



Schedule 7.4 – Financial Distress

CHANGE HISTORY

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Contents

1	Financial Assessment Company and Duty to Notify	4
2	Events which would Constitute a Financial Distress Event	5
3	Consequences of a Financial Distress Event	6
4	Termination Rights	7
5	Primacy of Ratings	7
	Annex 1 - Rating Levels	9
	Annex 2 - Key Details of Guarantor Group	10

1 Financial Assessment Company and Duty to Notify

- 1.1 The Concessionaire warrants and represents to TTL for the benefit of TTL that as at the Effective Date the Net Asset Value of the Guarantor is greater than or equal to the Net Asset Threshold.
- 1.2 By no later than the date which is twelve (12) months after the Effective Date, the Concessionaire shall:
- (a) obtain a credit rating from the Financial Assessment Company that is at or above the relevant Threshold Rating Level;
 - (b) notify TTL of the same; and
 - (c) warrant and represent to TTL for the benefit of TTL that the rating and Rating Level set out in the notice accurately reflects the rating and Rating Level issued for the Concessionaire by the Financial Assessment Company.
- 1.3 The Concessionaire shall promptly notify TTL in writing if:
- (a) there is any downgrade in the rating issued by the Financial Assessment Company for the Concessionaire (as applicable) (and in any event within five (5) Working Days of the occurrence of the downgrade);
 - (b) the Guarantor obtains a credit rating from either Standard & Poor's, Moody's or Fitch; and/or
 - (c) there is any downgrade in the rating issued by either Standard & Poor's, Moody's or Fitch for the Guarantor (as applicable) (and in any event within five (5) Working Days of the occurrence of the downgrade).
- 1.4 The Concessionaire shall:
- (a) as applicable, regularly monitor (at least every six (6) months) the rating of the Concessionaire with the Financial Assessment Company and the rating of the Guarantor from either Standard & Poor's, Moody's or Fitch; and
 - (b) promptly notify TTL in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event, or an event listed in Clause 11.27(b) (Additional Security) (and in any event, ensure that such notification is made within ten (10) Working Days of the date on which the Concessionaire first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event), or the event listed in Clause 11.27(b) (Additional Security)). For the purposes of this Paragraph, the Concessionaire has no obligation to notify TTL of an event listed in Clause

11.27(b) where the Guarantor has obtained a credit rating from either Standard & Poor's, Moody's or Fitch.

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3 Consequences of a Financial Distress Event

- 3.1 Immediately upon notification of the Financial Distress Event (or if TTL becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Concessionaire), the Concessionaire shall have the obligations and TTL shall have the rights and remedies as set out in Paragraphs 3.3 to 3.6. These rights and remedies are without prejudice to TTL's rights under Clauses 11.28 to 11.30 (Additional Security).
- 3.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 2.1(f), TTL shall not exercise any of its rights or remedies under Paragraph 3.3 without first giving the Concessionaire ten (10) Working Days to:
- (a) rectify such late or non-payment; or
 - (b) demonstrate to TTL's reasonable satisfaction that there is a valid reason for late or non-payment.
- 3.3 The Concessionaire shall (and shall procure that the Guarantor and/or any relevant Key Sub-contractor shall):
- (a) at the request of TTL, meet with TTL 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 TTL may permit and notify to the Concessionaire in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Agreement; and
 - (b) where TTL reasonably believes (taking into account the discussions and any representations made under Paragraph 3.3(a)) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Agreement:
 - (i) submit to TTL for its approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within fifteen (15) Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as TTL may permit and notify to the Concessionaire in writing); and
 - (ii) provide such financial information relating to the Concessionaire or the Guarantor as TTL may reasonably require.
- 3.4 TTL shall not withhold its approval of a draft Financial Distress Service Continuity Plan unreasonably. If TTL does not approve the draft Financial Distress Service Continuity Plan, it shall inform the Concessionaire of its reasons and the Concessionaire shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to TTL within five (5) Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Service Continuity Plan is approved by TTL or referred to the Dispute Resolution Procedure under Paragraph 3.5.
- 3.5 If TTL considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the

continued performance of the Concessionaire's obligations in accordance with the Agreement, then it may either agree a further time period for the development and agreement of the draft Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.

3.6 Following approval of the Financial Distress Service Continuity Plan by TTL, the Concessionaire shall:

- (a) on a regular basis (which shall not be less than monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance and delivery of the Services in accordance with this Agreement;
- (b) where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 3.6(a), submit an updated Financial Distress Service Continuity Plan to TTL for its approval, and the provisions of Paragraphs 3.4 and 3.5 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and
- (c) comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

3.7 Where the Concessionaire reasonably believes that the relevant Financial Distress Event under Paragraph 2.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify TTL and the Parties may agree that the Concessionaire shall be relieved of its obligations under Paragraph 3.6. Where the Parties fail to agree, TTL shall determine the matter in its absolute discretion.

4 Termination Rights

4.1 TTL shall be entitled to terminate this Agreement under Clause 36.1(d) (Termination by TTL) if:

- (a) the Concessionaire fails to notify TTL of a Financial Distress Event, or an event listed in Clause 11.27(b) (Additional Security) (as applicable) in accordance with Paragraph 1.4(b);
- (b) the Parties fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 3.3 to 3.5; and/or
- (c) the Concessionaire fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 3.6(c).

5 Primacy of Ratings

5.1 Without prejudice to the Concessionaire's obligations and TTL's rights and remedies under Paragraph 1, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 2.1(c) to 2.1(e) and 2.1(g);

- (a) the Financial Assessment Company reviews and reports subsequently that the Concessionaire's rating is at or above the Threshold Rating Level; or

- (b) (as applicable) either Standard & Poor's, Moody's or Fitch reviews and reports subsequently that the Guarantor's rating is at or above the minimum credit rating level issued by Standard & Poor's, Moody's or Fitch for the Guarantor,

then:

- (i) the Concessionaire shall be relieved automatically of its obligations under Paragraphs 3.3 to 3.6; and
- (ii) TTL shall not be entitled to require the Concessionaire to provide financial information in accordance with Paragraph 3.3(b)(ii).

Annex 1 - Rating Levels

1 Concessionaire Rating Levels

Rating Level	Creditsafe
Rating Level 5	71-100 Very low risk
Rating Level 4	51-70 Low risk
Rating Level 3	30-50 Moderate risk
Rating Level 2	21-29 High risk
Rating Level 1	1-20 Very high risk





