

Term Sheet regarding Variation for Temporary Service Level Decrease

Purpose and Background

The purpose of this term sheet, dated as of December 24, 2021 (“**Term Sheet**”), is to document the agreement between the Rideau Transit Group General Partnership (“**RTG**”) and the City of Ottawa (the “**City**”) in relation to the Project Agreement dated February 12, 2013 between the City and RTG as amended, restated or varied from time to time (the “**Project Agreement**”) in respect of a Temporary Service Level Decrease (as defined below).

This Temporary Service Level Decrease is being implemented following the recent derailment incidents which occurred on August 8 and September 19, 2021 (the “**Derailments**”).

In consideration of the mutual promises and agreements in this Term Sheet and other good and valuable consideration, the receipt and adequacy of which are acknowledged by each Party, the Parties agree as follows:

Heading	Terms
Title	Term Sheet regarding Winter 2021/2022 Variation for Temporary Service Level Decrease
Parties	(1) City of Ottawa (2) Rideau Transit Group General Partnership, by its Partners ACS RTG Partner Inc., SNC RTG Partner Inc. and EllisDon RTG Partner Inc. (individually a “ Party ” and collectively the “ Parties ”).
Binding Nature of Term Sheet/ Duty of Collaboration between the Parties	The Parties intend to append this Term Sheet to a Variation Confirmation (the “ Variation Confirmation ”), to be issued by the City within ten (10) Business Days after the execution of this Term Sheet. The Parties acknowledge that this Term Sheet is an enforceable agreement which, until the execution of the Variation Confirmation, is binding on the Parties. If no Variation Confirmation is executed, this Term Sheet shall remain binding on the Parties.
Definitions	Capitalized terms not defined in this Term Sheet shall have the meaning given to them in the Project Agreement.

Heading	Terms
<p>November 2021 Service</p>	<ol style="list-style-type: none"> <li data-bbox="464 317 1399 562">1. RTG acknowledges and agrees that it re-commenced revenue service on November 12, 2021 at a reduced Service Level by putting into service the number of double car trains described in the daily launch reports and Daily Operating Reports issued by RTG during the month of November (collectively, the “November Service”). For clarity, the November Service does not include test trains launched by RTG prior to November 12, 2021. <li data-bbox="464 583 1399 793">2. RTG acknowledges that as a result of RTG providing the November Service at a Service Level below that contemplated of the Project Agreement, Deductions and Failure Points were triggered pursuant to Schedule 20 of the PA and have been accounted for proportionately in a reduction of the Monthly Service Payment as further detailed below. <li data-bbox="464 814 1399 1308">3. In an effort to compromise and make payment to RTG commensurate with the level of service provided, the Parties agree that the City shall pay RTG a pre-tax amount of \$2,157,927.35 in respect of the November 2021 Monthly Service Payment. This amount reflects the following: <ol style="list-style-type: none"> <li data-bbox="561 1010 1399 1150">a) Failure Points have been assessed in respect of Vehicle Kilometres Availability Failures that occurred as a result of the November Service, proportionately based on the number of trains available as shown in the attached Appendix B. <li data-bbox="561 1171 1399 1308">b) The City has assessed Deductions to the Monthly Service Payments proportionately based on the number of trains available during November on a pro-rated basis for the number of days of service provided per Appendix A hereto.

Heading	Terms
<p>Temporary Service Level Decrease – December 2021 Onward</p>	<p>4. Effective as of November 29, 2021, until the date set out in Section 9 below, RTG shall put into service no fewer than eleven (11) double car trains during the Weekday morning Peak Period, afternoon Peak Period service as well as weekends, holiday and Off-Peak Period Service which shall become the new temporary Service Level (the “Temporary Service Level”). For clarity, train counts for early morning, mid-day, early and late evening and night will be no fewer than eleven (11) double car trains (the “Temporary Service Level Decrease”).</p> <p>5. As of February 1st, 2022, at the earliest, the Temporary Service Level may be increased by the City to any other Service Level, not exceeding, Service Level 1 upon seven (7) calendar days written notice.</p> <p>6. In all instances, RTG shall ensure that launch and reduction times during the period of the Temporary Service Level Decrease shall remain as set out in the Operations Service Plan for Service Level 1.</p> <p>7. The Parties agree that the 30-day booking period set out under Schedule 15-3, Appendix A, Article 3 shall not apply to the increase in temporary Service Level described in Sections 1 or 4 above or the service level increase described in Section 9 below.</p> <p>8. The Parties agree that the temporary increase in Service Level as described in this Sections 4 or 5 above shall constitute a Minor Service Change and, as a result, does not result in any adjustment to other compensation to RTG except as expressly set out herein.</p>
<p>Return to Prior Service Level</p>	<p>9. RTG shall resume Service Level 1 as set out in the Operations Service Plan in all respects, including using the fifteen (15) double car trains during the morning Peak Period and thirteen (13) double car trains afternoon Peak Period on February 28, 2022 (the “Cessation Date”) unless the City gives seven (7) calendar days notice, in its sole discretion, and acting reasonably, that it requires resumption of Service Level 1 as set out in the Operations Service Plan in all respects, including using the fifteen (15) double car trains during the morning Peak Period and thirteen (13) double car trains afternoon Peak Period on an earlier date, which earlier date shall not be earlier than February 1st, 2022.</p>

Heading	Terms
Failure Points	<p>10. During the period of the Temporary Service Level Decrease, the parties agree that Failure Points will continue to be assessed in respect of Vehicle Kilometres Availability Failures that occur as a result of this Temporary Service Level Decrease, proportionately based on the number of trains available during the Temporary Service Level Decrease as shown in the attached Appendix B.</p> <p>11. Subject to paragraph 10 above, Failure Points will be assessed in accordance with Schedule 20 of the Project Agreement.</p>

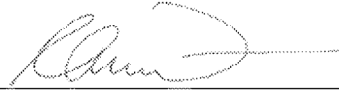
<p>Monthly Service Payment and Deductions</p>	<p>12. In an effort to compromise and make payment to RTG commensurate with the level of service provided, the Parties agree that the City shall pay RTG the amounts set out in Appendix A during the period of the Temporary Service Level Decrease.</p> <p>13. The Monthly Service Payments made by the City and as set out in Appendix A are based on the number of trains available during the Temporary Service Level Decrease as shown in the attached Appendix A and as further detailed in 14.c).</p> <p>14. The Parties agree that the City will address the Carry Forward of Deductions resulting from the Derailments and this Temporary Service Level Decrease as follows:</p> <ul style="list-style-type: none"> a) The total Deductions assessed over and above the Monthly Service Payment for September 2021 and the Monthly Service Payment for October 2021 (the Deductions associated with the August 2021 and the September 2021 performance, respectively) amounting to \$4,371,850.39 shall be set off against the November 2021 Monthly Service Payment of \$2,157,927.35. The difference amounting to \$2,213,923.04 shall be applied as a reduction against the December 2021 Monthly Service Payment. With these payments, RTG shall have settled the Deductions carried over from the Monthly Service Payment for September 2021 and the Monthly Service Payment for October 2021. b) The City will temporarily suspend the Carry Forward of Deductions assessed over and above the Monthly Service Payment for November 2021 (the Deductions associated with the October 2021 performance) amounting to no more than \$5,711,169.09 (the “Suspended Carry Forward Amount”) on a month to month basis until the Cessation Date (the “Carry Forward Suspension Period”), for clarity this suspension shall not apply to the Deductions described in 14(a) above which shall be resolved pursuant to that clause. c) As a result of the prorating of the Monthly Service Payment for the Contract Months of December 2021, January 2022, and February 2022 to account for the Temporary Service Level Decrease, Deductions for Vehicle Availability and/or System Events, shall be measured and assessed against the Temporary Service Level. d) RTG agrees that this Term Sheet shall not be deemed to be or referenced in any proceeding as an admission or acknowledgement in respect of any position taken by either Party about the City’s right to carry forward Deductions from one month to the next.
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Heading	Terms
	<p>e) RTG agrees that the City has not waived any of its rights to apply the Suspended Carry Forward Deductions following the Carry Forward Suspension Period. Conversely, the City agrees that RTG has not waived any of its rights to dispute the carrying forward of such Deductions following the Carry Forward Suspension Period.</p>
<p>No Admissions or Waiver of Rights</p>	<p>15. The Parties acknowledge and agree that this Term Sheet and the obligations and payments referenced herein are not, nor are to be construed as an admission of liability, fault, or wrongdoing on the part of either Party to this Term Sheet and neither Party's agreement to this Term Sheet shall be used as a precedent in respect of any future requests by the other in relation to requests for reduced Service Levels.</p> <p>16. Other than as expressly set out herein, neither Party waives any rights that it may have under the Project Agreement or at law.</p> <p>17. Notwithstanding the foregoing, the Parties agree that RTG shall not be entitled to rely on this Term Sheet as a basis for its cure of any Project Co Events of Default, and where RTG does attempt to rely on the Term Sheet in such a manner, then the City shall be entitled to refer to this Term Sheet in any dispute or proceeding relating to RTG's Events of Default.</p> <p>The City agrees that the insertion of this clause 17 in no way constitutes an admission by RTG to an Event of Default, which Event of Default is in dispute.</p>
<p>No Additional Costs or Relief from Other Obligations</p>	<p>18. Other than as expressly set out herein, neither Party is entitled to any additional costs as a result of the execution of this Term Sheet and any corresponding Variation Confirmation, and each Party expressly waives its right to claim such costs during the period of the Term Sheet.</p> <p>19. The Parties further acknowledge and agree that this Term Sheet does not relieve either Party from any of their respective obligations under the Project Agreement, except as set out expressly herein.</p>
<p>Disputes</p>	<p>20. This Term Sheet is without prejudice to any claims or Disputes that the City or RTG has or may have against the other Party under the Project Agreement.</p>

IN WITNESS WHEREOF the Parties have executed this Term Sheet as of the date first above written.

CITY OF OTTAWA

Per:



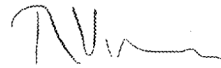
Name: Renée Amilcar

Title: General Manager, Transit Services Department

RIDEAU TRANSIT GROUP GENERAL PARTNERSHIP, by its partners, ACS RTG PARTNER INC., SNC RTG PARTNER INC. and ELLISDON RTG PARTNER INC.

ACS RTG PARTNER INC.

Per:



Name: Ramon Villaamil

Title: Director

I have authority to bind the corporation.

SNC RTG PARTNER INC.

Per: 

Name: Riccardo Cosentino
Title: Senior Vice President

I have authority to bind the corporation.

ELLISDON RTG PARTNER INC.

Per:

Name:
Title:

I have authority to bind the corporation.

SNC RTG PARTNER INC.

Per:

Name:

Title:

I have authority to bind the corporation.

ELLISDON RTG PARTNER INC.

Per:



Name: Andres Duran

Title: General Counsel

I have authority to bind the corporation.