p>We note and will duly consider your proposal.</p>
		<p>5. Amend section 5 of Appendix 11b of the Concession Agreement as follows: "5 LIMITED INDEMNITIES UNDERTAKING The Acceding Party shall bear explicit liability for the representations and warranties as well as the undertakings set out in Sections 3 and 4 hereof, the satisfaction of the obligations set out in Section 2 hereof, whether solely, jointly, jointly and severally with the Concessionaire or otherwise towards the Grantor under the Concession Agreement, in relation to any obligation under the Concession Agreement, provided that the maximum amount of liability of the Airport Operator Third Party to the Grantor under or in connection with this Letter or the Concession Agreement shall not on any date exceed in aggregate the applicable Maximum Liability Limit".</p>	<p>We note and will duly consider your proposal.</p>

	<p>6. Amend section 2.2 of Appendix 11c to the Concession Agreement as follows: "2.2 Guarantee of Third Party Resources We [specification of Third Party Providing Financial Capabilities] hereby guarantee the due performance by the Concessionaire of its obligations under the Concession Agreement being supported by the Third Party Resources and consequently issue this corporate guarantee in the amount not exceeding on any date the Maximum Liability Limit as at such date and undertake irrevocably and unconditionally, to pay to you, the Grantor, upon your first written demand stating that and in what respect any of the Shareholders of the Concessionaire or the Concessionaire has not fulfilled its respective contractual obligations under the Concession Agreement after expiry of an examination period of five (5) working days (upon receipt of a payment demand) without examining the underlying legal basis and waiving all rights of any objection, any amount not exceeding [specification of amount] the applicable Maximum Liability Limit, to an account notified by you. A demand shall (i) state the amount claimed from us and (ii) be signed by authorized representatives of the Grantor and sent to our address (via registered mail or courier) by you. This guarantee shall expire on the earlier of (i) the Maximum Liability Limit reaching zero; or (ii) all obligations under the Concession Agreement have been fulfilled or expired or [specification of date]. This guarantee is subject to the Uniform Rules of Demand Guarantees (URDG) 2010 revision, ICC Publication No. 758. This guarantee (including any non-contractual rights deriving from this Guarantee) shall be governed by Bulgarian law (excluding conflict of laws), place of jurisdiction shall be the competent courts for Sofia, Bulgaria".</p>	<p>We note and will duly consider your proposal.</p>
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	<p>6. Amend section 2.2 of Appendix 11c to the Concession Agreement as follows: "2.2 Guarantee of Third Party Resources We [specification of Third Party Providing Financial Capabilities] hereby guarantee the due performance by the Concessionaire of its obligations under the Concession Agreement being supported by the Third Party Resources and consequently issue this corporate guarantee in the amount not exceeding on any date the Maximum Liability Limit as at such date and undertake irrevocably and unconditionally, to pay to you, the Grantor, upon your first written demand stating that and in what respect any of the Shareholders of the Concessionaire or the Concessionaire has not fulfilled its respective contractual obligations under the Concession Agreement after expiry of an examination period of five (5) working days (upon receipt of a payment demand) without examining the underlying legal basis and waiving all rights of any objection, any amount not exceeding [specification of amount] the applicable Maximum Liability Limit, to an account notified by you. A demand shall (i) state the amount claimed from us and (ii) be signed by authorized representatives of the Grantor and sent to our address (via registered mail or courier) by you. This guarantee shall expire on the earlier of (i) the Maximum Liability Limit reaching zero; or (ii) all obligations under the Concession Agreement have been fulfilled or expired or [specification of date]. This guarantee is subject to the Uniform Rules of Demand Guarantees (URDG) 2010 revision, ICC Publication No. 758. This guarantee (including any non-contractual rights deriving from this Guarantee) shall be governed by Bulgarian law (excluding conflict of laws), place of jurisdiction shall be the competent courts for Sofia, Bulgaria".</p>	<p>We note and will duly consider your proposal.</p>
	<p>7. Amend section 5 of Appendix 11c of the Concession Agreement as follows: "5. LIMITED INDEMNITIES UNDERTAKING The Acceding Party shall bear explicit liability for the representations and warranties as well as the undertakings set out in Sections 3 (Limited Warranties Undertaking) and 4 (Additional Undertakings) hereof, the satisfaction of the obligations set out in Section 2 (Undertakings and Corporate Guarantee) hereof, whether solely, jointly, jointly and severally with the Concessionaire or otherwise</p>	<p>We note and will duly consider your proposal.</p>

		<p>towards the Grantor under the Concession Agreement, in relation to any obligation under the Concession Agreement, provided that the maximum amount of liability of the Third Party Providing Financial Capabilities to the Grantor under or in connection with this Letter or the Concession Agreement shall not on any date exceed in aggregate the applicable Maximum Liability Limit".</p>	
		<p>8. Add new section 8 to each of Appendix 11b and Appendix 11c to the Concession Agreement as follows: "8. Indemnity The Grantor shall indemnify and keep [the Airport Operator Third Party/Third Party Providing Financial Capabilities] indemnified against any loss, liability, claim, cost and expense suffered or incurred by that Third Party in connection with or as a result of the Grantor making or threatening in writing to make any claim under or in connection with this Letter against the Third Party in excess of the Maximum Liability Limit." 9. Add new Article 40.2.6 to the Concession Agreement as follows: "the Grantor makes a claim against any Initial Shareholder, any Airport Operator Third Party and/or any Third Party providing the financial capabilities under Appendix 11c (Third Party Equity Financing Undertaking), in each case in excess of the Maximum Liability Limit ".</p>	<p>We note and will duly consider your proposal.</p>

2.	<p>2. According to Article 14.1.5 of the Concession Agreement, the Senior Debt to EBITDA Ratio specified in the Concessionaire's bidding offer (and following a Refinancing) shall not exceed 6.0x (the“Applicable Maximum Senior Debt Ratio”).</p> <p>The Applicable Maximum Senior Debt Ratio does not provide the adequate degree of flexibility required by the Concessionaire which will operate the airport undergoing significant growth and which requires such level of Works to be undertaken as indicated in the Concession Agreement. As such, the Applicable Maximum Senior Debt Ratio may jeopardize the Concessionaire’s ability to execute any Five Year Investment Plan, unless the Concessionaire is able to fully fund it with equity. This constitutes a very onerous position and thus is an unacceptable risk for the Concessionaire and, hence, may result in undesired consequences for the Grantor. As an effective way for the Grantor to have control of the Concessionaire’s financial risk profile, the Grantor has the right under Article 14.1.2 of the Concession Agreement to reject any refinancing proposals of the Concessionaire.</p> <p>In addition, Article 12.1.2 of the Concession Agreement imposes an ongoing obligation of the Concessionaire to maintain, during the entire Concession Period, a minimum equity capitalization of BGN 200 mln, but in any event at least the higher of (i) 25% of the Total Assets on the Concessionaire (excluding certain intangible assets related to the Concession Asset) and (ii) any other minimum required by applicable law.</p>		<p>We note and will duly consider your proposal.</p>
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<p>The ongoing obligation of the Concessionaire in Article 12.1.2 of the Concession Agreement to maintain the minimum equity capitalisation is considered by the Concessionaire to be off-market and is something which would not normally be seen in other airport concession agreements. Moreover, such ongoing obligation may result in the obligation of the Concessionaire's shareholders to inject additional equity into the Concessionaire in the circumstances when such injection is not required to service any other debt, operational, or otherwise obligation of the Concessionaire, but is rather made solely to comply with the requirement of the Concession Agreement. Furthermore, it is not clear how the Grantor has determined the proposed levels of restrictions imposed by Articles 14.1.5 and 12.1.2 of the Concession Agreement, as they are not based on precedent transactions, market practice or generally accepted principles.</p> <p>The requirements of Articles 12.1.2 and 14.1.5 of the Concession Agreement decrease the attractiveness of the transaction for potential bidders who would be required to contribute a larger portion of equity than required by other similar concessions and, as a result, to assume a higher risk. These requirements, as a result of lowering the expected equity return of the Concessionaire and its shareholders from the Concessionaire, are likely to reduce the competition of the tender process as well as the potential revenues for the Grantor in the form of Annual Concession Fees.</p>		<p>We note and will duly consider your proposal.</p>
<p>In order for the Concession Agreement to be in line with market practice, as well as for the Concession to provide for adequate incentives to maximize competition, could the Grantor please consider amending the Concession Agreement to replace the Applicable Maximum Senior Debt Ratio and the ongoing minimum equity capitalization obligation with a maximum gearing ratio (i.e. the ratio of Senior Debt to total capitalisation of the Concessionaire) which ratio is to be tested only on the Concession Commencement Date, such as 80/20 ratio?</p>		<p>We note and will duly consider your proposal.</p>

3.	<p>3. If a Concessionaire Event of Default occurs, but the Grantor does not exercise its right to terminate the Concession Agreement in these circumstances, the Lenders do not have any contractual right to require that the Grantor exercises such termination. Could you please consider amending the form of a Direct Agreement set out in Appendix 13 to the Concession Agreement to provide that, following the occurrence of a Concessionaire Event of Default from a list pre-agreed with the Grantor and upon request of the Lenders, the Grantor shall be obliged to terminate the Concession Agreement? Such pre-agreed list to be agreed between the Grantor and the Concessionaire separately and will include the Concessionaire Event of Default under Article 40.1.17 of the Concession Agreement, for example. Please see the suggested drafting proposal in this respect.</p>	<p>Add a new clause to the form of a Direct Agreement as follows: "Following receipt of a written notice from the Security Agent, the Grantor shall promptly terminate the Concession Agreement in accordance with the procedures set out in Article 40.5 of the Concession Agreement if: (i) any of the Concessionaire Events of Default set out in Articles 40.1.17 and [other Articles to be agreed between the Grantor and the Concessionaire before the execution of the Concession Agreement] of the Concession Agreement occurs; and (ii) the Security Agent has served notice on the Concessionaire under the Financing Agreements requiring repayment of all or part of the Senior Debt following a default (howsoever described) under the Financing Agreements."</p>	<p>We note and will duly consider your proposal.</p>
4.	<p>4. If a Grantor Event of Default has occurred and is not cured during the applicable Cure Period, then the Concessionaire may only request termination of the Concession Agreement if and to the extent such termination would not represent a serious threat to the public interest or, if such a threat to public interests exists, when the conservation of the Concession Agreement in force is excessively onerous for the Concessionaire (please see Article 40.5.3 of the Concession Agreement). Due to the strategic nature of the Airport, any termination of the Concession Agreement may represent a serious threat to the public interest. It is not clear from the provisions of the Concession Agreement who decides on whether there is such a threat or not. It is also not clear what is meant by the preservation of the Concession Agreement in force being "excessively onerous" for the Concessionaire.</p> <p>We also note that pursuant to Art. 147 of the Concession Act, in case of non-fulfillment of an obligation under a concession agreement, the non-defaulting party may terminate it by a written notice by giving to the other party a reasonable period of time for performance with a warning that after the expiry of the time limit the contract will be considered terminated. This Article of the Concession Act does not provide any restrictions or qualifications to the right to terminate a</p>	<p>Amend Article 40.5.3 of the Concession Agreement as follows: "40.5.3 If a Grantor Event of Default occurs and has not been cured during the Cure Period, the Concessionaire shall be entitled to terminate this Agreement by issuing a Termination Notice to the Grantor and to the Lenders (subject to the provisions of the Direct Agreement, if any, and any relevant Financing Agreement);</p>	<p>We note and will duly consider your proposal.</p>

	<p>concession agreement in these circumstances, such as a serious threat to the public interests. Could you please therefore consider removing the restrictions on termination of the Concession Agreement following the occurrence of a Grantor Event of Default contained in Article 40.5.3 on the basis that this will not be accepted by the Lenders and the Concession Agreement provides for the handover procedure which is designed to minimise any risk of interruption of the provision of the Airport Services when the Airport is handed over to the Grantor as a result of termination of the Concession Agreement?</p> <p>Please see the suggested drafting proposal in this respect.</p>		
5.	<p>5. Based on your answer no. 3 in the Q&A 15.08.18/2 and answer no. 3 in the Q&A 24.08.18/6 you have confirmed that you would consider one of the bidder's proposal to clarify that the "market value" of the Concession is the value set out at Article 30.2 of the Concession Agreement. Please confirm that this amendment will be made to the Concession Agreement.</p>		<p>We note and will duly consider your proposal.</p>
6.	<p>6. Pursuant to the definition of "Termination Date Debt" in the Concession Agreement, the Termination Date Debt is reduced by the amount of all credit balances on any bank accounts held by or on behalf of the Concessionaire on the Termination Date. Can the Concession Agreement please be clarified to reflect that the Terminate Date Debt can only be reduced by the amount of the funds standing to the credit of any bank account of the Concessionaire to the extent the Lenders have valid security over such bank account and can recover such funds using their reasonable endeavours? Please see the suggested drafting proposal in this respect.</p>	<p>Amend the definition of "Termination Date Debt" in Article 1.1 of the Concession Agreement as follows: ""Termination Date Debt" shall mean the following amount: $X - Y + Z$, where X - Senior Debt calculated as at the Termination Date; Y - any amount of all credit balances on any banking accounts held by or on behalf of the Concessionaire on the Termination Date, to the extent the Lenders (or a security agent acting on their behalf) have valid security interests over such banking accounts and can recover such credit balances using their reasonable endeavours; Z all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Concessionaire or any Affiliate of the Concessionaire to the Lenders as a result of a prepayment under the Financing</p>	<p>Отбелязваме и We note and will duly consider your proposal.</p>

		<p>Agreements on the Termination Date caused by the early termination of the Agreement, subject to the Concessionaire and the Affiliates of the Concessionaire mitigating all such costs to the extent reasonably possible.</p>	
7.	<p>7. We thank you for your response number 1 in the Q&A dated 27.07.18 in which you clarified that Article 40.6.1 of the Concession Agreement will be amended to include the equity invested as of the Termination Date reduced by the Threshold Equity IRR. The response mentioned seems to imply that a percentage rate (the Threshold Equity IRR) shall be deducted from a monetary amount (the equity invested as of the Termination Date). We understand that this is not the intention of the Grantor. Moreover, we believe that such compensation should take into account and be reduced by the cash actually distributed by the Concessionaire rather than the theoretical rate of return implied by the Threshold Equity IRR. Could you please consider our proposed drafting suggestion to clarify this point in Article 40.6.1 of the Concession Agreement?</p>	<p>Paragraphs (a) and (b) of Article 40.6.1 of the Concession Agreement shall be replaced in its entirety as follows: (a) the Termination Date Debt utilized for performance of investments in the Concession Site until the Termination Date; minus plus (b) the Termination Date equity contributed to the Concessionaire by means of Subordinated Debt, through the Share Capital or otherwise, utilized for performance of investments in the concession Site until the Termination Date, less the cumulative Distributions made by the Concessionaire from the Concession Commencement Date until the Termination Date; minus”</p>	<p>We note and will duly consider your proposal.</p>

8.	<p>8. We thank you for your response answer no. 1 in the Q&A 15.08.18/2. We notice a discrepancy between the concept explained in that response and the Concession Agreement, particularly, Article 41.3 of the Concession Agreement refers to "the sum of unamortised Upfront Concession Fee and any unamortised actual Capital Expenditures..." without a time reference, which suggests that the compensation amount includes the full Upfront Concession Fee irrespective of when termination occurs. Conversely, the previously mentioned response refers to "a portion of the Upfront Concession Fee..." and "unrecovered investment expenses...". As such, could you please confirm whether (i) "unamortised upfront Concession Fee" as referred to in the Concession Agreement implies the initially paid Upfront Concession Fee (approx. €281m) or such amount reduced by its corresponding accumulated amortisation until the Termination Date (i.e. EUR281m reduced by 1/35 of such amount per annum until the Termination Date); and (ii) "unamortised actual Capital Expenditures" implies the cumulative Capital Expenditures invested by the Concessionaire until the Termination Date or such cumulative amount reduced by the cumulative amortization of such fixed assets in accordance with applicable accounting rules until the Termination Date? Please see our suggested drafted proposal which accommodates our request. Could you please confirm whether the Concession Agreement can be amended accordingly?</p>	<p>Amend Article 41.3.1 of the Concession Agreement as follows: "The sum of unamortised Upfront Concession Fee and any unamortised actual Capital Expenditures relating to the Concession Site and the Concession Assets as reported in the Concessionaire's latest financial statements prepared before the Termination Date plus any Capital Expenditures incurred by the Concessionaire from the date immediately following the last day of the period covered such latest financial statements, until (and including) the Termination Date, minus"</p>	<p>We note and will duly consider your proposal.</p>
9.	<p>9. In your answer no. 8 in the Q&A 16.08.18/3 you were considering clarifying in the Concession Agreement that in case of a termination of the Concession Agreement by the Grantor further to the occurrence of the events referred to in Articles 34.1.4, 34.1.5 or 34.1.6 of the Concession Agreement, the Grantor would pay the Concessionaire compensation on termination of the Concession Agreement under the terms and conditions of Article 40.6.2 of the Concession Agreement. Please see the suggested drafting proposal in this respect. Could you please clarify what is meant by "excessively onerous on the Grantor" in Article 34.4 of the Concession Agreement</p>	<p>1. Amend Article 34.6 of the Concession Agreement as follows: " 34.6 Payment on termination If the Grantor terminates this Agreement in accordance with Clause 34.4 (Rebalance payment), the Grantor shall pay to the Concessionaire: compensation on termination of this Agreement under the terms and conditions of Clause 40.6.2 (Compensation upon Termination for Event of Default) (Grantor Default Compensation Sum)."</p>	<p>We note and will duly consider your proposal.</p>

	<p>as the test for terminating the Concession Agreement instead of providing a Rebalance?</p>		
10.	<p>10. Certain acts by Competent Authorities which affect Commercial Operations and reduce Aggregate Concession Revenues do not constitute a Grantor Event of Default unless the reduction against the previous year Concession Revenues is more than 20% (please see Article 40.2.2 of the Concession Agreement). This may potentially result in a situation when the revenues of the Concessionaire are reducing due to an act of a Competent Authority, but the Concessionaire does not have a right to take action to prevent this. As a result, this represents a bankability issue. Could you please therefore consider clarifying the Concession Agreement so that any reduction in the Aggregate Concession Revenues of the Concessionaire due to acts by Competent Authorities, to the extent such reduction is less than 20%, is a Compensation Event, and the applicable Rebalancing Method in these circumstances is a decrease of the Concession Fee? Could you please also consider clarifying the Concession Agreement that a decrease of the Concession Fee is a Rebalancing Method to be used in priority to any other Rebalancing Methods in case a Compensation Event occurs? Please see the suggested drafting proposal in this respect.</p>	<p>1. Add new Article 34.1.8 to the Concession Agreement as follows: "34.1.8. any curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, confiscation or nationalization by any Competent Authority, which affects the Concession Operations in such a way that the Aggregate Concession Revenue of the previous Concession Year is reduced by no more than twenty (20) percent". 2. Swap the numbering of Articles 34.8.1 and 34.8.2 of the Concession Agreement and amend the Articles as follows: "34.8.1 a decrease of the Concession Fee, to the extent that the need for a Rebalance results from a Change in Law or as a result of a Compensation Event referred to in Clause 34.1.8; in the case that there is the need for a Rebalance as a result of any other Compensation Event, the Rebalancing Method under this Clause 34.8.1 shall be used by the Parties in priority to the other Rebalancing Methods;" "34.8.2 by way of an adjustment of the Airport Charges, subject to the agreement reached with the Airlines;</p>	<p>We note and will duly consider your proposal.</p>

11.	<p>11. If an uninsurable risk event has occurred (i.e. any required insurances are not available due to a material change in the international insurance market or an Excessive Insurance Premium is charged for any Insurance) (an “Uninsurable Risk Event”), then the Grantor may, pursuant to Article 20.4.2 of the Concession Agreement: (i) adjust the acceptable credit rating of Acceptable Insurers so that the relevant insurances become capable of being procured by the Concessionaire from a lower rated Acceptable Insurer; (ii) become an insurer of last resort; or (iii) suspend all or part of construction and/or operations affected and declare the occurrence of a Force Majeure Event. If the Grantor suspends all or part of the construction or operation of the Airport effected by an Uninsurable Risk Event and declares a Force Majeure Event, in these circumstances, the Airport assets (or part thereof) would continue to remain uninsured and the Concessionaire would not be covered from any risk of damage or destruction of such Airport assets. This represents a bankability issue for the Lenders who have financed the construction or acquisition of such Airport assets. Therefore, could you please clarify whether the Concession Agreement can be amended to remove the consequences of the occurrence of an Uninsurable Risk Event described in item (iii) above? This request is made on the basis that this remains an important bankability issue.</p>		We note and will duly consider your proposal.
12.	<p>12. A breach by the Grantor of its obligations under the Concession Agreement may result in a claim by a third party against the Grantor for which the Grantor could be entitled to be indemnified by the Concessionaire under Article 37.1 of the Concession Agreement, even if it is not considered to be a "material" breach. There is also no aggregate cap in respect of the indemnity of the Concessionaire contained in Article 37 the Concession Agreement. Could you please clarify that the Grantor is not entitled to claim indemnification under Article 37.1 of the Concession Agreement where the Losses incurred by the Grantor have resulted from a breach by the Grantor of its obligations under the Concession Agreement, whether or not the breach is "material"?</p>	<p>1. Article 37.2.3 of the Concession Agreement shall be amended as follows: "37.2.3 any material breach by the Grantor of its obligations under this Agreement;"</p> <p>2. Add new Article 37.7 to the Concession Agreement as follows: " 37.7 Indemnity cap Notwithstanding any other provisions of this Agreement, the Concessionaire shall not be liable to the Grantor under this Article 37 for more than: (a) [] in any Concession Year (in aggregate); and (b) [] during the Concession Period (in aggregate)."</p>	We note and will duly consider your proposal.

	<p>Can the Concession Agreement please be amended to provide a cap on the Concessionaire's indemnity (the amount of the cap is to be agreed between the Grantor and the Concessionaire before the date of the Concession Agreement)? Please see our suggested drafting proposal in this respect.</p>		
13.	<p>13. Pursuant to Article 8.1.6 of the Concession Agreement, any delay in completion by the Concessionaire of any Imminent Works as a result of an Existing Contamination is a Relief Event, provided that such Existing Contamination materially adversely affects (or has already materially adversely affected) the progress of such Imminent Works for a duration which is in aggregate longer than 90 days after the applicable scheduled Imminent Works End Date. However, Article 35.1.5 of the Concession Agreement states that "any discovery of Existing Contamination prior to the Concession Commencement Date identified in the Site Assessment until remedy thereof" is a Relief Event (i.e. there is no reference to a period of 90 days or material adverse effect). It is not clear, therefore, whether the Concessionaire will be able to claim a Relief Event immediately after discovery of an Existing Contamination or only if such Existing Contamination materially adversely affects (or has already materially adversely affected) the progress of such Imminent Works for a duration which is in aggregate longer than 90 days after the applicable scheduled Imminent Works End Date. Please consider clarifying the Concession Agreement so that the Concessionaire becomes entitled to claim a Relief Event immediately after the discovery of an Existing Contamination. Please see our suggested drafting proposal in this respect</p>	<p>Amend Article 8.1.6 of the Concession Agreement as follows: " 8.1.6 If there is a delay in or an increase in the cost of the execution of the Imminent Works as a consequence of an Existing Contamination and provided that the Existing Contamination materially adversely affects (or has already materially adversely affected) the progress of such Imminent Works then such event shall constitute a Compensation Event and/or a Relief Event and Clauses 34 (Compensation Events - Economic Rebalance) and 35 (Relief Events) except if the conditions specified under Clause 8.1.4 (Existing Contamination) has not been satisfied."</p>	<p>We note and will duly consider your proposal.</p>

14.	14. The Concessionaire should have the right to adjust the Annual Concession Fee previously paid to the Grantor if any Airport Charges charged by the Concessionaire for the period for which such Annual Concession Fee was paid are reduced by a Court decision after the payment of the Annual Concession Fee is made to the Grantor under the Concession Agreement.		We note and will duly consider your proposal.
15.	15. Please consider clarifying the Concession Agreement so that the reference to "Termination Date equity" of Article 40.6.2(b) of the Concession Agreement includes all equity (irrespective of how it was contributed by the Concessionaire) from the Effective Date until the Termination Date. Please see the suggested drafting proposal in this respect.	Amend paragraph (b) of Article 40.6.2 of the Concession Agreement as follows: "(b) the Termination Date equity contributed to the Concessionaire by means of Subordinated Debt, through the Share Capital or otherwise, utilized for performance of investments in the Concession Site until the Termination Date, plus"	We note and will duly consider your proposal.
16.	16. We note that Article 31.1.3 of the Concession Agreements prohibits a set-off by the Grantor of any amount due, but unpaid by the Concessionaire to the Grantor, as at the Termination Date (an "Unpaid Amount") against part of the termination compensation payable by the Grantor to the extent it compensates the Termination Date Debt. However, it is not clear from the wording of Articles 40.6.1 and 40.6.2 of the Concession Agreement whether any Unpaid Amount is (or is not) prohibited from being applied to reduce the Termination Date Debt. We believe that any such application of any Unpaid Amount to reduce the Termination Date Debt would effectively mean the set-off of such Unpaid Amount against the Termination Date Debt which is prohibited under Article 31.1.3 of the Concession Agreement. Could you please therefore clarify Articles 40.6.1 and 40.6.2 of the Concession Agreement as suggested in the drafting proposal?	1. Delete paragraph (c) of Article 40.6.1 of the Concession Agreement in its entirety. 2. Amend paragraph (e) of Article 40.6.2 of the Concession Agreement as follows: "(e) any amount due by the Concessionaire to the Grantor but unpaid as of the Termination Date (including any unpaid amount of the Concession Fee until the Termination Date), provided that, in accordance with Clause 31.1.2 (Set- Off), such amount shall not be deducted from the amount of the Termination Date Debt due under paragraph (a) above,"	We note and will duly consider your proposal.
17.	17. The wording of the last paragraph of Article 41.3 of the Concession Agreement is not clear. Could you please consider clarifying Article 41.3 as set out in the suggested drafting proposal?	"Where the termination is a result of a total loss of the Concession Site, the Concessionaire shall be entitled, instead of the amount set forth under Articles 41.3.1 to 41.3.4 of the Concession Agreement to receive a part of the insurance indemnity equal to the unrecovered investment expenditures in accordance with Article 152 (2) of the Concessions Act."	We note and will duly consider your proposal.

18.	<p>18. Pursuant to Article 40.1.17 of the Concession Agreement, the Concessionaire Event of Default which comprises acceleration of the financing is on a strict interpretation qualified by it having to be caused by "a material breach" under the Financing Agreements.</p> <p>Could you please considering clarifying Article 40.1.17 so that "material breach" is any event of default under any Financing Agreement which results in the acceleration of the related debt? Please see the suggested drafting proposal in this respect.</p>	<p>Amend Article 40.1.17 of the Concession Agreement as follows: "40.1.17 any material breach by the Concessionaire or the Shareholders of their respective obligations under this Agreement (including the Appendices) that has a material adverse effect on the Concession Operations or the conditions and functioning of the Airport, or any default (howsoever described) under any Financing Agreement, which has resulted in the acceleration of the reimbursement of the debt under the Financing Agreements;"</p>	<p>We note and will duly consider your proposal.</p>
19.	<p>19. The Concessionaire Event of Default referred to in Article 40.1.9 of the Concession Agreement is very broad and extends to a breach by the Concessionaire of any mandatory regulations of the Laws regardless of how material the consequences of such breach for the Concession and/or the Concessionaire are.</p> <p>Could you please clarify whether the Concessionaire Event of Default referred to in Article 40.1.9 of the Concession Agreement can please be qualified so that a breach by the Concessionaire of Laws would give rise to such Concessionaire Event of Default only if such breach has (or is likely to have) a material adverse effect on the Concessionaire and/or the Concession and/or the ability of the Concessionaire to perform its obligations under the Concession Agreement? Please see the suggested drafting proposal in this respect.</p>	<p>Amend Article 40.1.9 of the Concession Agreement as follows: "40.1.9 the Concessionaire acts in violation of any mandatory regulations of the Laws, save where such violation does not have and is not reasonably likely to have a material adverse effect on the Concessionaire, the Concession and the ability of the Concessionaire to perform its obligations under the Concession Agreement."</p>	<p>We note and will duly consider your proposal.</p>
20.	<p>20. The Concessionaire shall set and collect at its own risk and for its own benefit the Airport Charges in accordance with law (please see Articles 3.1.1(a), 3.2.6 and 24 of the Concession Agreement). All Airport Charges are to be denominated in EUR (please see Article 24.3 the Concession Agreement). Under Bulgarian law the provisions of Article 24.3 of the Concession Agreement would not prevent Third Parties paying Airport Charges in BGN and the Concessionaire is obliged by law to accept such payments in BGN. Bulgaria has the official FX rate of Euro: BGN established by the Bulgarian National Bank at 1:1,95583. In line with Article 30.1.2 (a) of the Concession Agreement N/A which sets out the fixed amount of the Annual Concession Fee in EUR and BGN, could you please clarify whether it is possible to set the</p>		<p>As long as the EU Directive 2009/12 on Airport charges does not discuss the currency of payment of charges, and to the extent that in Art. 8, para. 1 and para. 2 a payment is provided in BGN, respectively in euro for the carriers according to whether they are Bulgarian or not, and in Art. 8 para. 3, item 1 of the Ordinance on Airport Charges allows for alternative charging in</p>

	Airport Charges in both EUR and BGN at the fixed FX rate (subject to corresponding adjustments if and when the official FX rate of EUR/BGN established by the Bulgarian National Bank is changed)?		BGN or EUR, we believe that the approach adopted in the legal framework allows both the charging in EUR and in BGN. For ease of calculation of the airport charges for Sofia Airport EAD in Annex 1a, 1b and 1c of the Ordinance on Airport Charges, charges are set in euro.
21.	21. Could you please consider amending the Concession Agreement to clarify that the Concessionaire reimburses costs and expenses of the Grantor following the interruption or intervention by the Grantor under Articles 21.2.2, 21.2.3 or 21.2.4 of the Concession Agreement or as a result of an action of, or omission by, the Concessionaire, to the extent those costs and expenses are not recoverable by the Grantor through the revenues from the Airport Services? Please see our suggested drafting proposal in this respect. The proposed approach is in line with the approach set out in Article 44.3 of the Concession Agreement.	1. Add the following words at the end of Article 21.4.2 of the Concession Agreement: "which cannot be recovered by the revenues collected by the Grantor or a Third Party appointed by the Grantor from the operation of the Airport during interference with, or interruption of, the Concession Operations by the Grantor under this Article 21".	We note and will duly consider your proposal.
22.	22. The Concessionaire shall procure that, amongst other things, all Insurance Proceeds (other than Third Party legal liability proceeds) are paid to the Special Purpose Insurance Account (which is pledged in favour of the Lenders) (please see Articles 14.3.4 and 20.6 of the Concession Agreement and article 7.3 of the form of a Direct Agreement set out in Appendix 13 to the Concession Agreement). All monies standing to the credit of such account will be released to the Lenders upon termination of the Concession Agreement. However, the Concession Agreement does not permit (unless approved by the Grantor) any security over the Concessionaire's rights in respect of certain proceeds under the insurances. It is usual for lenders to require the assignment of insurances as part of their security package and for the agent to be a loss-payee. Consequently, it may be a material bankability issue if no security over		We note and will duly consider your proposal.

	<p>certain proceeds under the insurances is granted in favour of the Lenders. Could you please therefore clarify whether the Grantor agrees from the date of signing of the Concession Agreement that the Lenders can have security over certain insurance proceeds?</p>		
23.	<p>23. We note your answer no.12 in the Q&A 15.08.18/2 in which you state that "As indicated in the previous answer, the terms of any transfer, including any change in N/A the ownership of the airport, will be dictated by the Bulgarian Law and – as such – cannot be restricted by clauses of the Concession Agreement." Could you please clarify in what circumstances the Grantor envisages assignment/transfer of its rights under the Concession Agreement without the prior consent of the Concessionaire and what protection is offered to the Concessionaire in case a new Grantor is not acceptable to the Concessionaire or its Lenders for any reason?</p>		<p>We note and will duly consider your proposal.</p>
24.	<p>24. Could you please clarify whether the answers of the Grantor under the Q&A procedure are binding on the Grantor?</p>		<p>The answers in the tender process are non-binding for the Grantor.</p>
25.	<p>25. Pursuant to article 123 (a) of the Labour Code, the Concessionaire and the Current Operator remain jointly and severally liable for any obligations or liabilities in respect of any Employee which arose before the Concession Commencement Date. However, pursuant to Article 9.1.4 of the Concession Agreement, the Current Operator remains responsible for any and all liabilities to an Employee existing on the Concession Commencement Date or arising out of an event which occurred or originated before the Concession Commencement Date. The obligations of the Current Operator referred to in Article 9.1.4 of the Concession Agreement may not be enforceable against the Current Operator as it is not a party to the Concession Agreement. With this in mind, could you please consider clarifying Article 9.1.4 of the Concession</p>	<p>Amend Article 9.1.4 of the Concession Agreement as follows: "9.1.4 Without prejudice to the joint and several liability of the Current Operator and the Concessionaire towards any transferred Employees, all obligations arising out of employment of the Employees, being within the employer's sphere and having arisen or accrued prior to the Concession Commencement Date shall be borne by the Current Operator and from the Concession Commencement Date shall be borne by the Concessionaire. The Current Operator also remains responsible for any and all liabilities, including but not limited to Claims or litigation in connection with an Employee existing on the Concession Commencement Date or arising out of an event which occurred or originated before the Concession Commencement Date and the Grantor shall</p>	<p>We note and will duly consider your proposal.</p>

	<p>Agreement so that it is an obligation of the Grantor to reimburse the Concessionaire for all costs and fees incurred by the Concessionaire in respect of historic claims brought by Employees? Please see the suggested drafting proposal in this respect.</p>	<p>reimburse the Concessionaire for all related costs, including but not limited to costs incurred by the Concessionaire in connection with personal income tax and mandatory social security contributions and Tax penalty interest, as applicable, compensation or severance payments and redundancy payments."</p>	
26.	<p>26. We understand that Article 2.13.1 of the Concession Agreement deals with the situation when any Conditions Precedent are not satisfied by the CP Long Stop Date (subject to its extension) for reasons attributable to the Concessionaire. However, the Concession Agreement does not specify the consequences if any Condition Precedent is not satisfied by the CP Long Stop Date due to reasons attributable to the Grantor or any Competent Authority or for reasons for which both the Grantor/any Competent Authority and the Concessionaire is attributable. Could you please considering clarifying the Concession Agreement to specifically provide for such consequences? Please see our suggested drafting proposal in this respect.</p>	<p>1. New Article 2.13.2 to be added to the Concession Agreement as follows: "2.13.2 If on the CP Long Stop Date (as such date is subject to extension in accordance with Clause 2.12.2 (Concession Commencement and extension of Transition Period)) any of the Conditions Precedent has not been fulfilled at that time, where the failure to satisfy such Conditions Precedent is attributable to the Grantor or to any Competent Authority, or by circumstances where a Permit or Consent is unreasonably withheld or delayed by a Competent Authority, provided that the Concessionaire has fulfilled all relevant requirements of the Laws, then: (a) the Concessionaire shall be entitled upon notification to the Grantor to terminate this Agreement, which shall cease to be binding and, subject to the compensation set forth in paragraph (b) below, no Party shall be liable to any other Party in connection with this Agreement or its termination; and (b) the Grantor shall, within one (1) month from the CP Long Stop Date (as such date may be extended in accordance with Clause 2.12.2 (Concession Commencement and extension of Transition Period)), repay to the Concessionaire the sum of any Upfront Concession Fee (inclusive VAT if applicable), if it has already been paid by the Concessionaire, the Award Fee and all other costs incurred by the Concessionaire under or in connection with this Agreement for the period from the date of this Agreement until the date when this Agreement is terminated by the Grantor."</p>	<p>We note and will duly consider your proposal.</p>

		<p>2. New Article 2.13.3 to be added to the Concession Agreement as follows: "2.13.3 If on the CP Long Stop Date (as such date is subject to extension in accordance with Clause 2.12.2 (Concession Commencement and extension of Transition Period)) any of the Conditions Precedent has not been fulfilled at that time, where the failure to satisfy such Conditions Precedent is attributable to both the Grantor (or to any Competent Authority, or by circumstances where a Permit or Consent is unreasonably withheld or delayed by a Competent Authority) and to the Concessionaire, then: (a) either Party shall be entitled upon notification to the other Party to terminate this Agreement, which shall cease to be binding and, subject to the compensation set forth in paragraph (b) below, no Party shall be liable to any other Party in connection with this Agreement or its termination; and (b) the Grantor shall, within one (1) month from the CP Long Stop Date (as such date may be extended in accordance with Clause 2.12.2 (Concession Commencement and extension of Transition Period)), return to the Concessionaire all bid bonds/participation guarantees submitted under the Tender Procedure, repay to the Concessionaire the sum of any Upfront Concession Fee (inclusive VAT if applicable), if it has already been paid by the Concessionaire, and pay to the Concessionaire such other amounts as may be agreed between the Parties."</p>	<p>We note and will duly consider your proposal.</p>
27.	<p>27. Article 3.8.3 of the Concession Agreement requires that the subcontracting of any Airport Services by the Concessionaire to its Affiliates or any Third Party, with a contract value exceeding EUR 100,000, shall be at the discretion of the Grantor. Could you please consider increasing the threshold from EUR 100,000 to EUR 1,000,000? Please also clarify what criteria shall be met before the Grantor decides to approve the subcontracting of Airport Services by the Concessionaire to its Affiliates or any Third Party.</p>		<p>We note and will duly consider your proposal.</p>

28.	<p>28. Item 1.7 of Part A (Conditions Precedent of the Concessionaire) of Appendix 5 (Conditions Precedent) to Concession Agreement requires the Concessionaire to obtain certain licences as a condition precedent to the occurrence of the Concession Commencement Date. Under Bulgarian law, in order to obtain the licences to operate the Airport (e.g. the Ground Handling Operator Licences), the Concessionaire shall have in its possession all necessary Movable Assets to operate the Airport.</p> <p>However, according to Article 6.2 of the Concession Agreement, the Movable Assets are transferred to the Concessionaire just prior to the Concession Commencement Date.</p> <p>Please consider clarifying in the Concession Agreement that the Movable Assets can be provided to the Concessionaire well in advance of the CP Long Stop Date to provide the Concessionaire with sufficient time to obtain all necessary licences which are also Conditions Precedent to the occurrence of the Concession Commencement Date. Please see our suggested drafting proposal in this respect.</p>	<p>Amend the following sentence of Article 6.2 of the Concession Agreement as follows:</p> <p>"As element of the grant of the Concession and subject to compliance by the Concessionaire with Part A of Appendix 5 (Conditions Precedent) the Grantor shall use reasonable endeavours to procure that the Current Operator enables the Concessionaire to purchase or lease the Moveable Assets at a fair market value to be established subject to an expert valuation conducted by the Grantor/the Current Operator (at their own cost) during the Transition Period. The Grantor shall grant these rights and procure for the option to purchase well in advance of the Concession Commencement Date upon request of the Concessionaire in order to allow the Concessionaire to obtain all required licences to operate the Airport and fulfil the condition precedent in paragraph 1.7 of Appendix 5 to the Concession Agreement</p>	We note and will duly consider your proposal.
29.	<p>29. Item 1.7 of Part A (Conditions Precedent of the Concessionaire) of Appendix 5 (Conditions Precedent) to Concession Agreement requires, as a condition precedent to the occurrence of the Concession Commencement Date, the Concessionaire to provide a certificate issued by the Lenders or the Agent confirming that all Financing Agreements are in full force and effect and that all conditions precedent under the Financing Agreements have been satisfied or waived (as the case may be). However, a discrepancy may arise with the Financing Agreements in this respect as the Lenders may require that the occurrence of the Concession Commencement Date is a condition precedent under the Financing Agreements. In addition, it is market standard to include certain conditions precedent in facility agreements that are to be satisfied only on the date of a proposed utilisation (e.g. no default under a facility agreement, no breach of representations under such facility agreement, etc.).</p> <p>Please consider clarifying in the Concession Agreement that, to the extent the occurrence</p>	<p>Amend paragraph 1.6 of Appendix 5 to the Concession Agreement as follows:</p> <p>"1.6 the delivery of a certificate issued by the Lenders or the Agent to the Grantor and confirming that the Financing Agreements are in full force and effect and that all conditions precedent under the Financing Agreements have been satisfied or waived, as the case may be, other than any condition precedent which is capable of being satisfied only upon the occurrence of the Concession Commencement Date or the delivery of a utilisation request under the Financing Agreements;"</p>	We note and will duly consider your proposal.

	<p>of the Concession Commencement Date is a condition precedent under the Financing Agreements or there are any market standard conditions precedent under the Financing Agreements which are to be satisfied only on the date of a proposed utilisation, such conditions precedent can remain unsatisfied until the Concession Commencement Date actually occurs or a utilisation is requested (as applicable). Please see our suggested drafting proposal in this respect.</p>		
30.	<p>30. Article 7.2.4 of the Concession Agreement requires an aggregate delay of more than 2 months in completing Works, with such delay(s) caused by the discovery of Cultural Valuables during the completion of such Works, before a Relief Event is deemed to have occurred. However, the Concessionaire is liable to pay liquidated damages in the amount of 0.01% of the value of the Works for each day of delay unless a Relief Event is claimed. As a result, the Concessionaire will be required to pay liquidated damages to the Grantor for a delay in completion of any Works due to discovery of any Cultural Valuable, as it is a condition to the Concessionaire being entitled to claim a Relief Event due to the discovery of the Cultural Valuables that the delay continues for more than 2 months. Please consider clarifying the Concession Agreement so that any delay in Works due to discovery of Cultural Valuables shall constitute a Relief Event irrespective of the length of such delay, as envisaged in Article 35.1.1 of the Concession Agreement. Please see our suggested drafting proposal in this respect.</p>	<p>Amend Article 7.2.4 of the Concession Agreement as follows: "7.2.4 A delay to the Works due to works related to Cultural Valuables discovered during the Works shall constitute a Relief Event and Clause 35 (Relief Events) shall apply."</p>	<p>We note and will duly consider your proposal.</p>
31.	<p>31. Pursuant to Articles 4.7.3 and 4.8 of the Concession Agreement, the Grantor gives no warranty that the Disclosed Information represents all relevant information in respect of the Project. The Grantor is not liable to the Concessionaire for any failure to disclose or any inaccuracy, error, omission, defect or inadequacy of the Disclosed Information, save that the Grantor warrants that the State has all necessary legal rights to the Concession Site and there are no disputes in respect of the Concession Site. Under Bulgarian law the Grantor is under a duty not to induce the Concessionaire to enter</p>	<p>1. Add the following words at the end of Article 4.8 of the Concession Agreement: " In addition, the Grantor represents that it has not withheld any information from the Concessionaire which, if disclosed, would reasonably be expected to adversely affect the decision of the Concessionaire or the Initial Shareholders as to whether to enter into this Agreement, and the Grantor is not aware that any Disclosed Information is false in any respect." 2. Amend Article 40.2.3 of the Concession Agreement as follows: " a material breach of any representation or</p>	<p>We note and will duly consider your proposal.</p>

<p>into the Concession Agreement based on deliberately false or incomplete information. With this principle of Bulgarian law in mind, please consider clarifying the Concession Agreement as set out in our suggested drafting proposal in this respect.</p>	<p>warranty by the Grantor pursuant to Clause 4.2 (Grantor representations and warranties) or Clause 4.8 (Grantor title warranty);"</p>	
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