

№	Question	Answer
1.	Please, clarify which will be the prevailing text (English or Bulgarian) of the Application and the Offer, and documents related to the Application and the Offer exchanged by the Bidder and the Commission and/or the Grantor.	Please refer to the answer to Question 1 of the Q&As published on 5 October 2018, part 2 (filename Q&A_05.10.18_2), which clarifies our understanding that the Bulgarian language shall be considered prevailing with regard to all documents, including the Application and Offer.
2.	On a question from 21.09.2018 you have responded that the answers in the procedure are not binding upon the Grantor. Please reconsider and clarify this answer, in view of the fact that the participants base their offers on the clarifications and answers given by the Grantor in the procedure. Therefore, we consider that these answers are part of the Tender documents and do not represent Disclosed Information within the meaning of article 4.7 of the Draft Concession Agreement. In this regard, according to Art. 156, para. 3 of the Concessions Act, the answers of the Grantor in the procedure constitute actions of the Grantor, which could prevent the access or participation of persons in the procedure, respectively are subject to appeal.	Our position remains unchanged.
3.	Section 2B, letter "b" of Schedule 4 to the Concession documentation specifies that the Financing Plan shall present evidence to the fact that the Offer is financially structured and letter "b" of the same section requires that the Financing Plan shall contain "indication for timing and availability of funds and support of credit and financial institutions...". Please, clarify if this indication, respectively evidences shall represent certain documents (engagement letters from financing institutions etc.), which shall be attached to the Financing plan or it would be sufficient to be described therein from the Participant.	Please refer to the answer to Question 12 of the Q&As published on 4 October 2018, part 1 (filename Q&A_04.10.18_1), which clarifies the following: "No letter of intent from banks is required. Bidders shall illustrate the content of the Financing Plan indicating the information required under paragraph B".

4.	With reference to Clause 2.13 (Compensation for Non-Completion) of the draft Concession Agreement, we would like to suggest the provision of an option for Compensation for Non-Completion for the Concessionaire in the cases when the Non-Completion is due to a failure to satisfy the Conditions Precedent attributable to the Grantor. Such Compensation for Non-Completion for the Concessionaire should include as a minimum the reimbursement of the amount of the paid by the Concessionaire Award Fee.	We have considered your request and based on our amended version of the draft Concession Agreement our position remains unchanged.
5.	With reference to Clause 14.1.2. and the definition of "Financing Agreement" of the draft Concession Agreement, we would like to suggest the provision in the agreement of a particular procedure for approval of the initial Financing Agreements (to be concluded by the Concessionaire prior to the Concession Commencement Date). Currently such a procedure is envisaged in Clause 14.1.2 only for the further financial agreements that may be concluded during the Concession after its commencement. Such procedure should include a time period within which approval to be granted as well as an obligation for the Grantor not to refuse approval without reasonable cause.	An amended version of the draft Concession Agreement has been recently published and no further amendments are currently envisaged.
6.	Please insert a definition of the term "Equity"	Please refer to the amended version of the draft Concession Agreement, which includes a new definition of Termination Date Equity. In our opinion, a definition of Equity is not necessary for the purposes of the Agreement.
7.	Please revise the definition of "Government Services" so that it particularly covers the activities performed by Bulgarian Air Forces. This will ensure alignment with the definition of "State Service Level Agreements" which includes agreements entered into with Bulgarian Air Force (BAF).	An amended version of the draft Concession Agreement has been recently published and no further amendments are currently envisaged. Besides, these two terms do not have the same scope in terms of entities concerned. Government Services means services provided in relation to the Airport by Government Authorities – and BAF do not provide such services; however, BAF is a

		Government User and is therefore included in the definition of State Service Level Agreements.
8.	In connection with Clause 34.1.1 from the draft Concession Agreement, please consider the possibility to include as Compensation Events any action or inaction of BAF or the armed forces of other states under Clause 3.10 (Joint Use), resulting in damages for the Concessionaire.	An amended version of the draft Concession Agreement has been recently published and no further amendments are currently envisaged.
9.	In relation to Clause 34.4 (Rebalance Payment) from the draft Concession Agreement, please clarify in which cases the Rebalance would be "excessively onerous on the Grantor". Please consider the option to include a value threshold in this regard.	An amended version of the draft Concession Agreement has been recently published and no further amendments are currently envisaged.
10.	In relation to Clause 44 (Provisional Seizure of the Concession) in the draft Concession Agreement, please consider the option to envisage a possibility for compensation in favour of the concessionaire for incurred damages in case proven that the grounds for the seizure required in Clause 44 were not in place.	An amended version of the draft Concession Agreement has been recently published and no further amendments are currently envisaged.
11.	We deem that the option for Assignment set forth in Clause 46.2 of the draft Concession Agreement should be limited to assignment to another competent public authority in accordance with the applicable law in force.	Please refer to the amended version of the draft Concession Agreement.
12.	For the purpose of clarifying the possibilities for amendment of the concession agreement and in view of compliance with the effective legislation, we propose that the relevant statutory amendment options laid down in Articles 137, 138 and 139 of the Concessions Act be recorded in Clause 51.3 of the Concession Agreement.	An amended version of the draft Concession Agreement has been recently published and no further amendments are currently envisaged. Besides, we see no reason to insert in the draft Concession Agreement provisions of the Concessions Act, which are applicable by virtue of law but may be amended over the Concession Period.

13.	In relation to Clause 31 (Set-Off) from the draft Concession Agreement, we propose that the envisaged limitation of Concessionaire's rights to be revisited. More particularly, it should be taken into account that such a waiver of future rights (which could also be exercised in front of a court of law) could be interpreted as null and void.	A similar question has already been answered (please see Q&As published on 27 September 2018) and our position remains unchanged: Clause 31.1.1 means that the Concessionaire agrees not to exercise any set-off right as a substantive law right and we are of the opinion that there is no provision in the Bulgarian law preventing this.
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