

## SPECIFIC SELLING AND COLLECTING TERMS

### AUCTION N. 2939

IT Auction S.r.l. (also called “**ITA**”), authorized by the owner. to manage the selling procedure of the movable item from the auction 2939.

### ADVISES

that the sale of the item as shown in the Lots Catalogue will close on the **28th of November 2018 at 3.00 p.m. (GMT+1)** (prior to time extension) and will be held on the portal [www.industrialdiscount.it](http://www.industrialdiscount.it) following the procedures and under the conditions listed below.

### DEFINITIONS:

**Auction:** online items sale on the website [www.industrialdiscount.it](http://www.industrialdiscount.it)

**Single auction:** auction selling one single item, without a second phase

**Lot:** item object of the auction.

**Time extension:** automatic time extension of the auction, in case of a new offer submission during the last 5 minutes before the auction closure.

**Starting price:** starting price applied to the item object of the auction.

**Reserve price:** price determined by the owner. Once reached this price, the bid is considered to be economically consistent.

**Award procedure:** the sale of the item is considered to be “*subject to acceptance*”, and as a consequence, once the auction is closed, the highest offer will be submitted to the owner that, according to its unquestionable judgement, and thus without giving any justification, can accept or refuse it.

**Award:** acceptance of the offer placed by the winning tenderer by the Seller and subsequent payment of the hammer price and buyer’s premium by the winning tenderer.

**Buyer’s Premium:** percentage amount calculated on the selling price.

### 1) PARTICIPATION PROCEDURE, DEPOSIT AND ITEMS INSPECTION

1.1) In order to attend the auction, it is necessary to register on the website [www.industrialdiscount.it](http://www.industrialdiscount.it). The users will then receive an alphanumeric code on their mobile phone, that they will insert on the portal in order to complete the subscription. Once the subscription is completed, an e-mail will confirm the successful registration on the

website. This procedure is necessary in order to check the reliability of the offers made for the item. Before making an offer, each participant has the duty to carefully inspect the item for sale, as shown in the Lots Catalogue prepared by IT Auction.

- 1.2) Only subjects with a regular and active v.a.t. number will be allowed to attend the auction.
- 1.3) Before the submission of the offer, it will be possible to view and carry out technical inspections of the unit by the interested parties and / or their own professionals in charge of the unit, under their care and charge; the sea trials are expressly excluded, except for different and specific indications of the property.
- 1.4) Any No conditional offers will be accepted in any way.
- 1.5) ITA will have the right to communicate that the sale of certain units is reserved only for companies operating in the nautical sector and therefore to inhibit the participation of non-members of the same sector in the competitive tender process.
- 1.6) Before making the offer it is necessary to pay a deposit of € 50.000,00 bank transfer. The deposit will be transferred into a bank account registered to ITA, that will keep it for guarantee for and on behalf of the owner. The user will not be authorised to place bids till the deposit will be received into the bank account.
- 1.7) The payment of the deposit must necessarily come from a bank account registered to the bidder, otherwise the offer will not be considered valid
- 1.8) Moreover, in order to attend the auction, it will be necessary to send **within 2 hours before the closing time fo the auction** indicated on the website the following documents to the e-mail address [av@itauction.it](mailto:av@itauction.it):

*Legal person / company*

*A. Registration Certificate (apostilled)*

*B. Record of acceptance (following the inspection/sea trial)*

*C. Attachment B- Specific Sale and Collection terms duly signed*

*D. Payment slip certifying the payment of the deposit*

Within 24 hours after auction closure or after the Seller communication concerning the economic consistency of the offer, the winning tenderer will be required to send to [av@itauktion.it](mailto:av@itauktion.it) the following documents, otherwise his offer will not be considered as valid

*Legal person / company*

- A. Anti-money laundering form
- B. Privacy form
- C. LOI stating the offered price
- D. Declaration of the working activity and the origins of the funds necessary to buy the item
- E. Attachment A\_General condition terms
- F. Certificate of Incorporation (apostilled)
- G. Certificate of Goodstanding (apostilled)
- H. Declaration of Shareholding (apostilled)
- I. Power of Attorney (apostilled)

In order to complete the award procedure, the winning tenderer will have to send the above-mentioned documents, duly signed in the original copy, to the offices of Monte dei Paschi Leasing & Factoring in ST. A. Moro n. 11/13 53100 Siena. The papers must be sent at the latest within 5 (five) days after the auction closure or after the Seller communication concerning the economic consistency of the offer. In the case this deadline is not met the offer will not be considered valid and the winning tenderer will lose his right to the award.

In the case the winning tenderer is not italian, the Seller has the right to require further documents depending on the bidder country which will have to be sent duly signed in the original copy, to the offices of Monte dei Paschi Leasing & Factoring in ST. A. Moro n. 11/13 53100 Siena. within 5 (five) days after the request made by Monte dei Paschi Leasing & Factoring. In the case this deadline is not met the offer will not be considered valid and the winning tenderer will lose his right to the award

1.9) Once all the above-mentioned obligations have been observed, the bidder will be able to make the offer directly on the website.

1.10) The offer will be considered valid only if presented according to the above-mentioned procedure, and it will be considered irrevocable, as referred to in art.1329 1° comma c.c., since its presentation until the deadline of the sale and the possible award.

1.11) Once the auction is closed, in case of no bids, in case only one user has been allowed to attend the auction, the paid deposit and the required papers sent will be considered as equivalent to the submission of a formal offer at the starting price (even though the offer is not physically confirmed during the auction). The bidder will be directly considered the winning tenderer of the auction.

1.12) The items object of the auction are placed in Termini Imerese (PA). To inspect them and/or book the sea trial it is necessary to contact ITA in advance before the day scheduled for the auction, in order to make an appointment.

1.13) We advise that, to be able to attend the auction n. 2939, the request for the inspection and/or sea trial will have to arrive 72 hours before auction closure

1.14) Those who are interested should send an inspection request to the e-mail address [av@itauktion.it](mailto:av@itauktion.it)

1.15) Such request should include:

- i. the code of the corresponding auction;
- ii. the person carrying out the inspection (with the identity document attached);
- iii. the declaration – by filling in and signing the corresponding form available to download on the website – of carrying out the inspection and/or the sea trial at his own risk, and at the same time releasing the owner and IT Auction of any responsibility, without opening or disassembling any device and/or machinery and/or equipment;
- iv. an e-mail address to which ITA will send the written authorisation for the inspection, that will have to be carried out under the supervision of the staff of IT Auction and /or somebody representing the owner.

1.16) We advise that the inspection of the item will be costless for the bidder, while he will have to cover all the costs for the sea trial, that will have to be paid before the execution of the test itself. Possible inspection requests that require the movement, the ignition etc. of the item, will have to be previously authorised by IT Auction, and the bidder will have to cover the costs.

1.17) The costs for sea trial and technical inspections with professionals, as well as the movement and activities of the item will not be refund in any case.

## 2) SALE TERMS

2.1) The auction will be held according to the procedures applied for the “one phase auction”: in this kind of auction it is possible to make an offer for an individual unit at auction. At the end of the auction, the highest bidder will be selected; is in any case subject to the faculty of the property, at its own unquestionable judgment and therefore without providing any justification, to refuse the offer.

2.2) In order to ensure the maximum competitiveness and the highest profits to the ownership, the auction is subject to the rule of the “Time Extension”; this means that if the potential buyer makes an offer during the last 5 (five) minutes, the auction deadline for that item is extended by 5 (five) minutes more, thus giving the other bidders the possibility to outbid. For this reason, it is impossible to establish a fixed closing time for our auctions;

2.3) This is an auction with reserve price.

2.4) In the event that the reserve price is exceeded, the offer will automatically be considered economically valid, and the winner will be deemed to be the adjudicator of the asset, provided that the property, at its own unquestionable judgment and therefore without any justification, declares to accept it and without prejudice to the successful completion of the checks that the property reserves to carry out and which will have the duration of:

- about 15 (fifteen) days in the case of an Italian buyer;
- about 30 (thirty) days in the case of a foreign buyer.

2.5) Any extensions with respect to the timing identified above will be promptly communicated.

2.6) In the event of failure to exceed the reserve price, the highest bid submitted will be presented to the property which, if at its own unquestionable judgment and therefore without any justification, declares to accept it, reserves the right to confirm, always according to the the unquestionable judgment and within 2 (two) working days, the economic congruity.

2.7) In case of successful completion of the awarding procedure and offer deemed economically reasonable, for the purpose of definitive awarding the property will proceed with administrative checks that will take place with the timing referred to in paragraph 2.4

2.8) Also in this case any extensions with respect to the timing identified above will be promptly communicated.

2.9) Once the above-mentioned control procedure are concluded, and only in case of positive results, the Seller will communicate the formal and definitive acceptance of the offer to the winning tenderer who will become the successful tenderer. Any extension or variation of timings above mentioned will be promptly communicated. Notwithstanding the foregoing, the award shall

be definite only after integral payment confirmation by the successful tenderer of the price and of the sale commissions within the terms indicated in this document and better specified in the following paragraph “Payment terms”

2.10) IT Auction charges the winning tenderer for a fee called “Buyer’s Premium” equal to 5% plus v.a.t.(if due) of the sale price.

### 3) PAYMENT TERMS, OWNERSHIP TRANSFER AND NO GUARANTEE

3.1) The winning tenderer, by accepting the “Conditions of use of Industrial Discount or ITA” undertakes to pay the total amount due (including the sale price to pay to the owner and the sale charges in favour of ITA) at the latest within 10 (ten) days from the right to the award confirmation of the auction, and in any case, from the moment in which IT Auction sends the payment note to the winning tenderer. After the offer acceptance IT Auction will give the winning tenderer the instructions for the payment of the sale price to the owner, that will have to be done by bank transfer. We advise that the final payment of the sale price must necessarily come from a bank account registered to the winning tenderer, otherwise the sale can not be concluded.

3.2) The winning tenderer will pay the charge due to IT Auction directly by bank transfer to IT AUCTION S.r.L., IBAN IT 55 H 02008 23710 000101559980, BIC/SWIFT UNCRITM1PM0, Banca UNICREDIT BANCA S.P.A. FILIALE DI C.SO MAZZINI FAENZA. It might be asked the winning tenderer, if necessary and by way of proof, the deposit slip and the CRO (transaction reference) number.

3.3) We advise that we will ask in any case to pay the VAT by way of deposit, either if the buyer is from the EU or if the buyer is from outside the EU.

Such amount can be refund according to the following procedures:

- EU legal person, only after receiving the papers attesting the real movement to another EU country and in any case according to the law.

- extra EU sale, only after receiving the papers attesting the real movement to another extra EU country (within 90 days from the signature of the bill of sale) and in any case according to the law.

3.4) The successful tenderer, if applicable, undertakes to sign the sale conclusion document at the notary or agency (authorized STA) decided by the owner, at the latest within 10 (ten) days from the award confirmation, and in any case only after the payment of the total amount of the price and the sale charges. The ownership transfer will be concluded only at the nautical or maritime agency decided by the owner.

3.5) All the fiscal and legal charges related to the item sale, including the costs for the bill of sale, the transcript for the ownership transfer and/or the security clearance for the de-flagging - and also the notarial charges and the rights of the nautical and/or maritime agency and/or customs – are totally at the expense of the successful tenderer and must be paid together with the final payment for the unit.

#### 4) NON-FULFILMENT OF THE WINNING TENDERER

4.1) In case of failure or delay in the payment, in case of failure to sign the bill of sale within the provided deadline, or in case of failure or delay in the payment of the ancillary costs, the winning tenderer will be automatically considered out of the award procedure without further communications needed, and the owner of the items will have the right to keep the deposit by way of penalty, without prejudice to the right of compensation for greater damages. In that case the owner can, according to its unquestionable judgement, call for a new auction, that is to say, to carry on with the award in favour of the bidder who presented the second highest offer after the one presented by the dismissed winning tenderer.

4.2) The defaulting winning tenderer will be deleted from the website and it will be impossible for him to attend further sales, and further auctions of the owner's items, even if they are different from the ones sold in the present auction.

#### 5) COLLECTION AND DELIVERY OF THE ITEMS

5.1) The owner accepts that the procedures for the collection of the item by the successful tenderer can start since the first available day after the signature of the bill of sale, and in any case by agreement with the keeper of the unit or somebody appointed by ITA, and according to the latter's availability. The collection procedures, carried out respecting the above-mentioned timing and rules, must necessarily end in any case at the latest within 3 (three) days after the signature of the bill of sale.

5.2) Failure to respect the latest deadline for the item's collection, as mentioned in the previous point, will lead to the charge for the parking costs envisaged by the dock/boathouse where the unit is placed, according to its applicable rates.

5.3) The possible costs of keeping due to third parts for the items' parking at the dock/boathouse in which they are kept, will be charged to the successful tenderer since the third day following the sale conclusion.

5.4) Once the sale is concluded, following the payment of the price and in any case the signature of the bill of sale, the successful tenderer will legally become owner of the item and he will be the unique responsible for any risk or happening related to the bought item, even in the case in which the successful tenderer decides to ask for the service of a carrier or forwarder, or if he prefers to leave the item on-site.

5.5) Moreover, any other cost or charge for a possibly necessary certified copy of documents (just to give an example among many others) is completely at the expense of the successful tenderer.

5.6) If the successful tenderer makes use of third parts appointed to the collection of the items, it will be necessary to respect the following conditions:

- I. the staff or the companies appointed to the collection must, in advance, send to ITA the delegation for the collection, signed and stamped by the successful tenderer;

- II. the successful tenderer or the third parties appointed to the collection will be jointly responsible for any damage to people or things caused by the items' collection procedures;
- III. the successful tenderer or the third parties will commit to respect the safety standards related to the collection of the item (safety plans, etc.);
- IV. the successful tenderer or the third parties appointed to the collection must prove to make use of staff provided with the necessary insurances, also related to the social security;
- V. the successful tenderer will have the responsibility to make sure that the third parts comply with the above-mentioned requirements.

## 6) DOCUMENTS

6.1) In order to collect the item, the successful tenderer – or a representative appointed to the collection – will have to show the papers necessary to the proper execution of the procedure, listed as follows:

- waiver signed by the successful tenderer stating to take full responsibility for any possible damage to people or things because of and/or as a consequence of the items' collection procedure, together with an identity document of the legal representative. In case the successful tenderer makes use of a third party for the dismantling and collection of the items, a similar declaration should be presented by the designated person, together with a copy of the corresponding legal representative's identity document;
- in case the collection is carried out by a third party, corresponding authorisation for the collection signed and stamped by the successful tenderer, together with a copy of the identity document of the designated person's and the designating person's legal representative;
- before the collection procedure starts, a detailed list released by the successful tenderer and/or by the designated person, including the names of anybody needing access to the property, together with the corresponding copies of their valid identity documents;
- the invoice of the owner or the proforma invoice with a description of the units, if required;
- the single insurance contribution payment certificate of the person designated to collect the items and/or of anybody needing access to the property during the collection procedure, if required;
- insurance policy certificate for the third party liability agreed with an insurance company to cover possible damage attributable to the successful tenderer or the authorised person for the collection, if required.

6.2) The required papers must necessarily arrive before the start of the procedure, otherwise it will be impossible to collect the items by land.

6.3) In any case, any responsibility of the owner and ITA is excluded for damage to people or things that should derive from or follow the collection, dismantling, removal and transport procedures of the sold items.

## 7) FINAL INSTRUCTIONS

7.1) The sale of the item is considered concluded following the rule “*saw and approved in its conditions, according to the law and in the location in which it is placed*”. The bidder claims to have accurately inspected and tested the item before making the offer, and claims to be aware that no warranty will be released related to the quality, the absence of imperfections and the good functioning of the item, without the possibility of withdrawal on the part of the unsatisfied bidder.

7.2) The bidder acknowledges and accepts that it is about secondhand items, coming from remarketing activities, never used by MPS LEASING & FACTORING S.p.a. and whose established price takes into consideration their actual conditions. Thus, the successful tenderer cannot raise any objection about the bought item after the award. Moreover, as the sale is not equivalent to the normal item placing on the market, in order to comply with the existing security legislation, the successful tenderer has the duty to check the existence of the safety requirements in accordance with current legislation, before putting the item (or items) bought into service or reselling it.

7.3) If the instructions included in the “General conditions for access to service of Industrial Discount” and the ones included in the present “Specific sale and collection terms” were in conflict between each other, what is set out in the “Specific sale and collection terms” will prevail on what is set out in the “General conditions for access to service of Industrial Discount”.

7.4) If one or more clauses included in the present “Specific sale and collection terms” were declared or considered not valid or ineffective, the other clauses will remain valid and effective and the not valid or ineffective clause will be replaced, where possible, by the corresponding law.

7.5) ITA represents an e-commerce platform that offers its users the possibility to make offers for the published auctions. ITA is not the owner of the items on sale or sold through the platform, does not transfer the ownership of the items from the seller to the buyer, does not have a role and is not involved in the trade between owners/sellers and buyers. The sale contract is directly agreed between the sellers and the buyers.

7.6) For any dispute that arises between Monte dei Paschi Leasing & Factoring and the buyer in relation to the purchased goods, the Court of Milan will have exclusive jurisdiction.

If the instructions included in this “Specific sale and collection terms” and the ones included in the “Condizioni specifiche di vendita e ritiro” were in conflict between each other, what is set out in the “Condizioni specifiche di vendita e ritiro” will prevail on what is set out in the “Specific sale and collection terms” as the latter are intended to be a translation of the former.

## Privacy policy (ex art. 13 D.Lgs. 196/2003)

In accordance with the Regulation EU n.2016/679 (GDPR) and, if not revoked or incompatible the Italian Legislative Decree n. 196 of the 30<sup>th</sup> of June 2003 (“Codice in materia di protezione dei dati personali”), the processing of personal data will follow the principles of fairness, lawfulness and transparency, and aims at protecting the confidentiality and the rights of the users interested in the service of IT Auction.

In accordance with article 13 of the Italian Legislative Decree n. 196 of the 30<sup>th</sup> of June 2003, we provide the following information:

### **Purposes and modalities of data processing**

The provided personal data will be exclusively used for purposes that are closely related to and useful for the performance of the required service:

- Subscription to the website of Industrial discount, aimed at checking the truthfulness and reliability of the data of those attending the auctions;
- Post sale invoicing;
- Possible complaint against the non-compliant users in case of auction for goods deriving from bankruptcy proceedings;
- To send information and news about the goods and services provided by us, related to the first request.

The processing will be carried out through paper and electronic formats by the owner, the manager and the officers, in compliance with every precautionary measure, in order to grant security and confidentiality.

### **Nature of data collection and consequences of a possible failure in providing them**

The personal data collection is compulsory in order to comply with the received requests, and more in general, to comply with the law.

In case of failure in communicating the personal data, it will be impossible to provide the requested service.

### **Data communication and dissemination**

Personal data will be managed only by our specifically authorized employees, limited to their activities, and will not be disseminated.

### **User's rights.**

At any moment, each user can exercise his rights towards the data processing controller, in compliance with article n. 7 of the Italian Legislative Decree n. 196 of the 30<sup>th</sup> of June 2003.

## **Processing controller and responsible**

The data processing controller is IT Auction s.r.l., Via G. Galilei n. 6, 48018 Faenza. The data processing responsible is Mr. Renato Ciccarelli.

Faenza, the 16.10.2018

IT Auction s.r.l.

CEO

Mr. Renato Ciccarelli

The undersigned proponent, accepting that IT Auction s.r.l. is authorized by the owner. to manage the sale procedure of the movable item of the auction 2939, claims to have perfectly and carefully read the above-mentioned entire conditions and to approve them without any reservation.

Place and date, .....

The proponent

(.....)

The undersigned proponent, in compliance with the articles 1341 and 1342 of the Civil Code, also claims to approve specifically the clauses included in the following articles

1.6) "Deposit"

1.8) "The loss of the award in case of failure to sent the papers"

1.10) "Irrevocability of the proposal ex art.1329 cc."

2.1) Unquestionable judgment of the owner regarding the acceptance of offers.

2.2.) "Time Extension".

3.1) Methods and terms of payment.

3.4) Sales Act - Selection of the Notary or the Agency authorized by STA.

3.5) Tax and legal charges.

4.1) Effects of failure or delayed payment or failure to sign the deed of sale. Deposit of the security deposit without prejudice to the payment of the greater damage.

5.2) Parking costs to be borne by the successful tenderer.

5.3) Custody costs borne by the successful tenderer.

5.5) Costs and expenses to be borne by the successful tenderer.

6.3) Disclaimer of liability MPS LEASING & FACTORING S.p.a. and ITA.

7.1) Visa and liked clause - Absence of guarantees - Inability to withdraw from the contractor.

7.2) Exclusion for the successful bidder to raise objections

Place and date, .....

The proponent

(.....)