

1. Article 2 paragraph 2: what payment security instruments are envisaged?

The user can choose between 2 different payment security instruments:

- 1) irrevocable first demand bank guarantee or
- 2) monetary deposit to TSO's bank account; in the amount as specified in Article 2 Paragraph 2. of the contract.

In case the user contracts both the exit capacity from LNG terminal and interconnection capacity, or only interconnection capacity, then the Annex 2 of the Network Code of Transmission System applies, whereas in case the user contracts only exit capacity from LNG terminal, then Annex 1 of the Network Code of Transmission System applies to the gas transmission contract.

Article 8 of Annex 1 of the Network Code of Transmission System envisages possibility that the user submits a debenture note (“zadužnica”) instead of bank guarantee/monetary deposit, in case that he has in the previous 12 months duly fulfilled his obligations towards Plinacro. However, please note that such provision is not applicable in case of users which are foreign entities. Namely, the debenture note issued by Croatian entity represents enforceable act, issued before Croatian public notary, based on which the creditor may directly collect due amount from debtor's bank accounts in banks in Croatia, and based on which the creditor may directly initiate enforcement procedure on debtor's entire property in Croatia. Since the debenture note which would be issued by a foreign entity, not having bank accounts and property in Croatia, would not have the same level of effectiveness, as debenture note issued by Croatian entity, Plinacro cannot accept as collateral debenture notes issued by foreign entities.

Hence, the users which are foreign entities may as a collateral only submit bank guarantee or monetary deposit.

2. Article 2 paragraph 2b) – max 15 years only, but capacity can be booked for 20 years ahead

Remark is accepted. In the Final Binding Open Season procedure the capacity will be offered for the period of 20 years.

3. Article 2 paragraph 3 – what if the subject of this contract is to also contract Interconnector capacity into Hungary? And what if user is unable to negotiate transmission contract with FGSZ?

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

The situation where the user enters into contract with Plinacro and is unable to negotiate transmission contract with FGSZ, is not possible, because Open Season procedure for capacity at interconnection point Dravaszerdahely is conducted jointly by Plinacro. and FGSZ, pursuant to Allocation Rules approved by Croatian Energy Regulatory Agency and Hungarian regulator. Pursuant to the respective Allocation Rules, the capacity at interconnection point Dravaszerdahely will be offered as bundled capacity.

By submitting offer in Open Season procedure, the user (shipper) agrees to both Plinacro's and FGSZ's terms of service (gas transmission contract draft and General Terms and Conditions), hence there is no further negotiation on transmission contracts once the offers have been submitted.

4. Article 2 paragraph 6 – last sentence 'listed in this paragraph' is it this paragraph 6 or paragraph 5?

It refers to documents listed in this paragraph 6.

5. Article 4 paragraph 2 – does this mean that user needs to be a Croatia based company to book capacity?

The user does not need to be a Croatia based company in order to book capacity.

6. Article 4 paragraph 3 – this results in a payment period of 5 days, which is too short for us. We would need at least 10 days between invoice receipt and payment due date.

Plinacro will take in consideration this remark and see if it is possible to prolong the payment period.

7. Article 4 paragraph 4 – how is the default interest calculated? Will the TSO send a separate invoice or invoice following month? As stated above, we would need 10 days between receipt of invoice and payment.

The default interest rate is calculated from (including) the day after the maturity date, until the payment date. The default interest rate currently (on 22 September 2017) amounts 9,41% p.a. The default interest rate is regulated by the Croatian Civil Obligations Act.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

The TSO issues separate invoice for the accrued default interest. Pursuant to Article 8 paragraph 3 of OU-INT, the accrued default interest becomes due within 8 days from the date the shipper receives calculation/invoice for default interest.

8. Article 4 paragraph 6 – it needs to be clearly stated that the tariff consists of a capacity charge and a commodity charge and that it is the capacity charge that needs to be paid regardless of actual usage by the shipper. Also, can the capacity be sold/assigned to someone else?

It is correct that only the capacity charge is to be paid regardless of actual usage by the shipper. In case there is no usage, the commodity charge will amount 0. We will amend the wording accordingly.

The manner (formula) of calculation of fee for the usage of transmission system is regulated in Methodology for determining the amount of the tariff items for gas transmission, passed by Croatian Energy Regulatory Agency (CERA). The gas transmission contract in Article 4 explicitly refers to application of the respective Methodology.

Pursuant to Article 20 of OU-INT, neither the shipper nor the TSO can transfer the gas transmission contract, nor assign rights arising from it, to third parties without prior written consent of the other party. The procedure of assigning certain rights from the gas transmission contract in case when the shipper sells capacity at secondary market is regulated within the Network Code of Gas Transmission System.

9. Article 6 – please clarify the clause around disputed payment security instrument

Pursuant to Article 5 paragraph 20 of OU-INT and Article 8 paragraph 9 of OU, in case that any third party (e.g. guarantor from the agreed collateral) contests the validity of the collateral, the shipper is obligated to replace the contested collateral with a valid identical collateral pursuant to OU-INT/OU and gas transmission contract, which will be acceptable to the TSO; within 5 business days upon TSO's written request.

In case that the shipper fails to replace the contested collateral in the manner and within terms as defined in OU-INT/OU, he will be obligated to pay liquidated damages to the TSO, pursuant to Article 6 of the gas transmission contract.

10. Article 7 paragraph 1 – what is the process of acquiring such permit and can the TSO facilitate the process?

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

Conditions under which a company that does not have registered seat in the Republic of Croatia can be a user of the gas transmission system differ depending on whether it is:

(i) **A company that has a registered seat in one of the member states of the European Union or in one of the Energy Community contracting parties:**

Pursuant to Article 8 of the Gas Market Act, CERA can issue a license **for gas trading or gas supply** to gas trader or gas supplier from the member state of the European Union and from the Energy Community contracting party, provided that: (i) such company is registered for performing of activity of gas supply or gas trading in the member state of the European Union or the Energy Community contracting party, (ii) such company provided to CERA appropriate collateral, and (iii) such company provided to CERA statement of it's representative on accepting the obligations envisaged in the Gas Market Act and it's subordinate bylaws.

Article 4, paragraph 3 of the Ordinance on Licenses for Energy Activities and Keeping the Register of Issued and Revoked Licenses for Energy Activities (hereinafter: the **Ordinance**) stipulates that CERA can issue a license to an active trader from the member state of the European Union and from the Energy Community contracting party, for performing of certain energy activities following a simplified procedure prescribed in Article 16 of the Ordinance. Article 16 of the Ordinance explicitly stipulates that license can be issued in simplified procedure only for **gas trading** (and not for gas supply).

The simplified procedure of obtaining energy license envisaged under Article 8 of the Gas Market Act and Article 16 of the Ordinance does not require that a company (gas trader/supplier) is registered in the Republic of Croatia.

In the Croatian legal system, in case of discrepancies between a law and subordinate legislation, law takes precedence over subordinate legislation. Hence, Article 8 of the Gas Market Act, which envisages possibility to issue both gas trading and gas supply licenses in simplified procedure, should take precedence over Article 16 of the Ordinance, which envisages possibility to issue only gas trading license in simplified procedure. However, CERA informed us that in practice, they apply the Ordinance over the Gas Market Act, so that they issue in simplified procedure only licenses for gas trading, and not for gas supply.

(ii) **A company that has a seat in the third country:**

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

In order for a company that has a seat in the third country (i.e. a country other than the Republic of Croatia, member state of the European Union or Energy Community contracting party) to obtain an energy license, it must establish a company with the seat in the Republic of Croatia, which must obtain license for gas supply or gas trading, pursuant to the Ordinance.

11. Article 8 paragraph 1b) – *What does this obligation to use the capacity mean? Is there an obligation to enter gas volumes? Typically, the obligation of the shipper shall be limited to the obligation to pay the tariff.*

There is no obligation to enter gas volumes. The correct wording should be “right”, not “obligation”. Plinacro will amend the wording accordingly.

12. Article 8 paragraph 4 – *the liquidated damages have to be paid within a reasonable time after [A]. And last part needs to be clarified that the TSO and not shipper needs to prove that the delay is attributable to the TSO. Also please identify the amounts of compensation and the caps.*

Pursuant to the Croatian Civil Obligations Act, the existence of ordinary negligence of the debtor is assumed in all cases, unless the debtor proves otherwise. In other words, in case of dispute, the TSO would have to prove that the delay is not attributable to the TSO.

The total amount of the liquidated damages from Article 8 paragraph 4 shall not exceed the amount of 10% of the first 6 months fee for the booked capacity(capacity charge only). Liquidated damages will be calculated for each day of the delay in the amount of the 0.055% of the 6 months fee for the booked capacity, starting from 2 April 2020 (A). until 1 October 2020 (B).

13. Article 9 paragraph 2 – *should be an unconditional sunset clause allowing the shipper to terminate if the capacity is not made available by a given date.*

Article 9 paragraphs 2 and 3 regulate termination of the transmission contract in case the Date of Initial Application does not occur at the latest until 1 October 2020. The difference between these 2 paragraphs is in the consequences of termination (liability for damages), which differs when the reasons for termination are attributed to Plinacro (paragraph 2) and when the reasons for termination are attributable to any other person (it could be either LNG Hrvatska, or any third person) or event (force majeure), without Plinacro’s fault (paragraph 3). In paragraph 2, Plinacro shall be liable for damages, whereas in case of paragraph 3, Plinacro shall not be liable for damages.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

14. Article 9 paragraph 3 – doesn't the last part contradict Art. 6 and 8(4)?

Article 9 paragraph 3 does not contradict Article 6, because Article 6 will be applicable after the Date of Initial Application occurs. At that time, the parties will no longer have option to terminate the contract based on Article 9 paragraph 3.

Article 9 paragraph 3 does not contradict Article 8 paragraph 4. In case the capacity is not made available until 1 April 2020 due to Plinacro's fault, Plinacro will pay to the shipper liquidated damages, accrued until the date when the availability of capacity is achieved. In case the capacity is not made available until 1 October 2020, without TSO's fault (Article 9 paragraph 3), then each party can terminate the contract, without any right to damages.

15. *The metering unit is kWh/h (expressed in NCV based 15 °C/15°C) in Croatia, and GCV based 25°C/0°C) in Hungary. What is the conversion rate? Shall we book the Dravaszerdahely CR>HU bundled capacity and the Omišalj entry on the basis of GCV or NCV?*

The capacity expressed at the upper gas calorific value under normal conditions is used for the binding procedure at an interconnection. The capacity at the upper gas calorific value under normal conditions is calculated in such a manner that the capacity at the lower gas calorific value under standard conditions is divided by the coefficient 0.9010. Plinacro is aware of the problem of different calorific values for entry point Omišalj and interconnection point Dravaszerdahely and is working on that problem.

16. *Please provide the Croatian natural gas quality requirements.*

Croatian natural gas quality requirements are specified in General terms of gas supply ("Official Gazette" No. 158/13, 74/17)

17. *Do you have all the necessary licenses for the infrastructure development? Please let us know which licenses have you already gotten and which licenses haven't you gotten yet? Please send us the latest development schedule*

So far Plinacro has obtained the following licenses for the different scenarios.

Scenario 1. Omišalj-Zlobin

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

1. Environmental Impact Assessment Completed & Environmental Permit obtained,
2. Basic Design completed & Location Permit obtained,
3. Main Design completed & Building Permit (1st phase obtained, 2nd&3rd phase in progress)

Scenario 2. Zlobin-Bosiljevo

1. Environmental Impact Assessment completed & Environmental Permit obtained,
2. Basic Design completed & Location Permit obtained

Bosiljevo-Sisak

1. Environmental Impact Assessment completed & Environmental Permit obtained,
2. Basic Design completed & Location Permit obtained

Sisak-Kozarac

1. Environmental Impact Assessment completed & Environmental Permit obtained,
2. Basic Design completed & Location Permit in progress

Scenario 3. Kozarac-Slobodnica

1. Environmental Impact Assessment completed & Environmental Permit obtained,
2. Basic Design completed & Location Permit in progress

The development schedule will be available after Plinacro takes the decision on the infrastructure scenario for the construction of the new gas pipeline for gas transmission from the LNG terminal.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

18. If the LNG terminal is built, will the capacity booking be provided for shippers at the Omišalj entry, at the Croatian-Hungarian Interconnection point as well and vice versa? In order to avoid any doubts: is the transmission capacity booking firmly linked to the LNG terminal capacity booking?

The capacity allocation rules for the entry point Omišalj will be prescribed in more details in the Rules for the implementation of the binding phase. The booking of the LNG terminal capacity and the booking of the transmission system capacity are two different procedures to take place in parallel. In order to avoid any doubt, the shippers will have to book separately capacity for the LNG terminal and the capacity for the transmission system at the entry point Omišalj.

19. Will you publish the offered capacities and the reserve prices at the Omišalj entry at the Dravaszerdahely CR>HU interconnection point parallel with the capacity booking at the LNG terminal on the island of Krk?

The indicative tariff and the offered capacities for entry point Omišalj and interconnection point Dravaszerdahely CR>HU will be stated in The Rules for the implementation of the binding phase. The final binding phase of the Plinacro/FGSZ OSP and the final binding phase of the LNG Croatia OPS will be performed simultaneously.

20. The documentation of consultations with the interested public doesn't contain the traffic fees. Please inform us about the additional transmission fees, and kind to be applicable, too.

The documentation of consultations with the interested public contains the average cost of gas transmission from the entry into the transmission system in Omišalj to the exit at Dravaszerdahely IP which was stated for information purposes only. The current Methodology for determining the tariff items for the gas transmission ("Official Gazette" No. 85/13, 158/13, 118/15) will be applied for the calculation of the indicative tariffs. The fee for the usage of the transmission system consists of two elements; the capacity charge and the commodity charge.

21. Please send us the average cost of gas transmission for the period 2027-2039 as well. Unfortunately, the Open Season document contains it only for the period 2020-2026.

The average cost of gas transmission was calculated for the information purposes only. It was calculated on the basis of 10YNDP, investments based on infrastructural scenarios explained in the Consultation document and current Methodology. The indicative tariff that will be stated in

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

Rules for the implementation of the binding phase will be a more precise indicator of the average cost of gas transmission for the period 2027-2039.

22. Will Plinacro and LNG Croatia harmonize their Open Season in terms of same bidding dates and with linked capacity booking procedure?

LNG Croatia and Plinacro/FGSZ will harmonize the dates of the bid submission period; however, there will be two separate capacity booking procedures. The allocation rules for the entry point Omišalj will prescribe that the shippers allocated capacity at the LNG Terminal will also be allocated capacity at the entry point Omišalj if they placed a bid in the Plinacro/FGSZ OSP. Therefore, the shippers who submitted the bids for both capacities may be sure they will be allocated the capacities both at the LNG Terminal and at the entry point Omišalj in the same amount.

23. Can Transmission System User be only a legal entity possessing trading license in CRO as well as in HUN, or can be a legal entity having trading license only in HUN?

Transmission system user needs to have trading license in Croatia, regardless of whether the company is registered in Croatia or Hungary. For more details, please see answer to question no. 10

In the Croatian legal system, in case of discrepancies between a law and subordinate legislation, law takes precedence over subordinate legislation. Hence, Article 8 of the Gas Market Act, which envisages possibility to issue both gas trading and gas supply licenses in simplified procedure, should take precedence over Article 16 of the Ordinance, which envisages possibility to issue only gas trading license in simplified procedure. However, CERA informed us that in practice, they apply the Ordinance over the Gas Market Act, so that they issue in simplified procedure only licenses for gas trading, and not for gas supply.

24. It is a question whether FGSZ Zrt. needs to be party to the contract or somehow agree to the allocation of the transmission system capacities at Dravaszerdahely interconnection point between Hungary and Croatia as the contract and open season documentation provides that capacities are offered jointly by Plinacro and FGSZ.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

FGSZ Zrt is not a party to this contract. Transmission system user will conclude a separate gas transmission contract with FGSZ Zrt.

25. Since draft of the Rules for the implementation of the binding phase of the Open Season procedure ("OS Rules") which make the constituent part of the Contract has not been published yet and considering that they are governing contractual relationships, exact rights and obligations of the parties are not fully known at this point. Please share OS Rules with us as soon as possible. (Article 1 paragraph 2 of the Contract)

The OS Rules are planned to be published at the beginning of December 2017, as soon as they are approved by the regulator.

26. Our understanding is that the Rules for the transmission system capacity allocation at Dravaszerdahely interconnection point are also applicable; if that is correct, they should be mentioned here as well. (Article 1 paragraph 2 of the Contract)

The rules for the allocation of capacity at Dravaszerdahely interconnection point and entry Omišalj will be provided within OS Rules. Both allocation rules are the constituent part of the Contract.

27. Considering that GT-INT may be amended and that, according to current wording of the Contract, amended GT-INT shall be applicable to this contractual relationship, it should be clear that provisions of the Contract prevail over current as well as future GT-INT. (Article 2 of the Contract)

Please note that the respective rule arises also from Article 295 paragraph 3 of the Croatian Civil Obligations Act, which regulates that, where general contract conditions are in conflict with individually negotiated provisions, the latter shall be applicable.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

Furthermore, the gas transmission system users are entitled to participate in procedure of amendments of GT-INT, because Plinacro is obligated to carry out public consultation procedure in duration of minimum 15 days, pursuant to Article 84 paragraph 3 of the Gas Market Act. The amendments of GT-INT need to be approved by CERA prior to their entering into force and need to be published on CERA's webpage and Plinacro's webpage (Article 84 of the Gas Market Act).

28. There is a number of other provisions in GT-INT that might be considered to be expressly excluded or regulated differently (for instance 5.1, ,12, 13, etc.) It would be advisable to copy some of the provisions of GT-INT into the Contract to ensure that they cannot be changed unilaterally. (Article 2 paragraph 1 of the Contract)

As explained in the previous question.

29. It is unclear why the amount of the payment security instrument is increased by VAT in case of all Transmission System Users, including the ones that do not have to pay VAT. (Article 2 paragraph 1 of the Contract)

The wording will be amended so that it reads: "increased by the VAT (if applicable)"

30. It is unclear how will security instrument amounts be calculated considering that the beginning of application of the Contract does not necessarily correspond to the gas year which is used as a reference. It is also not clear what would be the payment security amount for multiple gas years. Can you please give an example? (Article 2 paragraph 2 of the Contract)

The security amount for the first gas year will be calculated based on the fee for using the contracted capacity for first gas year of application of this contract (i.e. for gas year in which the Deferred rights and obligations enter into force – gas year 2019/2020). For each subsequent gas year of the contract term, the security amount will be calculated based on the fee for using the contracted capacity in the respective gas year.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

31. It should be expressly mentioned that new GT-INT applies only to extent it is not contrary to the Contract (as noted above, we suggest that all important provisions of GT-INT are inserted in the Contract to avoid possibility of their unilateral change) (Article 2 paragraph 4 of the Contract)

The wording will be amended accordingly, so that it will state that the new GT-INT will apply only to the extent it is not contrary to the contract.

We cannot accept your proposal to include all important provisions of GT-INT in the contract.

Plinacro has regulated most of the contractual conditions for provision of gas transmission service in the GT-INT, which constitutes annex to the Gas Transmission System Network Code, and has been approved by CERA pursuant to the Gas Market Act. The gas transmission contract is primarily used only for stipulation of elements relating to specific contractual obligation (e.g. contracted capacity, contract term, contact information, etc.), whereas with regard to all other matters, rights and obligations, it refers to GT-INT.

Plinacro, as TSO, is required to ensure that all transmission system users are treated equally with regard conditions for access and provision of gas transmission service. Consequently, Plinacro cannot meet your requirement.

32. It is unclear why the suggested order (especially b-d) is relevant for resolving potential discrepancies; We suggest that this is deleted and that in case of discrepancy there are no fixed rules for resolving it. (Article 2 paragraph 5 of the Contract)

We cannot accept your proposal. We need to have in place a method for solving possible discrepancies. The purpose of the provision is that definitions contained in the documents which are more specific for the contractual relationship (e.g. contract) have precedence over more general documents (e.g. Network Rules).

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

33. It is unclear what is the Statement on the Payment security instrument and why should it be constituent part of the Contract (Article 2 paragraph 6 of the Contract)

Statement on the payment security instrument is a statement given by the transmission system user by which he chooses between 2 different collaterals which are available under the GT-INT (bank guarantee or monetary deposit) and it contains information on date of issue, amount and validity term of the collateral. Sample of such statement is available at Plinacro's website www.plinacro.hr.

34. Since draft of the Rules for the implementation of the binding phase of the Open Season procedure ("OS Rules") which make the constituent part of the Contract has not been published yet and considering that they are governing contractual relationships, exact rights and obligations of the parties are not fully known at this point. Please share OS Rules with us as soon as possible. (Article 3 paragraph 1 of the Contract)

The OS Rules are planned to be published at the beginning of December 2017, as soon as they are approved by the regulator.

35. Notice here is a capitalised term but not defined yet. Which notice do you mean here? (Article 3 paragraph 2 of the Contract)

The first mentioning of the term should be written in lower case letters. It is defined further on in this paragraph (2). We will amend the wording accordingly.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

36. Transmission System User is exposed to potential unfavourable changes in the regulation or the Methodology, therefore unfavourable changes should be a reason for termination of the Contract by Transmission System User. (Article 4 paragraph 1 of the Contract)

We cannot accept your proposal.

Pursuant to the Croatian Gas Market Act, the Methodology and Decision on tariff items are passed by the Croatian Energy Regulatory Agency (CERA), and these acts are applicable to all gas transmission contracts which are ongoing at the time of entering into force of the respective acts.

37. Do we understand correctly that TSO shall issue the invoice not later than the 15th day of the month following month for which the invoice refers to? (Article 4 paragraph 3 of the Contract)

Yes.

38. What is “the date stated on the calculation”? (Article 4 paragraph 4 of the Contract)

The date stated as maturity date on the invoice is: the date of issuing of the invoice + 10 days.

39. and Saturdays? (Article 4 paragraph 5 of the Contract)

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

We cannot accept your proposal. Pursuant to the Croatian Act on Non-working Days, Saturday is considered to be a working day, except in case if a holiday, envisaged under the respective Act, falls on Saturday.

40. This statement is problematic as it does not differentiate all situations where it was prevented from using the transmission system by Plinacro or similar reasons. (Article 4 paragraph 6 of the Contract)

The provision contains general rule applicable in case when Plinacro is not breaching its obligations. In case the transmission system user cannot use the transmission system due to Plinacro's breach or force majeure, the provisions of Croatian Civil Obligations Act will apply.

41. As the Contract may not fully enter into force for several years from the signing our suggestion is that this is amended in a way that delivery of the security instrument is considered deferred obligation (Article 5 of the Contract)

We cannot accept your proposal. Construction of pipeline based on this Open Season procedure requires a significant investment by Plinacro, and Plinacro needs to have assurance, while making such investment, that the transmission system user will duly fulfil its obligations once that the Deferred rights and obligations come into force.

42. The maximum amount of the liquidated damages should be capped as it is the case with liability of Plinacro under the Contract

The total amount of liquidated damages shall not exceed the amount of 10% of the first 6 months fee for the contracted capacity (capacity charge only). Liquidated damages will be calculated for each day of delay in the amount of 0,055% of the 6 months fee for the booked capacity. *(Article 6 of the Contract)*

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

43. It is unclear what conditions are applied in case of change of GT-INT and thus it might be advisable to incorporate all relevant provisions in the wording of the Contract. Otherwise, we cannot accept Article 12 of GT-INT because it is clearly drafted in favor of Plinacro and it gives Plinacro certain rights that are not granted to the Transmission System Users under the Contract. (Article 6 of the Contract)

We cannot accept your proposal. Pursuant to Article 84 of the Gas Market Act, each change of GT-INT is subject to public consultation procedure, within which all transmission users are entitled to give their objections and comments, and Plinacro is obligated to take such objections into account. Furthermore, each change of GT-INT is subject to CERA's approval.

The situations in which the gas transmission user is obligated to pay liquidated damages and the amount of liquidated damages is envisaged in the contract. Consequently, even in case of change of GT-INT clause regulating liquidated damages, the provisions of Article 6 of the contract will apply and have precedence over any new/amended provisions of GT-INT, as stated in Article 2 of this contract.

44. Plinacro should also give warranty that it has a valid permit for performing energy activity of gas transmission and that it fulfils all conditions foreseen by the provisions for the Transmission System Operator. (Article 7 Paragraph 1 of the Contract)

Plinacro's permit for performing energy activity of gas transmission is recorded in the registry of energy licenses, available at CERA's webpage: <https://www.hera.hr/hr/html/dozvole.html>

45. Obligation for paying the fee is reasonable, but obligation for using the capacity is not fully understandable. What does this mean? (Article 8 Paragraph 1 of the Contract)

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

It will be amended so that it reads “right to use the capacity”

46. Provisions on delivery of the security instruments should also be deferred obligation (see comment above) (Article 8 Paragraph 1 of the Contract)

We cannot accept your proposal. Please see reply next to Article 5.

47. It should be stated that, if by the Date of Initial Application the LNG terminal has not been constructed and permits have not been obtained, then the Deferred rights and obligations shall apply (from 1st day in the calendar month following the calendar month in which LNG terminal has been constructed and the final and binding permits for its use have been obtained) instead of "the Date of Initial Application is postponed", as that date has already occurred and only thing postponed is application of Deferred rights and obligations. (Article 8 Paragraph 3 of the Contract)

The current wording is in line with the interpretation of the provision given in your comment. However, in order to avoid any misinterpretations, we accept your proposal for amendment.

Consequently to accepting your proposal for amendment of Article 8, Article 9. paragraph 3. will also need to be amended so that it instead of „Date of Initial Application“ reads: „Deferred rights and obligations do not come into effect pursuant to Article 8 of this Contract“.

48. Current wording of this section is not acceptable for us due to the below reasons:

- *occurrence of Date of Initial Application (construction of the gas pipeline, obtaining final and binding permits and notification of the users) is uncertain and is mostly under sphere of influence of Plinacro; mere breach of contractual obligation should be sufficient and fault of Plinacro should not be required for the entitlement to receive liquidated damages*

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

- *the maximum amount of liability of Plinacro under this Article is capped (unlike the liability of the Transmission System Users under the Contract) and the Transmission System User renounces its right to seek further damages from Plinacro, beyond the amount of liquidated damages (there is no such provision with respect to liability of Transmission System Users towards Plinacro)*
- *the liquidated damages under this paragraph become due for payment after the occurrence of the Date of Initial Application which means that if the Date of Initial Application does not occur it will never become due*
- *both projects (LNG terminal and pipeline construction) are interrelated; it should be clear what are consequences of delay/cancellation of one project on another project and if there is right to seek damages and in which cases; the Contract provides that one of the reasons for non-occurrence of the Date of Initial Application which cannot be attributed to Plinacro is: "the fact that by the stated period the LNG terminal has not been constructed and/or the required permits for its use and operation have not been obtained"; the fact that there is potential delay in construction of LNG terminal should not automatically result in exclusion of liability of Plinacro because occurrence of the Date of Initial Application is almost completely under its sphere of influence - in this case breach of obligations by one company (LNG) would unjustifiably lead to exclusion of liability of other (Plinacro). Shall we propose acceptable wording? (Article 8 Paragraph 4 of the Contract)*

Pursuant to the Croatian Civil Obligations Act, the debtor is not liable for damages if the damage occurred due to reasons which are not attributable to the debtor, e.g.: force majeure, fortuitous event, action of third person or creditor. Hence, we cannot accept your proposal to impose to Plinacro obligation to pay liquidated damages irrespective of its fault. The maximum amount of liability of Plinacro under this Article 8 will be the same as maximum amount of transmission system user's liability under Article 6 (liquidated damages). The liquidated damages in this Article 8 are stipulated as delay liquidated damages, which means that the transmission system user will be entitled to request their payment only along with the request for fulfilment of Plinacro's obligations. The consequences of not entering into force of the Deferred rights and obligations due to delay of LNG project and Plinacro's project are regulated differently in Article 9 paragraphs 2 and 3.

49. As GT-INT can be unilaterally amended this puts Transmission System User in uncertain position. Not acceptable. (Article 9 Paragraph 1 of the Contract)

Please see answer to comment under Article 7

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

50. If the Date of Initial Application does not occur until certain date, the Transmission System User should have right to terminate the Contract irrespective of the fault of Plinacro for non-construction of the pipeline. If the Date of Initial Application does not occur until certain date and Transmission System User terminates the Contract: i) it would have to prove the amount of damages, ii) liability of Plinacro would be limited, iii) loss of benefit (presumably profit) or any other indirect, collateral, accidental or consequential damages would be excluded: Statutory rule is that all foreseeable damages can be compensated, including loss of profit. (Article 9 Paragraph 2 of the Contract)

The right of transmission system user to terminate the contract in case the Deferred rights and obligations do not come into effect until 1/10/2020 in envisaged in this Article. There are different consequences of termination depending on whether the termination is due to reasons attributable to Plinacro or due to other reasons which are not attributable to Plinacro.

51. Article 5.1 of GT-INT which provides that security instruments are constituent part of the Contract should be excluded as security instruments are not constituent part of the Contract.

The respective clause of GT-INT applies to all gas transmission contracts which Plinacro concluded with the users. Consequently, it should also apply to this contract, because Plinacro is required to have unified approach and treat equally all transmission system users.

52. Article 5.20 of GT-INT provides that if any third party disputes validity of security instrument, transport system user is obliged, upon request of Plinacro to replace the security instrument with one acceptable to Plinacro - it is unclear what it means to dispute validity and there is no objective legal criteria for acceptability of security instrument to Plinacro.

E.g. the provision refers to case when the bank which issued bank guarantee denies to make payment pursuant to Plinacro's request. The legal criteria for acceptability of new security instrument to Plinacro is contained in Article 5 of GT-INT – the criteria is: type of security instrument and the amount.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

53. Article 9 of GT-INT, same as the Contract, provides that the Transmission System User shall pay a fee for the transmission system use regardless of whether it has actually used the service of gas transmission.

Please see reply next to Article 4 of the contract.

54. Article 11 of GT-INT states additional R&W of the Transmission System User – our suggestion would be to state all R&W in the Contract and exclude application of this Article.

The respective clause of GT-INT applies to all gas transmission contracts which Plinacro concluded with the users. Consequently, it must also apply to this contract, because Plinacro is required to have unified approach and treat equally all transmission system users.

55. As mentioned above (comment of Article 6 of the Contract), Article 12 of GT-INT regulates payment of liquidated damages by Transmission System User and grants Plinacro certain rights that are not granted to the Transmission System Users in equivalent situations – our suggestion would be to exclude application of this Article and regulate all details regarding the liquidated damages in the Contract.

Please see reply next to Article 6 of the contract.

56. Article 13 of GT-INT provides for exclusion of liability of Plinacro for damages in all cases except in case of gross negligence and intent; as mentioned above, contractual liability of Plinacro should not be dependent on fault of Plinacro and even if it is agreed that fault of Plinacro needs to exist for liability of Plinacro, it should be responsible in case of ordinary negligence so this provision should be explicitly excluded.

Plinacro applies the respective clause on exclusion of liability towards all transmission system users. It was approved by CERA in the procedure of approval of the Gas Transmission System Network Code. Plinacro is required to treat all transmission system users equally, and thereby cannot accept your proposal.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

57. Article 14 of GT-INT provides that force majeure is defined by the Energy Act but parties are released from their obligations under the transmission agreement only if force majeure is related to the functioning of the transmission system and/or availability of the transmission system capacities and/or availability of the platform (and not related to the quality, availability or shortage of gas) – limitation of force majeure solely to the functioning of transmission system and/or availability of transmission system capacities and/or availability of the platform might be too narrow.

The case of force majeure is regulated by the Energy Act and Croatian Civil Obligations Act. Force majeure is each event which fulfills conditions envisaged under the respective legislation: extraordinary external event that occurred after entering into the contract and before the performance of obligation is due, and which could not have been foreseen or prevented, avoided or eliminated, and for which party is not liable.

58. Article 14 of GT-INT further provides that both parties have the right of termination of agreement in case of force majeure lasting more than 30 consecutive days; however, the parties have to enter into negotiations first in order to find satisfactory solution and only if agreement is not reached, in the next 15 days it is possible to terminate the agreement – we suggest that this provision is excluded as it is unclear what happens if parties do not enter into negotiations and how the moment when the agreement is reached is determined and why should be right to terminate the agreement allowed solely 15 days from this (uncertain) date irrespective of the fact whether force majeure is still preventing fulfillment of obligations.

The respective clause of GT-INT applies to all gas transmission contracts which Plinacro concluded with the users. Consequently, it should also apply to this contract, because Plinacro is required to have unified approach and treat equally all transmission system users.

59. Article 18 of GT-INT regulates termination of Contract and damages in case of termination

- as elaborated above, our suggestion is to have termination reasons regulated solely in Contract
- under Article 18 of GT-INT, Plinacro is authorized to terminate contract in extensive number of reasons while the user does not have the same right – inter alia, in case of breach of representations & warranties, if application for initiation of insolvency proceedings is filed, etc.

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

- our view is that some of the reasons should not lead to right of termination and that both parties should have same rights regarding termination.

The respective clause of GT-INT applies to all gas transmission contracts which Plinacro concluded with the users. Consequently, it should also apply to this contract, because Plinacro is required to have unified approach and treat equally all transmission system users.

60. Article 21 provides for jurisdiction of Commercial Court in Zagreb for dispute resolution – we cannot accept this provision and would propose to agree on arbitration instead

We cannot accept your proposal. The respective clause of GT-INT applies to all gas transmission contracts which Plinacro concluded with the users. Consequently, it should also apply to this contract, because Plinacro is required to have unified approach and treat equally all transmission system users.

The binding phase of the Open Season procedure
 Consultations with the interested public
 14 July 2017

61.

No.	Clause No.	Current wording	Suggested wording (new wording in bold)	Reasoning and commentary	Plinacro's response
1.	Article 8 (suspensive conditions for contract application), paragraph (1)	<p>(1) This Contract is concluded by the date of its signing by the authorised representatives of the Contracting Parties, where the fulfilment of certain rights and obligations from the Contract, specifically:</p> <p>a) obligation of the Transmission System Operator to offtake gas and make the Capacity contracted by this Contract available to the Transmission System User, and</p> <p>b) obligation of the Transmission System User to input, use the contracted transmission system Capacity and pay the fee for the use of the transmission</p>	<p>(1) This Contract is concluded by the date of its signing by the authorised representatives of the Contracting Parties, where the fulfilment of certain rights and obligations from the Contract, specifically:</p> <p>a) obligation of the Transmission System Operator to offtake gas and make the Capacity contracted by this Contract available to the Transmission System User, and</p> <p>b) obligation of the Transmission System User to input, use the contracted transmission system Capacity and pay the fee for the use of the transmission system and other applicable fees based on this</p>	<p>Article 8 of the Contract sets out the following condition precedent for the effectiveness of the main rights and obligations of the Contract: "the construction of the gas pipeline in compliance with OS Rules, and obtaining legally valid permits for its</p>	<p>We cannot accept your proposal to include provision of payment security instruments as part of Deferred rights and obligations. Construction of pipeline based on this Open Season procedure requires a significant investment by Plinacro, and Plinacro needs to have assurance, while making such investment, that the transmission system user will duly fulfil its obligations once that the Deferred rights and obligations come into force.</p> <p>With regard to your proposal to include new point (ii) as additional suspensive condition, please note that the existing text of the gas transmission contract already envisages that, in case LNG terminal is not</p>

The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

		<p>system and other applicable fees based on this Contract</p> <p>(items a) and b) hereinafter jointly referred to as: Deferred rights and obligations),</p> <p>is postponed until the occurrence of the next suspensive condition: the construction of the gas pipeline in compliance with OS Rules, and obtaining legally valid permits for its use foreseen by the provisions.</p>	<p>Contract, as well as to submit the payment security instruments</p> <p>(items a) and b) hereinafter jointly referred to as: Deferred rights and obligations),</p> <p>is postponed until the occurrence of all the next suspensive conditions:</p> <ul style="list-style-type: none"> (i) the construction of the gas pipeline in compliance with OS Rules, and obtaining legally valid permits for its use foreseen by the provisions. (ii) that the LNG terminal is completed, operational and in full function; (iii) that the Transmission System User has contracted sufficient storage capacity with the LNG and the relevant agreement is in full force and effect; (iv) that the Transmission System User has contracted with FGSZ the same capacity allocation as per this Contract, the relevant 	<p>use foreseen by the provisions”</p> <p>– In our opinion, however, the occurrence of the following events shall also be included in the list of (and qualified as) condition precedents:</p> <ul style="list-style-type: none"> · The LNG terminal not only needs to be completed but also operational and in full function · Moreover, the Client 	<p>constructed and functional (i.e. has valid and binding usage permit) until the date when Plinacro constructs the pipeline, application of Deferred rights and obligations shall be postponed (Article 8 paragraph 3).</p> <p>We cannot accept your proposal to include points (iii) and (iv) as additional suspensive conditions, because contracting storage capacity with the LNG is a dispositive right of the Transmission System User, not an obligation, also the contracted capacity on Dravaszerdahely interconnection point with Plinacro and FGSZ will be bundled.</p>
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The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

			<p>agreement is in full force and effect and the FGSZ's part of the interconnection (Dravaszerdahely) and pipeline of the interconnection point constructed and fully operational</p>	<p>needs to have contracted sufficient storage capacity with the LNG and the relevant agreement should be in full force and effect</p> <ul style="list-style-type: none"> o With respect to the LNG – we understand that a separate open procedure has been conducted for allocating capacities. o We assume that the Client also 	
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The binding phase of the Open Season procedure

Consultations with the interested public

14 July 2017

				<p>participates to this procedure, therefore we would kindly ask you to request the Client to provide us with the relevant documentation in this regard</p> <ul style="list-style-type: none">· Because the capacity on either side of the interconnection point must be offered in a single bundle (by Plinacro and FGSZ), the contract with FGSZ with the same capacity	
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The binding phase of the Open Season procedure

Consultations with the interested public

14 July 2017

				<p>allocation shall also be in full force and effect and the FGSZ's part of the interconnection (Dravaszerdahely) and pipeline of the interconnection point constructed and fully operational</p> <p>- The Contract shall also resolve the issue of the allocation of the capacities in the event that the constructed pipeline does</p>	
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The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

				<p>not have sufficient capacities with respect to the capacity allocated with the Open Season procedure – this issue is relevant especially in connection with the payment security (explained under next point).</p> <p>It is likely that most answers/clarifications to the above</p>	
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The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

				concerns have been clarified/resolved in the OS Rules.	
2.	Article 5 (Payment Security Instrument)	(1) For the purpose of payment security for all claims of the Transmission System Operator which occur based on or in relation to this Contract the Transmission System User shall simultaneously with the signing of this Contract deliver to the Transmission System Operator a Statement on the payment security instrument as well as the payment security instrument, in compliance with GT-INT and this Contract and in compliance with GT in case and in the extent as per article 2 paragraph (3) of this Contract.	(1) For the purpose of payment security for all claims of the Transmission System Operator which occur based on or in relation to this Contract the Transmission System User shall within [*] days from the occurrence of the suspensive conditions specified in Article 8 deliver to the Transmission System Operator a Statement on the payment security instrument as well as the payment security instrument, in compliance with GT-INT and this Contract and in compliance with GT in case and in the extent as per article 2 paragraph (3) of this Contract.	Pursuant to the provisions of the Contract, the Transmission System User needs to provide a payment security with the signing of the Contract, therefore before the occurrence of the above mentioned	We cannot accept your proposal. Please see our clarification above.

The binding phase of the Open Season procedure

Consultations with the interested public

14 July 2017

				<p>condition precedent.</p> <p>o Considering that the requested payment securities – pursuant to the GT-INT- are a first demand bank guarantee or cash deposit (at user’s choice) for the minimum amount of three monthly fees for the use of the transmission system, such requirement is actually an inconvenient for the</p>	
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The binding phase of the Open Season procedure
Consultations with the interested public
14 July 2017

				<p>Transmission System User considering that the User would need to incur certain costs, keep a certain amount of cash/assets blocked (by the bank) for a period of approximately 3 years at least (i.e. until April 2020) without not only knowing whether the LNG and the pipeline will be constructed but also without knowing if the</p>	
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The binding phase of the Open Season procedure

Consultations with the interested public

14 July 2017

				<p>capacity will be allocated to him in the amount for which the securities have been provided</p> <p>o The obligation to submit the payment securities shall therefore be postponed to the moment subsequent in time to the occurrence of the condition precedent (for example, within 15 -30 days from the occurrence)</p>	
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The binding phase of the Open Season procedure

Consultations with the interested public

14 July 2017

				<p>o Please be informed that article 5 (2) of the GT- INT, which has been derogated by the provisions of the draft gas transmission contract, foresees that the security instruments shall be submitted at latest 5 days in advance before the commencement of the auction (for standard annual product)</p>	
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The binding phase of the Open Season procedure
 Consultations with the interested public
 14 July 2017

3.	Article 9 (Contract termination), paragraph 2	<p>(2) The Transmission System User is authorised to terminate the Contract unilaterally by a written notice on termination delivered to the Transmission System Operator via registered mail, without providing a subsequent term for fulfilment, if the Date of Initial Application does not occur until [B], because until this date the Transmission System Operator by its fault has not constructed the gas transmission pipeline, in compliance with the OS Rules, and obtained legally valid permits for its use foreseen under the provisions. The total liability of the Transmission System Operator for damage in case of Contract termination under this paragraph is limited to the amount of [•]. The Transmission System Operator shall not be responsible to the Transmission System User for loss of benefit or any other indirect, collateral, accidental or consequential damage that the Transmission System User may incur due to or in connection with the termination of this Contract under this</p>		<p>Provisions concerning the obligations of the Transmission System Operator to pay damages/liquidated damages to the Transmission System User and, in particular any limitation in this regard to the benefit of the Operator, needs to be aligned with the corresponding obligations of Transmission</p>	<p>We cannot accept your proposal. Please note that each investment – LNG’s investment of construction of LNG terminal and Plinacro’s investment of construction of gas pipeline – has different value, and consequently, the damages for breach of obligations in one contractual relationship differ from damages for breach of obligations in other contractual relationship.</p>
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The binding phase of the Open Season procedure
 Consultations with the interested public
 14 July 2017

		paragraph. For the avoidance of doubt, the Contracting Parties agree that the limitation of liability referred to in this paragraph shall not apply to the damage that the Transmission System Operator caused to the Transmission System User by intent or gross negligence.		System User towards the LNG for not having taken from the LNG storage the allocated capacity.	
4.	Article 2 (paragraph 2)	The Transmission System User shall deliver the payment security instrument in the following amount increased by the VAT.	The Transmission System User shall deliver the payment security instrument in the following amount increased by the VAT, if applicable .	As being a cross border transaction (and also financial) out of scope or exempt transaction -> in our view no VAT shall be charged and paid by MFGK.	We accept your amendment proposal.
5.	Article 4 (paragraph 2)	The users classified, for the purpose of the Croatian tax regulations, as the residents of the Republic of Croatia shall		Under section 44 of the VAT directive, fees	This paragraph applies only to those registered in Croatia, foreign companies are not

The binding phase of the Open Season procedure
 Consultations with the interested public
 14 July 2017

		<p>also pay the value added tax on the fee for the use of the transmission system as well as other applicable fees pursuant to applicable provisions of the Value Added Tax Law and the Council Directive EU 2006/112/EC on the common system of value added tax.</p>		<p>charged by PLINACRO are out of scope in Croatia, and shall be taxed reverse charged in Hungary.</p>	<p>required to pay value added tax.</p> <p>Users who are registered in their country are paid according to their applicable VAT law.</p>
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