

**TENDER RULES
ON THE PROCEDURE
FOR THE TRANSFER OF THE BUSINESS
BELONGING TO
ARTONI TRASPORTI S.P.A. IN SPECIAL ADMINISTRATION
AND/OR
FOR THE SALE OF THE PROPERTIES OWNED BY
ARTONI GROUP S.P.A. IN SPECIAL ADMINISTRATION**

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INTRODUCTORY STATEMENTS

With regard to Artoni Trasporti S.p.A. in Special Administration:

- (a) With judgment no. 30/2017 of 27 April 2017 (published on 03 May 2017), pursuant to and for all the purposes of Article 8 of Legislative Decree no. 270 of 8 July 1999 and subsequent amendments and additions (the “**Prodi bis Law**”), the Court of Reggio Emilia declared the state of insolvency of Artoni Trasporti S.p.A. – known as the “Initial Proceedings”;
- (b) With the decree of 21-29/06/2017, the Court of Reggio Emilia declared the procedure for the Special Administration of Artoni Trasporti S.p.A. open, pursuant to and for the purposes of Article 30 of the Prodi *bis* Law;
- (c) With the decree of the Ministry of Economic Development of 28/07/2017, Dr Franco Maurizio Lagro was appointed Special Administrator of Artoni Trasporti S.p.A. in Special Administration (“**Artoni Trasporti**”).

With regard to Artoni Group S.p.A. in Special Administration:

- (d) With judgment no. 73/2017 of 11 October 2017 (published on 24 October 2017), pursuant to and for all the purposes of Articles 8 and 80 *et seq.* of the Prodi *bis* Law and subsequent amendments and additions, the Court of Reggio Emilia declared the state of insolvency of Artoni Group S.p.A., forming part of the same corporate group as Artoni Trasporti;
- (e) With the decree of 19-29/12/2017, the Court of Reggio Emilia declared the procedure for the Special Administration of Artoni Group S.p.A. open, pursuant to and for the purposes of Article 30 of the Prodi *bis* Law;
- (f) With the decree of the Ministry of Economic Development of 18/01/2018, Dr Franco Maurizio Lagro was appointed Special Administrator of Artoni Group S.p.A. in Special Administration (“**Artoni Group**”).

With regard to the procedures of both Artoni Group S.p.A. and Artoni Trasporti S.p.A.

- (g) Prior to subjecting the company Artoni Trasporti S.p.A. to the Special Administration procedure, the following agreements had been arranged on 23/03/2017, with subsequent registration on 27/03/2017:
- A rental agreement between Artoni Trasporti S.p.A. and Fercam S.p.A. (“**Fercam**”), for a period of one year, on 14 business branches described in Annex 3 to the Agreement itself, containing Fercam’s irrevocable proposal to acquire the businesses forming the subject of rental, with the establishment of the pre-emptive right in favour of Fercam in the event of transfer of the business branches even following any bidding procedure taking place within the scope of the possible insolvency proceedings to which Artoni Trasporti S.p.A. might be subject and in which Fercam undertook to participate;
 - 6 lease agreements between Artoni Trasporti S.p.A. and Fercam, for a period of 6 + 6 years, firmly subject to Fercam’s failure to acquire the business branches operated therein as tenant, relating to the same number of properties in which the activities of 6 of the 14 business branches referred to above are carried out and more specifically properties situated in Caorso, Pontedera, Mantova, Reggio Emilia, Buronzo and Montegranaro;
 - 5 lease agreements between Artoni Group S.p.A. and Fercam, for a period of 6 + 6 years, firmly subject to Fercam’s failure to acquire the business branches operated therein as tenant, relating to the same number of properties in which the activities of 5 of the 14 business branches referred to above are carried out and more specifically properties situated in Modena, Forlì Cesena, Dalmine, Mairano and Gorla Minore.
- (h) Following the opening of the insolvency proceedings, the rental agreement on the business branches continued with-

out the Special Administrator taking it over, thus reaching its natural expiry on 31/03/2018;

- (i) The rental agreements on the properties in which the rented business branches continued to operate also continued, as amended and supplemented following the necessary joint examination carried out by the Special Administrator and Fercam;

- (j) On expiry of the rental agreement on the business branches arranged on 23/03/2017, Artoni Trasporti, as grantor, and Fercam, as tenant, in order to ensure continuity of the business activities and thus guarantee the preservation of the production complexes and maintenance of the levels of employment, to ensure maximum protection of the creditors' interest in the realization of the assets and in obtaining the greatest possible satisfaction, agreed to continue the rental of the 14 business branches up to 30/09/2018, the period considered necessary to hold the bidding procedure governed by these tender rules (the "**Rules**"), under the conditions laid down in the new rental agreement on the business branches arranged on 17/08/2018;

- (k) On 21/03/2018, Fercam sent the Special Administrator an "Irrevocable proposal for the purchase of the 14 business branches and Artoni Properties", in which:
 - 1. It undertook to purchase 14 business branches indicated separately in Annex "A", each one comprising, in addition to the movable property, tangible and intangible assets and contracts arranged for carrying out the activities, including 124 employment contracts and 9 instrumental properties, including 4 owned by Artoni Group, for the overall price of €25,500,000.00 (twenty-five million five hundred thousand), plus VAT where payable, to be paid:

- ✓ Up to the full amount, by taking over the liabilities accrued prior to the effective date of the rental agreement arranged on 27/03/2017 relating to the employment contracts with the employees included within the scope of the so-called Fercam Branch, as defined below (by way of severance pay, deferred charges, leave accrued and not taken, etc.); and
 - ✓ Any difference, in a single instalment, simultaneously with the arrangement of the deed of transfer;
2. It asked to be granted the pre-emptive right to the purchase of those 14 business branches described in detail in Annex “A” as well as the photovoltaic plants established on the properties forming part of the branches;
- (1) With a letter of intent dated 30/03/2018, Fercam, on the one hand, and Artoni Trasporti and Artoni Group, on the other, agreed that:
- Fercam would undertake to participate in the bidding for the transfer of the business branches operated by Artoni Trasporti and Artoni Group to implement the programmes authorized by the Ministry of Economic Development, submitting an irrevocable bid, within the periods and in the manner laid down in the Rules, for the purchase of the 14 business branches referred to in Annex “A”, including the 9 properties described therein as well as the photovoltaic plants established thereon, for an overall price of € 25,500,000.00, plus VAT where payable, € 25,000,000.00, plus VAT where payable, to be allocated to the properties and photovoltaic plants;
 - Artoni Trasporti and Artoni Group would grant Fercam the pre-emptive right to the purchase of the 14 business branches referred to in Annex “A”, including the 9 properties described therein as well as the photovoltaic plants established thereon (known as the Fercam

Branch, as defined below), to be exercised following the procedure for final determination of the sale price of the Fercam Branch itself, as defined below;

- (m) With a subsequent private document dated 17/07/2018 Artoni Trasporti and Artoni Group, in their capacity as owners, with regard to their respective title, of the movable and immovable properties forming the 14 business branches forming the subject of the agreement, granted Fercam the pre-emptive right to the purchase of the 14 business branches specifically identified therein and detailed in Annex “A”, under the conditions specifically detailed therein and summarized in Article 10 of these Rules below;
- (n) The Minister of Economic Development, with a decree dated 20/04/18, authorized:
 - Execution of the programme for the transfer of the business belonging to Artoni Trasporti and execution of the programme for the liquidation of Artoni Group, as an addition to the Artoni Trasporti programme in order to allow the combined transfer of the movable and immovable property forming the individual business branches even if owned by different parties;
- (o) The period for execution of the programme for the transfer of the Artoni Trasporti business will expire on 20/04/2019;
- (p) In order to implement the programme for the transfer of the Artoni Trasporti business and liquidation of Artoni Group, as authorized, the Special Administrator, after obtaining the favourable opinion of the Supervisory Committee and the authorization of the Ministry of Economic Development, published an invitation on 27th July 2018, on the procedures website and in Il Sole 24 Ore, La Repubblica, Corriere della Sera, Milano Finanza, Financial Times, English and German edition, and/or Wall Street Journal, to submit binding offers for the entire business belonging to Artoni Trasporti, together

with all the properties functional thereto owned by Artoni Group as well or, as an alternative, part of the Artoni Trasporti business, possibly including the properties functional thereto even if owned by Artoni Group or even just one or more properties owned by Artoni Group or Artoni Trasporti, in according with the procedures, terms and conditions of these Rules;

- (q) Besides the information summarized in these Rules, any further, fuller information on the business branches of Artoni Trasporti and, therefore, on the relevant assets and all other items forming the subject of transfer, and on the properties owned by Artoni Group shall be supplied to interested parties in greater detail within the scope of the Data Room (the “**Data Room**”), which shall be prepared for that purpose, as provided for in Article 3 below and following signature of a confidentiality undertaking (the “**Confidentiality Agreement**”);
- (r) Further information may also be supplied by the Special Administrator to parties admitted to the data room on specific request to be sent to the following certified email addresses:
as1.2017reggioemilia@pecamministrazionestraordinaria.it,
as2.2017reggioemilia@pecamministrazionestraordinaria.it;
- (s) These Rules lay down the terms and conditions of the procedure for the transfer of the business branches forming the Artoni Trasporti business and/or the procedure for the sale of the properties owned by Artoni Group and therefore, *inter alia*, the conditions for the performance of the due diligence (the “**Due Diligence**”), the submission of Binding Offers (the “**Binding Offer(s)**”) by the potential purchasers (the “**Offeror(s)**”), the criteria for the selection of the Binding Offers and conclusion of the transfer of the business branches forming the Artoni Trasporti business (the “**Transfer Agreement**”) and/or the properties owned by Artoni Group with the arrangement of the relevant final deed of sale (the

“**Deed of Sale**”) – without prejudice to any subsequent additions or amendments – in order to guarantee conditions of impartiality and transparency and observing the provisions of Articles 62 and 63 of the Prodi *bis* Law and the specific purposes of the aforesaid legislation, in relation to the Special Administration of Artoni Trasporti and of Artoni Group.

NOW THEREFORE

The procedure, terms and conditions of the procedure for the transfer of the Artoni Trasporti business and/or the sale of the properties owned by Artoni Group are indicated below.

1. The scope of the transfer and/or sale

1.1 The Binding Offer may relate either to the entire scope of sale, and therefore the entire Artoni Trasporti business, comprising all the business branches together with all the functional properties even if owned by Artoni Group in which Artoni Trasporti’s activities are carried out, or to part of the Artoni Trasporti business, possibly including the properties in which Artoni Trasporti’s activities are carried out, even if owned by Artoni Group, or one or more properties owned by Artoni Trasporti or by Artoni Group and therefore:

- (i) All the business branches forming the Artoni Trasporti business as identified in Annex “B”, each including the instrumental properties in which the activities of the individual branch are carried out, even if owned by Artoni Group (“**Business**”);
- (ii) The so-called “Fercam Branch”, including the 14 business branches referred to in Annex “A”, including the 9 properties also identified therein as well as the photovoltaic plants established thereon (“**Fercam Branch**”);
- (iii) All the Artoni Trasporti business branches, excluding

the Fercam Branch, as identified in Annex “C”, including the properties also identified therein as well as the photovoltaic plants established thereon; or one or more Artoni Trasporti business branches (excluding the Fercam Branch), possibly including the properties functional thereto as well as the photovoltaic plants established thereon, of all those identified and described in detail in Annex “C”;

(iv) One or more business branches of all those forming the Artoni Trasporti Business as identified in Annex “B”, each possibly including the instrumental properties in which the activities of the individual branch are carried out, even if owned by Artoni Group;

(v) One or more properties owned by Artoni Trasporti or by Artoni Group of those identified and described in Annexes “D” and “E”.

1.2 It is stipulated that the business branches referred to in Annex “A” are currently operated under a lease by Fercam pursuant to an agreement arranged by the Special Administration in the person of the Special Administrator by a private document dated 17/07/2018 authenticated by the Notary Elio Villa reg. no. 8194 expiring on 30/09/2018 and that the aforesaid agreement provides for the release of the branches by Fercam 90 working days as from the date of termination of the rental agreement even if the sale to third parties is concluded earlier.

1.3 It is stipulated that the properties identified in Annex “A” are currently operated under a lease by Fercam pursuant to different lease agreements arranged on 27/03/2017 and supplemented and/or amended with an addendum dated 17/07/2018, expressly providing that:

(i) The lease agreement shall cease to have effect in the event of the purchase by a third party of the property and business branch operated therein with the obligation to release the property and hand over the business within

- 90 working days of termination of the business branch rental agreement referred to in the foregoing point;
- (ii) In the event of the purchase by Fercam of the business branch and the purchase by a third party solely of the property in which the business is operated, Fercam and the purchaser of the property shall hold a right of withdrawal to be exercised within 90 days of transfer of the property.

The foregoing shall apply with the exception of the properties in Montegranaro and Buronzo whose lease agreements shall cease to have effect on 30/11/2018.

- 1.4 It is further stipulated that the property situated in Dalmine (BG), Via Friuli n. 2/A, is made available to Artoni Group under a financial lease agreement arranged with Sanpaolo Leasint S.p.A. (now Medio Credito Italiano S.p.A.) and that, if necessary to allow the transfer of the property to the successful bidder, the Special Administrator shall take over the agreement in order to exercise the right of redemption.
- 1.5 It is finally stipulated that the photovoltaic plants referred to in Annex “F” are made available to Artoni Trasporti Straordinaria under various financial lease agreements and that, if necessary to allow the transfer of the plant to the successful bidder, the Special Administrator has taken over the agreements in order to exercise the right of redemption.

2. Main deadlines for transfer

2.1 Items forming the Business

- 2.1.1 The business branches forming the subject of the Transfer Agreement include:
 - a) The relevant operating assets existing at the date of arrangement of the Transfer Agreement and in particular:
 - (i) All the movable and registered movable assets, plant and machinery, furniture and equipment ex-

- isting at the date of arrangement of the Transfer Agreement;
 - (ii) Goodwill at the date of arrangement of the Transfer Agreement;
 - (iii) Authorizations, permits, licences, concessions and subjective legal situations connected with the authorizations and concessions necessary to carry out the activities, if and insofar as they exist at the date of arrangement of the Transfer Agreement;
 - (iv) Stock existing at the date of arrangement of the Transfer Agreement;
 - (v) All the contracts and legal relations pending relating to each individual business branch as identified in detail in Annex “B”, without claiming to be exhaustive, if and insofar as they exist at the date of arrangement of the Transfer Agreement;
 - (vi) The employees’ employment contracts pending relating to each individual business branch as identified in detail in Annex “B” which, if and insofar as they exist at the date of arrangement of the Transfer Agreement, shall be maintained pursuant to the applicable rules under the Prodi *bis* Law;
- b) The properties instrumental to each individual production branch, even if owned by Artoni Group, as identified in detail in Annexes “D” and “E”.

2.1.2 The analytical details of the scope of the business branches shall be supplied in the data room and, in any event, on written request to be sent to the following certified email addresses:

as1.2017reggioemilia@pecamministrazionestraordinaria.it,
as2.2017reggioemilia@pecamministrazionestraordinaria.it and may also form the subject of subsequent amendments made by the Special Administrator to best pursue to the interests and purposes of the Prodi *bis* Law.

2.2 Exclusions

2.2.1 The following shall remain excluded from the scope of transfer in any event and shall therefore not form the subject of transfer:

- (a) The items and other assets not expressly identified in the foregoing provisions of Article 2 and/or in any event expressly excluded;
- (b) All the rights howsoever connected with the actions for revocation, recovery, liability and compensation, even on account of an unlawful act and, more generally, all rights and remedies resulting from or connected or associated with the difficulties experienced by Artoni Trasporti and/or by Artoni Group;
- (c) Save as otherwise agreed with the Offeror within the limits and observing the *par condicio creditorum* [equal treatment of creditors], the debts held by Artoni Trasporti and Artoni Group for any reason or cause dating back prior to the effective date of the transfer transaction (the “**Execution Date**”), even if not yet due, including debts owed to personnel, including severance pay;
- (d) The claims held by Artoni Trasporti and Artoni Group for any reason or cause dating back prior to the Execution Date, even if not yet due;
- (e) Disputes over the debts and claims referred to in letter b) above;
- (f) The contracts relating to the bank accounts held by Artoni Trasporti and Artoni Group and the relevant deposits and interest, cash and cash equivalents, including debt securities, securities, transferable securities and/or other financial instruments and/or products howsoever called, including letters of credit presented for collection);
- (g) The interests held by companies belonging to the Artoni Group referred to in these Rules.

2.2.2. The Offeror shall be entitled to expressly exclude the following from its Binding Offer:

- (i) The employees' employment contracts not included within the scope of its offer subject to reaching the union agreement provided for by Article 47, paragraph 4-bis, of Law no. 428/90, as recalled by Article 63, paragraph 4, of the Prodi *bis* Law, between Artoni Trasporti, the Offeror and the workers' unions ("**Union Agreement**");
- (ii) The other contracts (a) which the Special Administrator has not declared that he wishes to take over; or (b) which have been arranged by the Special Administrator with express provision of the right of withdrawal, with express declaration that the procedure and the Special Administrator shall be held harmless from any consequences deriving from the purchaser's failure to take over the contracts excluded.

2.3. Price

The price in euros offered for the scope of the offer shall be formulated taking into account the reference prices resulting from the expert valuations made by independent experts appointed for that purpose by the Special Administrator pursuant to and for all the purposes of the combined provisions of Articles 62 and 63 of the Prodi *bis* Law which shall be made available by the Special Administrator in the Data Room.

The reference prices form a valuation parameter for the purposes of consistency of the Binding Offer but are not binding.

For payment of the price, extensions of more than 24 months as from the date of signature of the transfer agreement may not be provided for.

Any payments extended within the aforesaid limits shall be guaranteed by a guarantee on first demand "without any exceptions" issued by a leading Community bank approved by the Special Administrator, according to the standard made available in the Data Room – in favour of Artoni Trasporti and/or Artoni Group, to be delivered, in the original, on the date of arrangement of the Transfer Agreement and/or the Deed of Sale.

2.4. Offeror's representations

- 2.4.1 The Offeror notes and expressly recognizes that the Business included within the scope of sale and the individual movable and immovable assets, tangible and intangible, forming them, as well as the properties in the event of the separate sale thereof, shall be transferred in the *de facto* and *de jure* state in which they are found at the date of signature of the contractual sale and/or transfer agreements, at a fixed price and not based on area, without the application of Article 1538 of the Italian Civil Code.
- 2.4.2 In particular, the Offeror notes and expressly recognizes that Artoni Trasporti and Artoni Group, merely by way of example, shall not make any representation or warranty with regard to (i) the goodwill; (ii) the transferability of commercial and/or contractual relations of any type; (iii) the profitability, productivity, sustainability and industrial development potential thereof; (iv) the possibility of drawing a profit therefrom; (v) the identity and consistency of the assets forming the Business; (vi) the existence of vices and defects even if hidden or poor quality or possible irregularities, or charges thereon even in the event of *aliud pro alio*, the purchaser having taken full account thereof following an examination of the documentation entered in the Data Room and having inspected the Artoni Trasporti Business and/or the Artoni Group properties; (vii) the regularity or permanent nature of authorizations and/or licences; (viii) the state of upkeep, consistency and/or suitability and/or compliance with any current technical, environmental and safety legislation on the assets forming the subject of sale, as well as any adaptations of the assets forming part of the Business to the prevention and safety rules in force, and to the rules on ecological and environmental protection and, in general, to the legislation in force shall be for the full and sole account of the purchaser thereof; (ix) the conditions of health and safety of the work places; (x) the economic, capital and financial position; (xi) any accounting entry, particularly relating to the possible non-existence of or capital losses on assets or to contingent liabilities; (xii) the suitability and/or validity and/or efficacy

and/or completeness and/or transferability for the purposes of carrying out the business activities of the administrative authorizations and all the documentation relating to the usability of the properties (e.g. certificates of compliance, energy certification, fire prevention certificate, etc.), (xii) compliance with the prevention and safety rules in force, and with the rules on ecological and environmental protection and with the legislation in force in general; (xiii) the state of maintenance, both routine and non-routine.

2.5 Offeror's obligations

In the case of a Binding Offer relating to the cases referred to in Article 1.1 (i), (ii), (iii) and (iv), the Offeror notes and expressly recognizes that:

A) Continuation of the business activities

Pursuant to Article 63, paragraph 2, of the Prodi *bis* Law, the Offeror shall undertake to continue the business activities for at least two years following the effective transfer of the Business, as indicated in the business continuity plan (the “**Plan**”) or subsequently agreed with the Special Administrator and to fulfil the further commitments indicated therein.

B) Stability of employment

Pursuant to Article 63, paragraph 2, of the Prodi *bis* Law, the purchaser shall undertake, on pain of compensation for the loss deriving from the individual or collective actions of the workers, or brought by the social security authority, to maintain the reference levels of employment of the scope of the Binding Offer or those established in the possible Union Agreement reached for at least two years following the effective date of transfer of the Business or part thereof (“**Effective Date**”).

Pursuant to Article 63, paragraph 4, of the Prodi *bis* Law and Article 47, paragraph 5, of Law no. 428/1990, the purchaser's recruitment of the employees of the Artoni Trasporti Business and of Artoni Group, or part thereof, shall be governed (as well as the number of employees, their relevant rights and conditions of em-

ployment and any other aspect relating thereto) by the possible Union Agreement reached or, if no such agreement is reached, by the application of Article 2112 of the Italian Civil Code. In any event, Artoni Trasporti and Artoni Group shall not be held liable in any way, and shall be indemnified and held harmless by the purchaser, with regard to any prejudicial consequences arising in the event of a dispute brought by any employees of the Business, or part thereof, who are not recruited and/or transferred to the purchaser's employment.

C) Business Plan

Pursuant to Article 63, paragraph 3, of the Prodi *bis* Law, the Offeror shall undertake to observe a business plan relating to the scope of the Binding Offer (the “**Business Plan**”) composed of:

- a) A financial plan with a description of *(i)* the main strategies it is intended to pursue; *(ii)* the operating and development programmes and the economic/financial budget for the two years following transfer of the Business or part thereof; *(iii)* the minimum investments anticipated and the execution periods; *(iv)* the number of employees of the Business, subdivided by category, level of employment, organizational structure and/or business branch to which they belong, whose employment it is intended to assume and the Offeror's commitment to maintain such levels for at least two years following the Effective Date of transfer of the Business, or part thereof; *(v)* a detailed description of the nature and professional and/or commercial activities carried out by the Offeror and any professional experience acquired by the Offeror's top management in the reference economic sector of the Business, or part thereof, forming the subject of the Binding Offer; *(vi)* an illustration of the reasons forming the basis of the interests in acquiring the Business, or part thereof, forming the subject of the Binding Offer, and the business purposes of such purchase; and *(vii)* any other information useful for demonstrating the Offeror's industrial, economic and financial capacity (the “**Economic Plan**”);
- b) A financial plan which shall also contain: *(i)* information on the financial resources which the Offeror intends to use for the purchase of the Business, or part thereof, for the contin-

uation of activities, for maintenance of the employment levels agreed and for the investments in the Business, or part thereof, provided for in the Plan, accompanied by the types of sources of financing it is intended to use (distributed into debt capital and equity); *(ii)* a description of the procedure and timing required to obtain the availability of the aforesaid financial resources and the possible provision of real guarantees to be granted to the potential financiers of the Business or parts thereof, attaching, in the event of recourse to debt capital, the letters of undertaking issued by the banks or other financiers involved (the “**Financial Plan**”).

2.6 Penalties

If the Binding Offer relates to the cases referred to in Article 1.1 (i), (ii), (iii) and (iv), in the event of default on any of the obligations referred to in Articles 2.5 letters (A) and (B) of these Rules assumed with the Transfer Agreement, without prejudice to any right for the individual worker, the Offerrer shall be required to pay Artoni Trasporti and Artoni Group, within their respective competence, or any successors or assigns thereof for any reason, the following penalties, without prejudice to all other legal remedies and compensation for any greater loss.

(A) Penalties relating to the undertaking to continue the business activities. For any default on the obligation provided for by Article 2.5 letter (A) above, on the continuation of the business activities of the business branches forming the subject of the Binding Offer in the territory of the municipality where the relevant local units are currently situated for a period of at least two years as from the Effective Date: an amount for each of the business branches for which the default has occurred equal to the overall value of the negative profitability at the time of the estimate and in the following two years and, in any event, not less than an amount equal to 5% of the price offered;

Penalties relating to the undertaking of employment stability. For each default on the obligation provided for by Article 2.5 letter (B) above, with regard to each employee transferred to the Offeror's employment who, on the expiry date of the period of stability, is not permanently employed under the terms and conditions referred to in Article 2112 of the Italian Civil Code or under any other different terms and conditions laid down in the Union Agreement, except in the event of resignation or dismissal for just cause or subjective justified reason, the amount of €40,000.00 for each employee dismissed or redeployed in breach, including partial breach, of the undertakings in question, without prejudice to any rights held by the worker in respect of the Purchaser, including that of declaring the possible dismissal ineffective or, in any event, unlawful. The amount shall be reduced to €20,000.00 (twenty thousand euros) if the aforesaid events occur after 12 months as from the Effective Date and to €10,000.00 (ten thousand euros) if they occur after 18 months as from the Effective Date.

2.7 Guarantees

2.7.1 A guarantee on first demand "without any exceptions" shall be attached to the Binding Offer, issued by a leading Community bank approved by the Special Administrator, according to the standard made available in the Data Room – in favour of Artoni Trasporti and/or Artoni Group, possibly established as joint creditors, to guarantee the undertakings assumed in the Binding Offer, and in particular:

- (i) Payment of the price offered;
- (ii) The truth of the relevant representations and warranties;
- (iii) The other undertakings in preparation for or relating to the conclusion of the Transfer Agreement or Deed of Sale.

This guarantee, for an overall amount equal to 10 (ten) % of the price offered, to be deemed to mean the amount due by way of penalty, which shall be provided for in the

Transfer Agreement, for breach of the obligations referred to in this paragraph, shall be provided for 180 (one hundred and eighty) days as from the Deadline for Submission of the Binding Offer, as defined below, and may be enforced up to the full amount in all cases of non-observance of the undertakings assumed in the Binding Offer, referred to in paragraph 2.5 above.

Following the award, the guarantees filed by the unsuccessful Offerors shall be returned.

- 2.7.2 Simultaneously with the arrangement of the Transfer Agreement and/or Deed of Sale, the Offeror shall deliver such guarantee on first demand “without any exceptions”, to guarantee any payments deferred within the limits referred to above, issued in favour of Artoni Trasporti and/or Artoni Group by a leading Community bank approved by the Special Administrator, according to the standard made available in the Data Room, for a sum equal to the balance of the price offered, valid and effective for up to 120 days following the date planned for the last payment of the instalment and/or extension plan.
- 2.7.3 Simultaneously with the arrangement of the Transfer Agreement, the Offeror shall deliver, to guarantee fulfilment of the obligation to pay the penalties provided for in the event of default on any of the obligations assumed with the Transfer Agreement referred to in Article 2.5 letters (A) and (B) of these Rules, an independent guarantee on first demand “without any exceptions”, with waiver of the right to enforce prior payment by the principal debtor, issued by a leading Italian bank approved by the Special Administrator, according to the standard made available in the Data Room, for an amount equal to 20% of the price offered for each business branch forming the subject of the Binding Offer, valid for 30 months as from the Effective Date of the transfer.
- 2.7.4 Even in the event of enforcement of the guarantee, none of the other legal remedies or compensation for any greater loss shall be prejudiced.

2.8. Union consultation

The arrangement of the Transfer Agreement shall be subject to execution of the union consultation procedure pursuant to Article 47 of Law no. 428/1990 while the efficacy of the Transfer Agreement may be subject to the following conditions precedent:

- (i) Arrangement of the Union Agreement if the Binding Offer provides for exceptions to Article 2112 of the Italian Civil Code;
- (ii) Approval by the competent competition authorities if necessary.

2.9. Other clauses

Pursuant to Article 63, paragraph 5, of the Prodi *bis* Law, save as otherwise agreed, the purchaser's liability for debts prior to the transfer shall be excluded.

Following transfer of the Business, or part thereof, pursuant to Article 64 of the Prodi *bis* Law, the Ministry of Economic Development shall order the cancellation of any registrations relating to pre-emptive rights and any registrations of foreclosures or attachments on assets forming part of the Business.

Any tax, duty, charge or expense howsoever relating to and/or resulting from the transfer of the Business, or part thereof, shall remain for the sole account of the transferee.

3. Access to the transfer procedure

3.1 Save as provided for in the following points of this Article, any persons demonstrating and documenting satisfaction of the requirements referred to in Article 4, who have submitted an access request (“**Access Request**”) within the periods and in the manner referred to in Article 6 below and who have signed and sealed the Confidentiality Agreement, as well as the Data Room Rules (the “**Data Room Rules**”) and these Rules, shall be granted access to the Data Room prepared mainly electronically for that purpose.

Access shall be acquired via the website

http://p4p.praxi.com/portale/due_diligence/homelogin.htm, with the username and password supplied by the Special Administrator or by the person delegated by him, where appropriate directly through the provider appointed by the Special Administrator.

The Access Requests shall be processed within 5 working days from the date of its receipt.

- 3.2 In the event of incomplete access requests or access requests failing to comply with these requirements, the Special Administrator reserves the right to request additions, details or clarification, assigning a specific period for that purpose.
- 3.3 The Special Administrator reserves the right to refuse, suspend or revoke, at any time and based on his prudent assessment, access to the Data Room and, more generally, to the transfer and/or sale procedure when circumstances or aspects emerge indicating causes of inadmissibility pursuant to Article 5 below, concerning the reliability of persons and denoting therein purposes other than participation in the tender and acquisition of the business branches and/or property forming the subject of transfer and/or sale.
- 3.4 The Special Administrator reserves the right more generally to amend the terms and conditions of the transfer and/or sale procedure at any time, based on his prudent assessment, and therefore the terms and conditions of access to the Data Room and performance of the Due Diligence activities.
- 3.5 Upon the occurrence of the cases referred to in points 3.2, 3.3 and 3.4 above, no claim of any nature, not even for compensation, may be made in respect of the special administration proceedings and/or the special administrator, or in respect of the other bodies involved in the proceedings, including the supervisory and control bodies.

4. Requirements of the interested parties

Access to the Data Room may be acquired by natural or legal persons and/or entities, whether Italian or foreign, who may even be associated by agreements or forms of cooperation relating to participation in the Transfer Procedure (the “**Group**”) who, based on the Special Administrator’s prudent assessment and

without prejudice to the causes of inadmissibility referred to in Article 5 below, satisfy the following requirements:

- a) Economic/financial, specifically with regard to economic and capital reliability and capacity to obtain the necessary resources with regard to the scope of their interest. The Special Administrator may subject access to the Data Room to the production of documentation demonstrating satisfaction of the requirement, reserving the right to be able to make specific documentary requests in that respect;
- b) Corporate, with particular reference to the transparency and completeness of information on the control chain and on the ultimate beneficiaries of the transaction.

5. Conditions of inadmissibility

5.1 The Special Administrator reserves the right not to allow access to the Data Room if the request is made by or, if formulated on behalf of a NewCo established or in the process of being established, refers to:

- (i) Parties resident in non-EU countries included in the so-called black list provided by the Ministerial Decree of 21 November 2001;
- (ii) Trusts;
- (iii) Advisory or brokerage companies;
- (iv) Parties, even if forming part of a Group, subject to or in whose respect proceedings are pending for subjection to liquidation or insolvency proceedings based on the applicable legislation or, in any event, to any type of proceedings, under Italian or foreign law, denoting a state of insolvency, state of crisis, cessation of business, compulsory management or comparable situations;
- (v) Parties submitting the Data Room Access Request through a person to be appointed or by parties for whom the person(s) carrying out the check pursuant to Article 2359 of the Italian Civil Code and Article 93 of Legislative Decree no. 58/98, where applicable, is/are not clearly identifiable or, in the case of foreign parties,

- under equivalent provisions based on the legislation of the home states;
- (vi) Parties who have defaulted substantially on obligations assumed by contract in respect of Artoni Trasporti and/or Artoni Group;
 - (vii) Parties subject to prohibition referred to in Article 9, paragraph 2, letter c) of Legislative Decree no. 231/2001, or, in the case of foreign parties, equivalent provisions based on the legislation of the home states.

5.2 The Special Administrator also reserves the right not to grant access to the Data Room if the request is not prepared as provided for in these Rules.

6. Form and content of the Data Room Access Request

6.1 Parties wishing to access the Data Room are asked to send:

(i) by certified email to the procedure addresses: as1.2017reggioemilia@pecamministrazionestraordinaria.it, as2.2017reggioemilia@pecamministrazionestraordinaria.it, followed by

(ii) dispatch of the original by registered letter with acknowledgment of receipt to the following address,

a Data Room Access Request, drawn up in writing, in Italian, according to the standard available on the website www.artoni.com.

6.2. The Access Request must be signed by the interested natural person or, in the event of a party with legal personality, by the *pro tempore* legal representative or, in the event of a Group, by all the legal representatives of the parties forming the Group.

The Access Request stating the intention to submit a Binding Offer through a NewCo established or in the process of being established shall be signed both by the applicant and by the legal representative of the NewCo and/or by all the shareholders, including future shareholders, and/or legal representatives of the shareholders in the NewCo as well.

6.3 The Access Request shall contain:

- (i) The identification details of the party submitting it and, therefore, the forename and surname or company name, address, certified email address and, if no such address exists, email address, telephone and fax number of the interested party and/or the legal representative and any party delegated or authorized by the latter to correspond with the Special Administrator. If a request is submitted by a Group, the Access Request must contain the aforesaid data on the joint representative, appointed for that purpose by each of the members. If the Access Request indicates the intention to submit a Binding Offer through a NewCo established or in the process of being established, it shall contain the aforesaid data relating to the applicant;
- (ii) The declaration that he has been informed, pursuant to and for the purposes referred to in the GDPR – General Data Protection Regulation (EU/2016/679), that the personal data collected shall be handled, even with electronic tools, solely within the scope of the procedure for which this declaration is made and that he gives his consent, pursuant to the GDPR - General Data Protection Regulation (EU /2016/679), to the handling of the data supplied for the purposes connected with the execution of the procedure and the possible arrangement of the Transfer Agreement and/or the Deed of Sale.

6.4 The following documents shall be attached to the Access Request, signed and sealed on every page by the parties indicated in points 6.2 and 6.3 above:

- (i) An express declaration of interest in the purchase with an express indication of the scope of the Binding Offer. This declaration of interest is not binding on the party requesting access who shall therefore be free not to submit Binding Offers pursuant to Article 8 below or to submit Binding Offers of a different scope;
- (ii) A brief profile (maximum three pages on official stamped paper) of the activities carried out by the in-

- interested party and, if it exists, by the group to which it belongs and/or by the parent company, including the main and most up-to-date economic and financial data for the last three years, indicating, in particular, the activities carried out in the sector in which Artoni Trasporti operates;
- (iii) Statutory and, if they exist, consolidated financial statements of the interested party/parties for the last three financial years;
 - (iv) Copy of the Confidentiality Agreement, whose content is identical to the standard available on the website http://p4p.praxi.com/portale/due_diligence/homelogin.htm, signed and sealed in full at the bottom, to indicate full acceptance of the conditions provided for therein, by the parties indicated in points 6.2. and 6.3 above;
 - (v) Copy of the Data Room Rules, whose content is identical to the standard available on the website http://p4p.praxi.com/portale/due_diligence/homelogin.htm, signed and sealed in full at the bottom, to indicate full acceptance of the conditions provided for therein, by the parties indicated in points 6.2. and 6.3 above;
 - (vi) Copy of these Rules, signed and sealed in full at the bottom, to indicate full acceptance of the conditions provided for herein, by the parties indicated in points 6.2. and 6.3 above;
 - (vii) A declaration certifying, for the natural person or members of the company bodies of the interested party/parties (board of directors, supervisory committee, board of statutory auditors or other relevant body), satisfaction of the requirements of honour referred to in Article 2382 of the Italian Civil Code and Article 26 of Legislative Decree no. 385/93 and, for foreign parties, an equivalent declaration;
 - (viii) A declaration certifying, for the natural person or members of the company bodies of the interested party/parties (board of directors, supervisory committee, board of statutory auditors or other relevant body), non-existence of the causes of prohibition, forfeiture or suspension referred to in Article 67 of Legislative De-

- cree no. 159/2011;
- (ix) Suitable documentation demonstrating the powers of the legal representative(s);
 - (x) A substitute declaration (self-certification) in which the interested party declares under his own responsibility that he does not fall under the conditions laid down in Article 5.1 above.

6.5 The documentation shall be drawn up in writing and in Italian, unless, on the request of the interested party, the Special Administrator grants express authorization to produce the document in the original language.

6.6 The Special Administrator may request any other information considered necessary to assess the reliability and possible competitive relations and/or correlation of the interested party.

6.7 At the Special Administrator's discretion, access to the Data Room may even be granted to parties submitting the Data Room Access Request who fail to attach all the documentation requested and provided for by this Article, provided that they satisfy the requirements laid down in Article 4, without prejudice to Article 5, and offer at least the documents indicated in Article 6.3. letters (vi), (vii) and (viii) above.

7. Due Diligence activities

7.1 The Data Room shall remain accessible approximately from the 06th August 2018 to the 22nd September 2018 (the “**Due Diligence Execution Period**”).

7.2 The technical, financial, accounting, tax and legal Due Diligence activities shall include access to a virtual Data Room containing the documentation, in Italian, relating to the Business, or part thereof, and to the properties forming the subject of the transfer and/or sale procedure and shall be carried out observing and in accordance with the procedure described in detail in the Data Room Rules and in the Confidentiality Agreement referred to in Article 6.3. points (iv) and (v) above.

7.3 The parties admitted to the Data Room may submit a re-

quest for admission to the physical and visual due diligence of the business branch(s) and/or the properties included within the scope of their statement of interest.

The request shall be submitted using the section called “Calendario” available in the *Data Room*. The Special Administrator, either directly or through his representatives or advisors, shall inform the parties so requesting, by certified email, of the date and time for carrying out the due diligence activities on the business branch(es) and/or the properties.

The requests for admission to due diligence on the business branch(es) and/or properties shall be sent by 18:00 on the seventh day prior to closure of the Data Room at the latest.

Following such notification, the interested parties shall be allowed to carry out the due diligence activities on the assets, on the date agreed, by means of physical access to the business branch(es) and/or to the properties.

7.4 The Due Diligence and audit activities carried out by authorized parties shall take place observing the following conditions:

- Artoni Trasporti, Artoni Group, the Special Administrator and the advisors to Artoni Trasporti and Artoni Group shall not assume any liability (contractual, non-contractual, pre-contractual or other) in respect of any party, howsoever involved, as to the accuracy, adequacy, reliability and completeness of the information made available during the course of the due diligence and/or audit operations or of any written or verbal notification made in relation thereto;
- The information obtained during the course of the due diligence and/or audit operations shall not involve, for any reason or purpose, any guarantees or assurances for the interested parties or for third parties;
- The aforesaid information may be, or may become, obsolete;
- There is no obligation for Artoni Trasporti and Artoni Group, the Special Administrator or the advisors to update the aforesaid information.

7.5 If a party admitted to the Data Room needs to obtain further information or considers it advisable to ask questions on the

information obtained, he must submit the relevant request by means of an appropriate notification, to be sent, using the section called “Domande” available in the Data Room by 18:00 on the second day prior to closure of the Data Room.

- 7.6 Any further information and replies to questions received shall be made available to the other parties admitted to the Data Room, by uploading them into the Data Room or by sending them by certified email.

8. Binding Offer

8.1 Offeror’s essential requirements

- 8.1.1 Binding Offers may be submitted by natural or legal persons and/or entities, whether Italian or foreign, even in the form of a Group, requesting and obtaining access to the Data Room.
- 8.1.2. The Special Administrator reserves the right to accept Binding Offers submitted by parties not requesting access to the Data Room, provided they have satisfied the requirements and observe the procedures, insofar as applicable, provided for by the Rules for gaining access thereto and submitting offers.
- 8.1.3 Binding Offers may not be submitted by parties failing to satisfy the requirements for gaining access to the transfer and/or sale procedure pursuant to the combined provisions of Articles 4 and 5 above.
- 8.1.4. Offerors shall be entitled to appoint a third party, and possibly also a vehicle company suitably established (the “**Property Partner**”), as purchaser of the property/properties owned by Artoni Trasporti and/or Artoni Group in which the activities forming the subject of the business branches included within the scope of their Binding Offers are carried out.
In such event, in the event of arrangement of the Transfer Agreement and Deed of Sale, the Offeror and the Property Partner shall prove that they have concluded suitable agreements for the leasing of the properties included in the Binding Offer.
- 8.1.5 If the Offeror or the Group submitting a Binding Offer in-

tends to proceed with the acquisition through a vehicle company suitably established, such circumstance shall be expressly indicated in the Binding Offer and the following provisions shall apply, without prejudice to the limitations referred to in Article 5 above:

- (1) The NewCo shall be a newly-established company and shall be established by the date of arrangement of the transfer agreement;
- (2) The Offeror designating the NewCo shall maintain control pursuant to Article 2359 of the Italian Civil Code for 2 years as from the Effective Date.

Any other shareholders in the NewCo shall also maintain their interests in the NewCo unchanged over the same period, unless written consent is given by the Special Administrator, which shall be subject to the submission of suitable guarantees indicated by the latter;

8.1.6 If the Binding Offer is made by a Group or by a NewCo on behalf of a NewCo established or in the process of being established, the following provisions shall apply:

- (1) All members of the Group and all shareholders in the NewCo shall be deemed to be Offerors for the purposes and effects of the Rules;
- (2) All members of the Group and all shareholders in the NewCo shall be jointly and severally liable in relation to all the obligations deriving from the Rules and from the Transfer Agreement and/or Deed of Sale and from the deeds resulting therefrom and associated therewith. In particular, the Transfer Agreement and/or the Deed of Sale and the deeds resulting therefrom and associated therewith shall be signed both by the Offeror designating the NewCo and by all the shareholders therein in their capacity as joint and several guarantors. Moreover, within the scope of the Transfer Agreement and/or the Deed of Sale, the Offeror and any other shareholders in the NewCo shall undertake to keep the NewCo suitably capitalized to meet the commitments assumed with the Transfer Agreement and/or the Deed of Sale;

- (3) All members of the Group and all shareholders in the NewCo shall be required to sign and seal all the documentation contained in the packages and the Transfer Agreement and/or the Deed of Sale and to produce the documents required by the Rules;
- (4) All the undertakings, representations, warranties and documents relating to the subjective or in any event relevant requirements for the purposes of assuming the joint and several obligations provided for by the Rules, by the Binding Offer and by the Transfer Agreement and/or Deed of Sale shall be supplied by each of the parties participating in the Group and shareholders in the NewCo, even if not specifically indicated.

8.1.7 The Special Administrator shall be entitled not to allow the Property Partner or any other shareholders in the NewCo to participate in the tender procedure if they fail to satisfy any of the requirements for admission or fall under conditions of inadmissibility.

8.2 Deadlines for submission of the Binding Offer

8.2.1 Binding Offers shall be delivered, on pain of exclusion, by the mandatory deadline of 28th September 2018 at 18:00 (the “**Deadline for Submission of the Binding Offer**”) to the office of the notary Arrigo Roveda, in 20145 Milan, Via Mario Pagano no.65.

8.2.2 For the purposes of checking compliance with the final deadline for submission of the Binding Offer, the date and time of delivery indicated on the receipt issued at the time of delivery by the person appointed to receive it at the notary’s office shall provide proof.

8.3 Procedure for submission of the Binding Offer

8.3.1 Binding Offers must be sent in a closed and sealed package bearing the Offeror’s stamp and signature on the closing edges, marked on the outside with the party’s forename and surname or company name and the reference

“*RISERVATA*” [“CONFIDENTIAL”], and the words “*Offerta Vincolante procedura di cessione /vendita Artoni*” [Binding Offer in the Artoni transfer/sale procedure].

8.3.2 Binding Offers must be sent to the Artoni Trasporti’s and/or Artoni Group’s Special Administrator, Dr Franco Maurizio Lagro.

8.3.3 The aforesaid package must be delivered by hand (or by registered letter with acknowledgment of receipt or by courier or by the party appointed by the Offeror).

The package containing the Binding Offer shall be delivered at the Offeror’s entire and sole risk, excluding any liability on the part of Artoni Trasporti, Artoni Group, the Special Administrator and/or the Notary if the package fails to reach the address of destination by the stipulated final deadline for any reason.

8.3.4 The packages shall contain three envelopes marked with the name of the sender and the following words, respectively:

- “A- *Documentazione Amministrativa*” [“Administrative Documentation”]
- “B - *Offerta economica*” [“Financial Offer”]
- “C - *Offerta Tecnica*” [“Technical Offer”].

Each envelope must be suitably sealed with any means able to guarantee the integrity thereof and must contain the documentation indicated in Article 8.5 below.

8.4. Form of the Binding Offer

8.4.1 All the documentation contained in the packages shall be drawn up in Italian, unless the Special Administrator has granted express authorization for documentation to be submitted in English (or, where appropriate, with the necessary formalities), signed and sealed on every page by the Offeror and, in the event of a legal person or entity, by its legal representative, by the legal representatives of each party forming the Group and, in the event of a NewCo, established or in the process of being established, by the legal representative thereof, and by the shareholders or legal representatives of each shareholder, including future shareholders.

8.5. Content of the Binding Offer

- 8.5.1 Offerors do not need to produce the documents already attached to the Data Room Access Request if, in the meantime, they have not undergone any variations, expressly referring to such fact in the Binding Offer.
- 8.5.2 All the documents provided as copies attached to the Binding Offer shall be signed on every page.
- 8.5.3 The Special Administrator, even through his advisors, if they consider it advisable, may ask the Offeror for clarification and/or details in relation to the content of the Binding Offer. Such clarification shall be supplied by the Offeror in writing and shall be sent within the periods indicated in the request made by the Special Administrator at the latest.
- 8.5.4 Binding Offers subject to an applicable law other than Italian law shall not be taken into consideration. Save as otherwise authorized by the Special Administrator, Binding Offers shall be drawn up in Italian.

The envelope marked “A - *Documentazione Amministrativa*” [“Administrative Documentation”] shall contain:

- A.1** Full identification details of the Offeror(s) and of any party delegated by them and authorized to correspond with the Special Administrator, such as forename and surname or company name, address and/or registered office, certified email address and, if that does not exist, email address, fax number and telephone number.
In the event of a Binding Offer submitted by a Group, the aforesaid details with regard to all the legal representatives of the parties forming part of the group.
In the event of an offer submitted by a NewCo or recording the acquisition by a NewCo, the aforesaid details with regard to the legal representative of the NewCo and all the shareholders, including future shareholders;
- A.2** A declaration that the Binding Offer is submitted solely on its own account and excluding the clause “by a per-

- son to be appointed” and an express declaration that it has been noted that Artoni Trasporti and Artoni Group shall not grant any brokerage or other type of payment;
- A.3** If the Binding Offer is made by a Group or by a NewCo in which more than one party participates, evidence of the agreements reached among the relevant members and/or shareholders in the Offerors;
- A.4** A certificate issued by the Court, or by an equivalent foreign body, of the place in which the Offeror is domiciled or resident, certifying the non-existence in respect of the Offeror of any procedures already opened or proceedings aimed at the opening of liquidation or insolvency procedures or, in any event, any type of procedure or order, whether Italian or foreign, denoting a state of insolvency, state of crisis, cessation of business, compulsory management or comparable situations;
- A.5** A certificate issued by the Criminal Record Office of the Offeror if a natural person and of any director of the Offeror if a legal person or entity;
- A.6** A substitute declaration in which the Offeror or its legal representative declares under its own responsibility that it does not fall into the category of parties referred to in point 5.1 above;
- A.7** A declaration made by the Offeror certifying *(i)* the non-existence of the Offeror’s controlling relations pursuant to Article 2359 of the Italian Civil Code and pursuant to Article 93 of Legislative Decree no. 58/98, where applicable, with other Offerors participating in the transfer and/or sale procedure, or any attributability to the centre of interests and/or decision-making centre of the Binding Offers submitted within the scope of the transfer and/or sale procedure; *(ii)* an indication and description of the nature and extent of any correlation existing between the Offeror and Artoni Trasporti and/or Artoni Group and any companies in which they have a direct and/or indirect interest, even if the interest has been sold earlier. Such indication and definition shall refer to those parties and transactions defined by the international accounting standard concerning financial statement information on

related-party transactions with the sole specification that corporate bodies shall be deemed to mean both the bodies of the Special Administration proceedings and the governing and supervisory bodies in office at Artoni Trasporti and/or Artoni Group at the date of the request for admission to the procedure itself;

- A.8** A declaration that the Offeror has carried out adequate Due Diligence and audit activities on the Business, part of it and/or the properties, that it is satisfied with it and that the Binding Offer is made without any reservations; if the Offeror has not carried out Due Diligence and audit activities on the Business, part of it and/or the properties, a declaration shall still be required in which it expressly recognizes that the Binding Offer is made without any reservations;
- A.9** A copy of these Rules which shall be signed and sealed on every page, to indicate express and unconditional acceptance of all the provisions hereof, pursuant to Article 1341 of the Italian Civil Code as well;
- A.10** A copy of all the contractual standards (e.g. Transfer Agreement, Deed of Sale, guarantee, etc.) which shall be made available in the Data Room, which shall be signed and sealed on every page to indicate express and unconditional acceptance of all the provisions hereof, pursuant to Article 1341 of the Italian Civil Code as well;
- A.11** A copy of the list of documents present in the Data Room or acquired during the Due Diligence Execution Period, signed and sealed on every page by the Offeror to indicate that it has noted them;
- A.12** A declaration that it has been informed, pursuant to and for the purposes of the GDPR – General Data Protection Regulation (EU/2016/679), that the personal data collected shall be handled, even with electronic tools, solely within the scope of the procedure for which this declaration is made and that it gives its consent, pursuant to the GDPR - General Data Protection Regulation (EU /2016/679), to the handling of the data supplied for the purposes connected with the execution of the procedure and the possible arrangement of the Transfer Agreement

and/or the Deed of Sale;

Solely with regard to legal persons:

- A.13** The Offeror's CCIAA [Chamber of Commerce] registration details, memorandum and articles of association;
- A.14** List of members of the Offeror's corporate bodies (board of directors, supervisory committee, board of statutory auditors or other relevant body);
- A.15** Certificate issued by the Companies Register Office, or an equivalent foreign entity, at which the Offeror is registered, certifying the validity of the corporate offices, the list of names of directors and the relevant powers, and of the members of the board of statutory auditors or supervisory committee, with the wording "*Nulla-Osta Anti-mafia*" ["Anti-mafia approval"] (or another equivalent document in the event of a foreign offeror);
- A.16** A true copy of the resolution or resolutions attributing to the party/parties signing the Binding Offer the necessary power to submit it for and on behalf of the Offeror(s), with certification signed by the *pro tempore* legal representative certifying that such powers are still in force and have not been revoked or amended. In the event of foreign offerors, all necessary powers must bear notarial or equivalent certification, in turn accompanied by the apostille where necessary, according to the applicable legislation;
- A.17** An extract from the Offeror's shareholders' register indicating that all the shareholders or at least the ten largest shareholders (in the case of a Group, an extract from the shareholders' register of all members thereof) or certification issued by the Companies Register certifying the up-to-date corporate shareholding, accompanied by a draft of the controlling structure also including the controlling parties up to the top of the chain itself and, if the Offeror or a member of the Group is a listed company, a list of the ten largest shareholders;

For all Offerors:

- A.18** A declaration certifying, with regard to the Offeror, the Offeror's legal representative, the Offeror's managing directors and reference shareholder(s) and each of the parties referred to in point A.14 above, satisfaction of the requirements of honour referred to in Article 2382 of the Italian Civil Code and Article 26 of Legislative Decree no. 385/93 and, for foreign parties, an equivalent declaration;
- A.19** A declaration certifying, with regard to each of the parties referred to in point A.14 above, non-existence of the causes of prohibition, forfeiture or suspension referred to in Article 67 of Legislative Decree no. 159/2011;
- A.20** An indication of the possible need for: (i) antitrust authorization to which the purchase of the Business, or part thereof, by the Offeror is subject, indicating the competent national or Community authority or authorities; (ii) other authorizations, consents or approvals issued by competent authorities necessary for the conclusion of the sale;
- A.21** A brief profile of the activities carried out by the Offeror and, where it exists, by the group to which it belongs and/or by the parent company, including the main and most up-to-date economic and financial data, indicating in particular the activities carried out in the sector in which the Business operates, also indicating any competing activities;
- A.22** An illustration of the Offeror's main economic, capital and financial data for the last three years;
- A.23** A copy of the Offeror's statutory and, if they exist, consolidated financial statements for the last three financial years. If the Offeror is a NewCo, a copy of the statutory and, if they exist, consolidated financial statements of the party controlling it and the other shareholders associated with it by shareholder agreements and/or participating in and/or contributing to the control of the NewCo or having a considerable influence thereover or any right of veto or

representation on its corporate and supervisory bodies, and a copy of any shareholder agreements, provisions of the articles of association or equivalent documents, together with a declaration that, except for the documentation produced, there are no agreements or documents governing relations between the shareholders in the NewCo or members of the Consortium concerning the proposed purchase forming the subject of the Binding Offer.

The envelope marked “B - *Offerta economica*” [“Financial offer”] shall contain:

B.1 The express formulation of the Binding, irrevocable Offer of purchase with a precise and exact indication of the scope of the offer itself with regard to the entire scope of sale and, therefore, to the entire Artoni Trasporti Business, comprising all the business branches together with all the functional properties even if owned by Artoni Group in which Artoni Trasporti’s activities are carried out, or to part of the Artoni Trasporti Business, possibly including the properties in which Artoni Trasporti’s activities are carried out, even if owned by Artoni Group, or even to one or more properties owned by Artoni Trasporti or by Artoni Group and, therefore, alternatively:

- (i) All the business branches forming the Artoni Trasporti Business as identified in Annex “B”, each including the instrumental properties in which the activities of the individual branch are carried out, even if owned by Artoni Group;
- (ii) The so-called “Fercam Branch”, including the 14 business branches referred to in Annex “A”, including the 9 properties also identified therein as well as the photovoltaic plants established thereon;
- (iii) All the Artoni Trasporti business branches, other

than the 14 business branches included within the scope of the Fercam Branch, as identified in Annex “C”, including the properties also identified therein as well as the photovoltaic plants established thereon, one or more Artoni Trasporti business branches, possibly including the properties functional thereto as well as the photovoltaic plants established thereon, of all those identified and described in detail in Annex “B”;

- (iv) One or more business branches of all those forming the Artoni Trasporti Business as identified in Annex “B”, each possibly including the instrumental properties in which the activities of the individual branch are carried out, even if owned by Artoni Group;

In the event of a Binding Offer not contemplating the purchase of the property in which the activities are carried out, the Offeror shall specify its possible interest in the arrangement of a lease agreement under market conditions.

- (v) One or more properties owned by Artoni Trasporti or Artoni Group of those identified and described in Annexes “D” and “E”;

B.2 An express declaration that the Binding Offer shall remain firm and irrevocable for a period of 120 (one hundred and twenty) days as from expiry of the Deadline for the Submission of Binding Offers referred to in Article 8.2.1 above;

B.3 The formulation in euros of the price offered for the scope of the offer itself, indicating the times and procedure for payment.

The price in euros offered for the scope of the Binding Offer shall be formulated taking into account the refer-

ence prices resulting from the appraisals made by independent experts appointed by the Special Administrator for that purpose pursuant to and for all the purposes of the combined provisions of Articles 62 and 63 of the *Prodi bis* Law which shall be made available by the Special Administrator in the Data Room.

With reference to properties, a minimum offer price (“Minimum Offer Price”) will be stated – in Annex H – in addition to the reference price; consequently, any Binding Offer indicating a price below the Minimum Offer Price shall be excluded.

If the scope of the Binding Offer contemplates the entire Business or one or more business branches including properties, that part of the price offered attributed to the property or each property, if more than one, shall be expressly indicated.

The reference prices shall form a valuation parameter for the purposes of suitability of the Binding Offer but shall not be binding.

For payment of the price, no extensions may be provided beyond 24 months as from the Effective Date of the Transfer Agreement and/or Deed of Sale.

Any payment proposals extended within the aforesaid limits must be accompanied by the Offeror’s express undertaking to guarantee payment with a guarantee on first demand “without any exceptions” issued by a leading Italian/Community bank approved by the Special Administrator, according to the standard made available in the Data Room – in favour of Artoni Trasporti and/or Artoni Group, to be delivered by the Date of arrangement of the Transfer Agreement and/or Deed of Sale as provided for in Article 12;

- B.4** As provided for in Article 2.7.1. above, a guarantee on first demand “without any exceptions” shall be attached to the Binding Offer, issued by a leading Community bank approved by the Special Administrator, according to the standard made available in the Data Room – in favour of

Artoni Trasporti and/or of Artoni Group, possibly established as joint creditors, to guarantee the undertakings assumed in the Binding Offer, and in particular:

- (i) Payment of the price offered;
- (ii) The truth of the relevant representations and warranties;
- (iii) The other undertakings in preparation for or relating to the conclusion of the Transfer Agreement or Deed of Sale.

This guarantee, for an overall amount equal to 10 (ten) % of the price offered, to be deemed to mean the amount due by way of penalty, which shall be provided for in the Transfer Agreement and/or in the Deed of Sale for breach of the obligations referred to above, shall be provided for 180 (one hundred and eighty) days as from the Deadline for Submission of the Binding Offer and may be enforced up to the full amount in all cases of non-observance of the undertakings assumed in the Binding Offer, referred to in the foregoing paragraph, including:

- in the event of failure to sign the transfer agreement;
- in the event of a false declaration in the documentation submitted;
- in the event of failure to produce the documentation requested for the arrangement of the agreement;
- in the event of default on any other obligation deriving from participation in the negotiated procedure.

The Special Administrator's right to bring an action for compensation for any further loss deriving from fulfilment shall not be prejudiced in any event.

Without prejudice to the right to enforce the guarantee and to compensation for any further loss, in the event of default on the obligation to arrange and/or execute the transfer/sale agreement, the Special Administrator shall be entitled to (i) revoke the award and (ii) hold a new tender.

Following the award, the guarantees deposited by the un-

successful Offerors shall be returned.

- B.5** As provided for by point 2.5.A above, an express undertaking pursuant to Article 63 of the Prodi *bis* Law, to be transcribed in the Transfer Agreement for the Business, or part thereof, as well, to continue the business activities forming the subject of transfer for at least two years as from transfer of the Business and to maintain the levels of employment referred to in the Plan for the same period, as indicated in the notice of commencement of union proceedings referred to in Article 47 of Law no. 428/1990, or resulting from the possible Union Agreement following the joint examination provided for by the applicable legislation;
- B.6** An express undertaking made by the Offeror to deliver, as provided or in Article 2.7.2 above, simultaneously with the arrangement of the Transfer Agreement and/or the Deed of Sale, a guarantee on first demand “without any exceptions”, with waiver of the right to enforce prior payment by the principal debtor, issued by a leading Community bank approved by the Special Administrator, provided for by Article 12, according to the standard made available in the Data Room, to guarantee fulfilment of the obligation to pay the penalties provided for by Article 2.6. in the event of default on the obligations to be assumed with the Transfer Agreement referred to in Article 2.5. letters (A) and (B) of these Rules in the cases identified in Article 1.1 (i), (ii), (iii) and (iv);
- B.7** A declaration made by a leading Community bank certifying the Offeror’s capacity/solvency, with the Special Administrator’s right to request similar documentation with regard to the possible shareholders in the NewCo, the Property Partner or the participants in the consortium and/or Group;

The envelope marked “C- *Offerta tecnica*” [“C - Technical Offer”] shall contain

- C.1** The Business Plan, as specifically described in point 2.5. letter C) above, signed and also sealed by the Offeror on every page, complete with the letters of undertaking where provided for by the Financial Plan.

9. Selection of the successful bidder in the transfer procedure

9.1 Opening of the envelopes

Starting from 01st October 2018 at 15:00, the Special Administrator, with the assistance of the Notary appointed, shall carry out the following measures in the latter’s office and in the presence of any interested parties:

- Opening of all the envelopes received, after checking the integrity of the packages;
- Checking the presence in each envelope of the documentation required by these Rules;
- Reading the Binding Offers.

9.2 Non-compliant Binding Offers

- 9.2.1. Binding Offers which, with regard to the content of the Transfer Agreement and/or the Deed of Sale as well, are subject to terms, conditions (precedent or resolute) or reservations not provided for by the Rules, containing untruthful information and/or documents or containing an indeterminate financial offer or a financial offer that can only be determined with reference to a formula or the offer value expressed by other Offerors, or, in any event, substantially failing to comply with the requirements laid down by the Rules and by the applicable law, shall be deemed to be non-compliant and, therefore, excluded from the sale procedure.
- 9.2.2 In the event of non-compliance considered correctable based on the Special Administrator’s prudent assessment,

the Offeror shall be invited, by written notice, to supplement, complete or regularize the documents and/or to provide the relevant clarification in writing.

9.3 Selection of Offerors

- 9.3.1 The selection from the Offerors submitting Binding Offers shall be made by the Special Administrator observing the essential rules of the Prodi *bis* Law.
- 9.3.2 The selection from the Offerors submitting Binding Offers for the purchase of the Business, or part thereof, referred to in Article 1.1 (i), (ii), (iii) and (iv) shall therefore relate in particular both to the price offered and to the reliability of the Offeror and the business activity continuation plan, and to the guarantee to maintain levels of employment, according to the awarding mechanism included in Annex H.
- 9.3.3 In this perspective, the choice to be made from the Offerors shall be made taking due consideration both of the price indication and, among other things, of the following:

a) The scope of the offer

Optimum Offers

Optimum Offers shall be deemed to mean Binding Offers including the entire scope of transfer and, therefore, all the business branches forming the Artoni Trasporti Business, as described in detail in Annex “B”, including each of the following:

- All the assets organized for carrying out the activities, including: plant and machinery, industrial equipment, licences and authorizations, furnishings and fixtures, according to the descriptive inventory; goodwill; contracts allowing the functioning thereof or employee relations;
- As well as the relevant instrumental properties, even if identified separately in Annex “B”, even if owned by Artoni Group.

Save as provided for in point 9.3.2 above, apart from the Special Administrator’s discretionary assessment of satisfaction of the

requirements referred to in letters b), c) and d) below, Optimum Offers shall be given preference over all other offers.

Preferential Offers

Preferential Offers shall be deemed to mean Binding Offers including the following, alternatively:

- (i) All the business branches included in the Fercam Branch as described in detail in Annex “A”, including each of the following:
 - All the assets organized for carrying out the activities, including: plant and machinery, industrial equipment, licences and authorizations, furnishings and fixtures, according to the descriptive inventory; goodwill; contracts allowing the functioning thereof or employee relations;
 - As well as the relevant instrumental properties, even if identified separately in Annex “A”, even if owned by Artoni Group.

- (ii) All the residual business branches other than those included in the Fercam Branch as described in detail in Annex “C”, including each of the following:
 - All the assets organized for carrying out the activities, including: plant and machinery, industrial equipment, licences and authorizations, furnishings and fixtures, according to the descriptive inventory; goodwill; contracts allowing the functioning thereof or employee relations;
 - As well as the relevant instrumental properties, even if identified separately in Annex “C”, even if owned by Artoni Group.

Failing any Optimum Offers, save as provided for in point 9.3.2. above, apart from the Special Administrator’s discretionary assessment of satisfaction of the requirements referred to in letters b), c) and d) below, Preferential Offers shall be given preference over any other Binding Offer.

Subordinate Offers

Subordinated Offers shall be deemed to mean Binding Offers having different business scopes or individual business branches of all those referred to in Annex “B”, possibly including the relevant instrumental properties, even if owned by Artoni Group, or contemplating the possible interest in arranging a lease agreement under market conditions.

Failing any Optimum Offers or Preferential Offers, save as provided for in point 9.3.2 above, apart from the Special Administrator’s discretionary assessment of satisfaction of the requirements referred to in letters b), c) and d) below, Subordinate Offers shall be given preference over any other Binding Offer.

Residual Offers

Residual Offers shall be deemed to mean those relating to one or more properties owned by Artoni Trasporti or by Artoni Group.

Apart from the Special Administrator’s discretionary assessment of the suitability of the price and satisfaction of the requirements referred to in letters b) and d) below, these latter offers may only be taken into consideration if different and separate offers are submitted for the Artoni Trasporti business branches for which such properties are instrumental.

b) Offeror’s reliability

The Offeror’s reliability, particularly with regard to its financial standing and capacity to obtain the necessary financial resources;

c) The Plan

The content and sustainability of the Plan, particularly with regard to the employment commitments, commercial strategy and investments provided for therein;

d) Guarantees

The guarantees furnished in addition to those requested and, more generally, any further aspect favourably classifying the Binding Offer for the specific purposes of the Special Administration.

9.3.4 The price offered shall be compared to the value resulting from the preliminary assessment requested by the Special Administrator pursuant to Articles 62, paragraph 3, and 63, paragraph 1, of the Prodi *bis* Law, which does not constitute a binding or exclusive parameter, however.

9.4 Further negotiations

9.4.1 The Special Administrator reserves the right to conduct further negotiations with one or more of the Offerors, aimed at obtaining improvements in the Binding Offers received.

9.4.2 In particular, if Optimum Offers or, in the absence thereof, Preferential Offers and also Subordinate Offers and/or Residual Offers are received and the sum of the amounts offered by way of price for the latter two categories of Offerors is higher than that offered by the Offerors in the first two categories, the Administrator reserves the right to conduct further negotiations aimed at obtaining Improved Binding Offers.

9.5 Tender among the Offerors

9.5.1 If more than one Binding Offer and/or equivalent Improved Binding Offer (or more than one Optimum Offer or, in the absence thereof, more than one Preferential Offer and, in the absence thereof, more than one Subordinate Offer having the same scope) is submitted, a tender shall be held among the Offerors.

9.5.2 The basic price of the tender shall be equal to the highest price of the various Binding Offers and/or Improved Binding Offers received. With suitable notice sent to the parties admitted to the higher bidding stage, details shall be provided of the terms, conditions and procedures of

the tender.

Higher bids shall be guaranteed by bank cheques drawn by the Offerors on an Italian bank for an amount equal to 10% of the difference between the price offered in the higher bid and the price offered in the Binding Offer/Improved Binding Offer submitted.

Bank cheques must be delivered for a provisional award to be made.

If no higher bids are received, the award shall be made in favour of the first party submitting the best Binding Offer, including any Improved Binding Offers.

- 9.5.3 The tender shall be held at 15:00 on the first working day following the day of opening of the envelopes, at the office of the Notary appointed and with the assistance of the latter with procedure ensuring maximum transparency and equality of treatment.
- 9.5.4 Any final decision on the outcome of the transfer and/or sale procedure, the resulting final award and therefore the conclusion of the Transfer Agreement and/or Deed of Sale shall be subject to the authorization of the Ministry of Economic Development, after hearing the opinion of the Supervisory Committee.
- 9.5.5 The result of the selection shall be duly notified to all Offerors, save as provided for in Article 11 below.
- 9.5.6 Following such notification, the guarantee furnished to support the Binding Offer by the unsuccessful Offerors shall be returned by hand, by appointment.
The guarantee shall be returned without the recognition of interest or any other sums claimed for any reason.

10. Fercam's pre-emptive right

- 10.1 As already stated in the introductory statements, it is recalled that, with a deed dated 17/07/2018 Artoni Trasporti and Artoni Group, in their capacity as owners, with regard to their respective entitlement, of the movable and immovable property forming the 14 business branches forming the Fercam Branch and specifically identified and detailed in Annex "A", have granted Fercam, the lessee of those same business branches according to a con-

tract arranged by the Special Administrator on 17/07/2018 and lessor of the relevant properties under separate titles, which has accepted, the pre-emptive right to purchase the aforesaid Fercam Branch identified in the aforesaid Annex A.

- 10.2 The pre-emptive right is expressly subject to the actual, valid and effective formulation by Fercam, within the scope of the competitive transfer procedure governed by these Rules, of a Binding Offer for the Fercam Branch, as defined in Annex “A”, for a price of not less than €25,500,000.00 plus VAT where due.
- 10.3 The pre-emptive right established in favour of Fercam means that, following conclusion of the procedure for determining the sale price of the Fercam Branch under all the terms and conditions laid down in paragraph 9 above, within 10 (ten) days of conclusion of the procedure for determining the sale price and identification of the provisional successful bidder, the Special Administrator shall inform Fercam in writing thereof, by registered letter with acknowledgment of receipt sent to the registered office or by certified email sent to the address fercamspa@pec.it specifying the price and the other conditions of the best offer received.
- 10.4 Fercam may exercise the pre-emptive right within 5 (five) days of receipt of the notification, also by registered letter with acknowledgment of receipt or by certified email, to the following Artoni Trasporti addresses:
Via Cisa n. 11, 42016 Guastalla (RE);
as1.2017reggioemilia@pecamministrazionestraordinaria.it
- 10.5 The valid and effective exercise of the pre-emptive right by Fercam shall not entitle the provisional successful bidder to make any claim for compensation or indemnity or for any other reason against the Special Administrator, Artoni Trasporti, Artoni Group or the bodies supervising the Special Administration and/or Fercam itself.

11. Notification of award

- 11.1 Following the activities referred to in Articles 9 and 10

above (the latter insofar as applicable), following authorization issued by the Ministry and the opinion of the Supervisory Committee pursuant to the law, a suitable written notice shall be sent to the final successful Offeror in the transfer procedure (“**Notification of Award**”) in which: the award made in favour of the Offeror and the acceptance of its Binding Offer shall be notified pursuant to the transfer and/or sale procedure and the Rules;

- c) If possible, the day, time and place of arrangement of the Transfer Agreement and/or Deed of Sale before the Notary shall be identified;
- d) Artoni Trasporti and Artoni Group shall provide the information and documents for the successful bidder to issue the notifications pursuant to the antitrust legislation, where applicable, or the date, place at time at which such information and documents shall be made available to the successful bidder shall be indicated.

12. Transfer/Sale Agreement

12.1. Definition of the contractual wordings

12.1.1 A draft Transfer/Sale Agreement containing the parties’ rights and obligations in relation to the sale of the Business, sale and/or transfer of the business branches and/or properties/assets forming part of the Business shall be made available in the Data Room or in any event on written request to be sent by certified email to the following addresses:

as1.2017reggioemilia@pecamministrazionestraordinaria.it
as2.2017reggioemilia@pecamministrazionestraordinaria.it.

12.1.2 The Special Administrator, assisted by his own advisors, shall assess and possibly incorporate any observations and proposed amendments to the Transfer/Sale Agreement into the standard contractual documents eventually received, reserving the right to call the interested parties

in order to obtain clarification of such observations.

12.2 Conclusion of the Transfer/Sale Agreement

12.2.1 In order to arrange the Deed of Transfer/Sale, the following activities shall be carried out without delay, where applicable:

- a) The transferor, Artoni Trasporti, shall sign the notice of commencement of the union proceedings and shall send it to the competent unions and workers' representatives.

Artoni Trasporti and the purchaser shall participate in the union consultancy procedure pursuant to Article 47 of Law no. 428/1990 and shall sign the possible Union Agreement, or suitable record or any other similar documentation certifying failure to reach the aforesaid Union Agreement with the competent workers' representatives;

- b) The promising purchaser and Artoni Trasporti and Artoni Group shall carry out all other measures without delay preparing for the Deed of Sale/Transfer.

12.2.2 The date of arrangement of the Transfer/Sale Agreement on the Business and Properties may be any date fixed by the Special Administrator following the activities indicated above, observing the statutory period (the "**Signature Date**").

12.2.3 At the Signature Date, the following activities shall be carried out in chronological order:

- (a) Payment of the price by the purchaser, by banker's drafts or transfer to the Transferor's/Transferors' current accounts opened at the credit institution notified by the Special Administrator, with funds immediately available and value date at the Signature Date;

- (b) Issue of the guarantees to guarantee any part of the price deferred and to guarantee payment of the penalty stipulated in the event of default on the obligations to maintain the business activities and levels of employment;
- (c) Return of the guarantee to guarantee the reliability of the offer referred to in Article 2.7.1 above;
- (d) Arrangement of the Transfer/Sale Agreement by the Transferor(s) and the promising purchaser in the form of a notarial deed and resulting handover of the Business and/or the Properties;
- (e) Fulfilment of any further statutory measures relating to the transfer of the Business and/or the properties.

12.2.4 The Special Administrator appointed the Notary Dott. Arrigo Roveda, based in 20145 Milan Via Mario Pagano n. 65.

12.2.5 Any charge, tax, duty and expense howsoever relating to and/or resulting from the transfer of the Artoni Trasporti Business or part thereof, and/or the Artoni Group properties, shall be borne by the purchaser.

13. Confidentiality obligation

The Confidentiality Obligation shall remain in force for the periods indicated therein.

14. General provisions

14.1 The Rules shall not constitute for the Special Administrator any obligation or undertaking to make the sale to the potentially interested parties and the Offerors or, for the latter, any right to any benefit provided by Artoni Trasporti and/or Artoni Group and/or the Special Administrator.

- 14.2 The Special Administrator reserves the right, with the authorization of the Ministry of Economic Development, following the favourable opinion of the Supervisory Committee, to: (i) suspend or interrupt the transfer procedure, temporarily or permanently, in respect of one or more or all of the participants; or (ii) amend the terms and conditions of the transfer procedure, including the periods of opening of the Data Room and the deadlines for the submission of declarations of interest and Binding Offers; or (iii) continue the sale of the items forming the Business in two or more separate procedures; (iv) commence or continue private negotiations with one or more of the participants in the transfer procedure; (v) withdraw from any negotiations commenced, whatever the stage or level of progress.
- 14.3 The Special Administrator shall select those natural persons, entities, legal persons and/or Groups to be admitted to the transfer procedure, reserving the right for that purpose to assess, *inter alia*, the capital and financial position of such parties and their capacity to meet their commitments, including financial commitments, deriving from the purchase of the Artoni Trasporti Business.
- 14.4 Moreover, following commencement of the transfer procedure, the Special Administrator, at his discretion, may always (a) admit new parties to the transfer procedure; and/or (b) allow the admission of parties not submitting a Binding Offer to Groups or to individual investors submitting a Binding Offer in time, without prejudice to the fact that such parties shall submit the documentation requested and satisfy the requirements laid down by the Rules in any event; (c) amend the scope of transfer.
- 14.5 The foregoing shall not allow the parties potentially interested or the Offerors to make any claim for compensation or indemnity or for any other reason against the

Special Administrator, Artoni Trasporti and/or Artoni Group and the bodies supervising the Special Administration.

- 14.6 The Special Administrator shall not assume any obligation in respect of the interested parties and the Offerors who, by signing the Rules, expressly exempt him from any liability in their respect and waive any claim they might have in relation to the activities carried out by him. Notwithstanding the provisions of Article 1411, paragraph 2, of the Italian Civil Code, such declarations and commitments assumed by the interested parties and by the Offerors shall be deemed to be irrevocable irrespective of the beneficiaries' declaration of wishes to make use of them or to accept them.
- 14.7 It remains understood that all discretionary powers shall be exercised by the Special Administrator observing the irrevocable statutory rules and, in particular, observing the Prodi *bis* Law and the purposes thereof, without prejudice to any authorizations necessary.
- 14.8 These Rules do not constitute an offer made to the public pursuant to Article 1336 of the Italian Civil Code or a call for public savings pursuant to Articles 94 *et seq.* of Legislative Decree no. 58/98.
- 14.9 The data sent by the interested parties and by the Offerors shall be handled in accordance with the provisions of the GDPR – General Data Protection Regulation (EU/2016/679) and fully observing and protecting the confidentiality of the parties declaring their interest and/or submitting Binding Offers.
- 14.10 The data shall be handled in order to allow the assessment of the parties' suitability to participate in the transfer procedure and the correct performance thereof. The data controller shall be the Special Advisor, in whose respect the interested party may assert the rights referred

to in Chapter III of the GDPR – General Data Protection Regulation (EU/2016/679).

14.11 The periods contained in the Rules shall be deemed to be mandatory, without prejudice to the Special Administrator’s right to amend them and/or extend them.

14.12 Any cost or expense howsoever inherent in and/or resulting from participation in the transfer procedure, including the costs of their advisors, shall be borne solely by the participants.

15. Notices

15.1 Save as otherwise provided for in these Rules, all notices sent to the Special Administrator provided for or required by these Rules or howsoever necessary in relation hereto shall be drawn up in writing and sent by registered letter with acknowledgment of receipt or fax to the following certified email addresses:
as1.2017reggioemilia@pecamministrazionestraordinaria.it
as2.2017reggioemilia@pecamministrazionestraordinaria.it

16. Applicable law and jurisdiction

16.1 The entire transfer procedure and any associated deed shall be governed by Italian law.

16.2 Any dispute concerning the Rules and/or the entire transfer procedure, the interpretation, execution, validity or efficacy thereof, and the interpretation, execution and/or cancellation of the Binding Offer, the Transfer Agreement and/or the Deed of Sale shall be subject to Italian jurisdiction and law and to the sole competence of the Court of Reggio Emilia, signature of these Rules constituting the Offeror’s specific approval of the clause pursuant to and for all the purposes of Article 1341 of the Italian Civil Code.

16.3 The Italian wording of these Rules and of any other document exchanged within the scope of the transfer procedure shall prevail over any foreign-language version hereof.

ANNEXES:

(omissis)

Pursuant to and for the purposes of Articles 1341 *et seq.* of the Italian Civil Code, the interested party/Offeror declares that it has noted and expressly approves the following Articles of these Rules:

- Articles 2.4.2. – 2.5.B – 7.4. - 14.1.-14.6 (limitations of liability)
- Article 2.6. (penalties)
- Articles 8.5. -10.5 – 14.5.-14.6 (waiver of the right to raise objections)
- Articles 2.7 – 12.2.3. (Guarantees)
- Article 16 (Applicable law and jurisdiction)

(Party declaring an interest/Offeror)