

**Extraordinary Administration
of
Alitalia – Società Aerea Italiana S.p.A.**

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**CALL FOR SUBMISSION OF OFFERS FOR THE ACQUISITION OF
TRADEMARKS AND DOMAINS OWNED BY ALITALIA – SAI S.P.A. UNDER
EXTRAORDINARY ADMINISTRATION.**

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1. Recitals

- 1.1 Alitalia – Società Aerea Italiana S.p.A. (**Alitalia under EA**) is a company based in Italy and operating in the air transport sector, having been admitted to extraordinary administration procedure in accordance with Decree Law 23 December 2003 no. 347, amended and converted into Law 18 February 2004 no. 39 by way of decree issued by the Ministry for Economic Development on 2 May 2017 and declared insolvent by the Court of Civitavecchia on 11 May 2017.
- 1.2 Mr. Giuseppe Leogrande, Prof. Daniele Umberto Santosuosso and Mr. Gabriele Fava were appointed Extraordinary Commissioners of Alitalia under EA (the **Extraordinary Commissioners**).
- 1.3 Article 11^{quater} of Decree Law 25 May 2021 no. 73 amended and converted into Law 23 July 2021 no. 106 and subsequent amendments revoked all ongoing procedures as of the date on which such decree came into force aimed, pursuant to article 1 of Decree Law no. 137 of 2019 as amended and converted into Law no. 2 of

2020, to the transfer of the assets and corporate activities, inconsistent with the integrated business plan that is the subject of the European Commission's decision provided by article 79, paragraph 4bis, of Decree Law no. 18 of 2020 amended and converted into Law no. 27 of 2020 and authorised the Extraordinary Commissioners to carry out, even before the modification of the program in order to adapt it to the aforesaid decision, the sale of the "Alitalia" brand to subjects holding air transport operating licences or air operator certifications with a tender procedure that, in compliance with the European provisions, also in antitrust matters, guarantees the competitiveness of the offers and the valorisation of the brand.

2. Purpose of the procedure

2.1 The purpose of the procedure (the **Procedure**) is to transfer the "Alitalia" trademarks and domains (the **Brand**) owned by Alitalia under EA (the **Operation**).

The list of the elements constituting the Brand is indicated in the document "Object of the transfer" inserted in the Data Room prepared for the Procedure (the **Data Room**).

The Brand will be made available to the successful bidder in the Procedure by 31 December 2021.

2.2 The Brand is transferred in the factual and legal status in which it will be found at the closing date of the Operation.

3. Persons admitted to the Procedure. Request for Admission to the Data Room

3.1 Only parties admitted to the Data Room (the **Admitted Parties**) may participate in the Procedure. Individual enterprises or corporations (qualifying as such under the law of the country of origin) of any nationality, having a net worth at the date of submission of the Admission Request of not less than Euro 200 million and holding air transport operating licences or air operator certifications may apply for admission to the Data Room (the **Admission Request**).

3.2 In any case, Admission Requests shall not be allowed from individual enterprises or corporations being in any of the following circumstances of ineligibility:

- (a) if, in the 12 (twelve) months prior to the date of publication of the Call, they were or are being liquidated and/or find themselves in any of the situations referred to in articles 2446 and 2447 of the Civil Code and/or in any equivalent situation according to the applicable law in the country where they are registered;
- (b) if, in the 12 (twelve) months prior to the publication of the Call, they were or are involved in insolvency or bankruptcy proceedings, in accordance with the legislation of the country where they are registered, or any other procedure for determining a state of insolvency, financial distress, termination of business activities or extraordinary administration, according to the applicable law in the country where they are registered;
- (c) if they are subject to disqualification penalties, pursuant to article 9, paragraph 2, letter c) of Legislative Decree 8 June 2001 no. 231, or equivalent sanctions entailing the prohibition to enter into contracts with the public administration, according to the applicable law of the country where they are registered;
- (d) if the owner, or, in the case of corporations, the members of the management and supervisory bodies, have been convicted, by way of a final judgment, or have been issued penalty orders, or have been sentenced under a plea-bargaining arrangement, pursuant to article 444 of the Italian Criminal Code – without prejudice to the effects of rehabilitation – in respect of any of the offences referred to in article 80, paragraph 1, letters a), b), c), d), e), f) and g) of Legislative Decree 18 April 2016 no. 50 and to whom, therefore, the causes of disqualification, suspension or prohibition provided in article 67 of Legislative Decree 6 September 2011 no. 159 apply, or any equivalent offences or prohibitions pursuant to the applicable law of the country where they are registered.

3.3 No Admission Request shall be allowed if submitted by a person not yet officially appointed, intermediaries or trust companies, or with regards to which it proves impossible to clearly identify the relevant individual enterprise or corporation submitting the Admission Request.

3.4 The net worth requirement must be stated by way of a declaration in lieu of an affidavit, made pursuant to the Decree of the President of the Republic 28 December 2000 no. 445 or an equivalent document according to the legislation of the country of origin, made by the legal representative of the applicant, certifying the net worth amount held on the date of submission of the Admission Request.

Possession of the air transport operating licence or the air operator certifications must be proven with the relevant administrative documentation of the State of origin.

The absence of causes of ineligibility, with regard to the Procedure referred to in point 3.2 above, shall be certified by the interested entity by way of a declaration in lieu of an affidavit, made pursuant to the Decree of the President of the Republic 28 December 2000 no. 445, or an equivalent document according to the legislation of the country of origin.

3.5 The Extraordinary Commissioners reserves the right to carry out any appropriate investigation, also through PriceWaterhouseCoopers (the **Advisor**), in relation to the declarations made as well as to request any further useful and/or necessary documents in relation to what has been declared.

4. Contents of the Admission Request

4.1 The Admission Request shall contain:

- (a) essential information for fully identifying the applicant entity (in the case of a corporation: its name, registered office, tax identification number and VAT registration number, or other forms of identification according to the applicable law of the country where it is registered; in the case of an individual enterprise: the owner's name, surname, tax identification number and VAT registration number, or other forms of identification according to the applicable law of the country of which he/she is a citizen);
- (b) the contact address or number to which any notices relating to the Procedure may be sent, such as an email address and/or fax number;
- (c) the documents and declarations pursuant to point 3.4 above;

- (d) the confidentiality undertaking and the Data Room regulation signed by the same person signing the Admission Request. Both documents are published in the website referred to in point 11.7 below and must be signed without any changes and/or additions. Both documents are published in Italian as official language of this Procedure pursuant to subsequent point 4.3.

4.2 The Admission Request shall be accompanied by:

- (a) a copy of this Call initialled on each page and signed at the bottom by the applicant entity (in the case of a corporation, by its legal representative or other authorised person vested with the necessary power to legally bind the interested entity), as a token of full and unconditional acceptance of the terms and conditions set out therein;
- (b) in the case of a corporation, the documents certifying the resolution/decision of the governing body in relation to the submission of the Admission Request as well as the signing powers of the person signing the Admission Request, a copy of the company registration certificate, with full historical details (or other equivalent document) updated to no more than 7 (seven) days prior to the date of the Admission Request.

4.3 The Admission Request and the attached documents shall be made in Italian only. If the Admission Request and/or the relevant documents are drafted in any other language, a translation into Italian must be attached. In any case, only the Italian translation shall be considered valid.

5. Terms for submitting the Admission Request

5.1 The Admission Request shall be sent, complete with the relevant documentation and declarations required by this Call, to the following email address: it_dls_alitalia_vdr@pwc.com accompanied by the transmission message “*Project AZ - Sale of Brand*”.

5.2 The Admission Requests shall be received from 12.00am Italian time on 18 September 2021 until midnight Italian time on 30 September 2021.

Any Admission Requests received outside the above mentioned dates and times will not be taken into consideration.

The date and time of receipt of the email communication will attest the date and time of receipt.

5.3 The Data Room will be opened on 20 September 2021.

6. Admission to the Data Room

6.1 No later than 2 (two) working days from receiving the Admission Request, the Extraordinary Commissioners, also through the Advisor, shall notify the Admitted Parties, eligible as meeting the requirements, of their admission to the Data Room by way of a letter of procedure (the **Letter of Procedure**), which shall regulate the access to the Data Room and the submission of Binding Offers.

6.2 By the same deadline set out in point 6.1 above, the Extraordinary Commissioners, also through the Advisor, shall notify the applicant entity of any further documents that may be required to prove its eligibility.

The applicant entity shall not be admitted to access the Data Room until it has provided full proof of its eligibility.

7. Tender base price. Phases of awarding and submission of Binding Offers. Raise Offers

7.1 The tender base price is equal to Euro 290.000.000,00 (Two Hundred and Ninety Million), plus VAT and taxes in accordance with the law (the **Tender Price**).

7.2 In the first awarding phase (the **First Phase**) only binding offers (the **Binding Offers**) equal to or higher than the Tender Price will be admitted.

- 7.3 If in the First Phase no Binding Offers or Binding Offers not in compliance with the Letter of Procedure are submitted, the Extraordinary Commissioners will inform all the Admitted Parties that the First Phase has been deserted (the **Deserted Tender**) and will proceed with the second awarding phase (the **Second Phase**) requesting to all the Admitted Parties to submit Binding Offers even lower than the Tender Price (the **Second Letter of Procedure**).
- 7.4 If also in the Second Phase no Binding Offers or Binding Offers not in compliance with the Second Letter of Procedure are submitted, the Extraordinary Commissioners will inform all the Admitted Parties that also the Second Phase has been deserted and that the Procedure is without result.
- 7.5 The Extraordinary Commissioners will then proceed with the sale of the Brand without any procedural constraints to the economic operator identified by them.
- 7.6 In the event that more than one valid Binding Offer is submitted in the First Phase or - in case of Deserted Tender - in the Second Phase, the Commissioners will request all the Admitted Parties having submitted valid Binding Offers to submit better offers compared to the best valid Binding Offer submitted (the **Raise Offers**)

8. Submission of Binding Offers

- 8.1 The Binding Offers for the First Phase must be submitted by the Admitted Parties - regardless of their respective date of access to the Data Room - within 2.00 p.m. (Italian time) on 4 October 2021.
- 8.2 The Binding Offers for the Second Phase must be submitted by the Admitted Parties within 3 days of receipt of the Second Letter of Procedure requesting the Binding Offers for the Second Phase.
- 8.3 The first Raise Offers will be submitted by the invited entities within 2 days from the receipt of the specific letter of procedure containing the request of such Raise Offers

(the **Letter for Raise Offers**) in accordance with the provisions of the Letter of Procedure and the Letter for Raise Offers.

Each Raise Offer will provide an improvement of not less than Euro 10 million over the best Binding Offer submitted.

9. **Letter of Procedure. Awarding criteria**

9.1 The Letter of Procedure will regulate the procedure for submitting Binding Offers and will provide, *inter alia*:

- (a) that the Procedure will be provisionally awarded in both the First Phase and the Second Phase to the highest price offered also after the Raise Offers;
- (b) that the results of the Procedure will be submitted to the Ministry for Economic Development (the **MISE**) and will become effective and final only after the MISE has issued the required authorisation, also taking into account the fairness of the price offered;
- (c) that the bidder shall undertake, in the event of the awarding, not to use the Brand in a manner contrary to law or public order and, in any case, not to use the Brand for activities or forms of communication that may prejudice the image of any Member State of the European Union, in the economic, cultural, tourist and transport fields;
- (d) that the participant will submit, together with the Binding Offer, a cash security deposit in the amount of Euro 40.000.000,00 (forty million/00);
- (e) that the Brand shall be made available to the successful bidder by 31 December 2021;
- (f) that the Extraordinary Commissioners, in their own activities and until the end of the extraordinary administration procedure, will in any case be allowed, also after the sale of the Brand, to use the name “Alitalia under extraordinary

administration” (but not the Alitalia’s logo) for all that pertains to the activities of the extraordinary administration procedure, as well as - while completing the respective sale procedures - for the completion of the activities carried out by the business compendiums “*Alitalia Handling*” and “*Alitalia Maintenance*”, which shall be so named in the context of such procedures;

- (g) that the company Alitalia Loyalty S.p.A. will be allowed to keep the term “Alitalia” in the corporate name and in the products related to the loyalty programme managed by it until 30 June 2022.

10. Requests for clarification

- 10.1 If the interested entities require clarifications and/or further information about how to submit the Admission Request they must send a request, in Italian, exclusively by email to the following address: it_dls_alitalia_vdr@pwc.com.

11. Further provisions

- 11.1 The publication of this Call and the receipt of an Admission Request by the Extraordinary Commissioners shall not constitute an obligation on or commitment by them to follow up on this Call *vis-à-vis* the applicant entities, nor grounds for any claims by the former against the Extraordinary Commissioners.
- 11.2 The Extraordinary Commissioners reserve the right, at any time, to decide not to go ahead with this Call and/or to collect Binding Offers or to suspend, stop and/or modify the terms and conditions of this Call, and the applicant entities shall not be entitled to any claims whatsoever for damages or compensation against the Extraordinary Commissioners, nor for any other purposes, including the costs incurred for submitting the Admission Request and/or the subsequent Binding Offers.
- 11.3 This Call does not constitute an invitation to offer, nor an offer to the public, within the meaning of article 1336 of the Italian Civil Code, nor a request for public savings,

within the meaning of article 94 et seq. of Legislative Decree 24 February 1998 no. 58.

11.4 Each applicant entity shall incur the expenses required for any research and assessments, including the costs incurred for its legal counsels and advisors, and any other costs incurred in connection with this Call, and the preparation and presentation of the Admission Request and/or the submission of the Binding Offer.

11.5 The personal and other data submitted by the applicant entities, in relation hereto, shall be processed in accordance with Regulation (EU) N. 2016/679 (GDPR). According to the said Regulation, the data processing operations shall guarantee the full protection of the rights of the applicant entities as well as full data confidentiality; the purpose of the data processing is to establish the eligibility of the applicants to submit the Admission Request. The data controller is Alitalia – SAI SpA under extraordinary administration.

11.6 This Call, and its contents, shall be governed by Italian law and subject to the jurisdiction of Italian courts.

11.7 This Call has been published on the website of Alitalia under EA, in Italian and English language, always provided that only the Italian text shall be taken into account.

Fiumicino, 17 September 2021

Avv. Gabriele Fava

Avv. Giuseppe Leogrande

Avv. Prof. Daniele Umberto Santosuosso