

AIRCRAFTS SALE AND PURCHASE AGREEMENT

BETWEEN

ALITALIA - LINEE AEREE ITALIANE S.P.A. IN A.S.,

with registered office in Rome, at viale Alessandro Marchetti No. 111, share capital of Euro 1.297.299.811,89, fiscal code and registration number at the Companies' Registry of Rome 00476680582, (hereinafter, "AZ" or the "Seller")

represented by

born in [●]

on [●]

domiciled for the purpose of his office at [●]

in his capacity as [●]

appointed by way of [●]

attached sub[●]

- on a side -

AND

[NAME OF THE PURCHASER],

with registered office in [●], share capital [●], registered at the Companies' Registry of [●] with number [●], fiscal code/ VAT code [●] (hereinafter, the "Purchaser");

represented by [●]

born in [●]

on [●]

who declares to act in his capacity as [●],

as per the power of attorney

attached herewith sub annex [●]

- on the other side -

WHEREAS:

- A. On 29 August 2008, AZ was admitted to the extraordinary administration proceedings and Prof. Avv. Augusto Fantozzi was appointed as Extraordinary Commissioner (hereinafter, the "**Extraordinary Commissioner**") through the decree of the President of the Council of Ministers, dated 29 August 2008.
- B. The Court of Rome, bankruptcy division, with decision No. 287 of 5 September, 2008, declared the state of insolvency of AZ pursuant to art. 4 of Law Decree No. 347 of 23 December 2003, converted into Law and subsequently amended and supplemented by Legislative Decree No. 134 of 28 August 2008, converted with amendments by law No. 166 of 27 October 2008.
- C. On 19 November 2008, the Extraordinary Commissioner submitted to the Ministry of Economic Development (hereinafter, the "**Ministry**") a sale program (the "**Sale Program**") drafted pursuant to art. 27, paragraph 2, letter b-bis) of Legislative Decree No. 270 of 8 July 1999, which envisages, *inter alia*, the sale of the 46 aircrafts still owned by AZ and Alitalia Express S.p.A. in a.s. ("**AZ Express**").
- D. By its own decree issued on 19 November 2008, the Ministry, upon consultation with the creditors'

committee, approved the Sale Program and authorized its implementation.

- E. By its own decree issued on 11 December 2008, the Ministry, in order to implement the provisions of the sale program, authorized, upon consultation with the creditors' committee, the Extraordinary Commissioner to commence the sale procedure of the 46 aircrafts still owned by AZ and AZ Express.
- F. In relation to the no. 14 ERJ-145 aircrafts, registered with marks I-EXMA, I-EXMB, I-EXMC, I-EXMD, I-EXME, I-EXMF, I-EXMG, I-EXMH, I-EXMI, I-EXML, I-EXMM, I-EXMN, I-EXMO, I-EXMU, which form a single lot, after the negative result of the relevant public auction, Alitalia received from a potential interested party an offer for the purchase of such aircrafts. The offer provided for the purchase of the aircrafts in their current legal and factual state ("*as is where is*") for a consideration of EUR 1,753,155.68 for each aircraft, so for a total amount of EUR 24,544,179.52 for the entire lot (the "**Purchase Offer**").
- G. The Ministry of Economic Development, upon consultation with the Supervisory Committee, by its decree dated 6 October 2009, authorized Alitalia to accept the Purchase Offer following the prior search on the market for any potential better offer.
- H. On [●] 2009, Alitalia published, in summary form on Il Corriere della Sera and The Financial Times and in its full version on the website of the Extraordinary Administration Procedure (www.alitaliaamministrazionestraordinaria.it and www.alitaliaamministrazionestraordinaria.com) a notice by which any party interested in the purchase of the lot of aircrafts was invited to submit offers higher than the Purchase Offer (the "**Notice**").
- I. The Notice contained the indication for the submission of a binding offer for the purchase of the aircrafts listed into the lot, to be submitted, subject to the penalty of exclusion, together with the other required documents, no later than 17.00 p.m. (Italian time) of October 23, 2009.
- J. Thereafter, the Extraordinary Commissioner, on October 27, 2009, in a public session and at the presence of the public notary [●] (who drafted the minutes, Repertory No. [●], section [●], registered in [●] on [●] with No. [●], series [●]), opened the offers for the purchase of the 14 ERJ-145 aircrafts.
- K. [*outcome of the public meeting to be indicated*]
- L. The Binding Offer submitted by the Purchaser was found by the Extraordinary Commissioner to be the highest between those which were submitted pursuant to the terms and conditions provided for their submission, and, therefore, the Purchaser was awarded with the lot.
- M. Therefore, the Parties, intend to enter into a sale and purchase agreement for the sale of the aircrafts constituting the lot, pursuant to the terms and conditions set out under this agreement (the "**Agreement**").

**NOW THEREFORE,
THE PARTIES MUTUALLY AGREE UPON THE FOLLOWING:**

1. PREMISES AND ANNEXES

- 1.1 The premises and the annexes shall be deemed to be part of this Agreement.

2. SUBJECT OF THE AGREEMENT

- 2.1 Pursuant to the terms and conditions set forth under this Agreement,

Alitalia – Linee Aeree Italiane S.p.A. in A.S.

sells and transfers to

[●],

who accepts and purchases the following aircrafts (hereinafter, the “**Aircrafts**”):

- No. 14 ERJ-145 Aircrafts, registered with marks I-EXMA, I-EXMB, I-EXMC, I-EXMD, I-EXME, I-EXMF, I-EXMG, I-EXMH, I-EXMI, I-EXML, I-EXMM, I-EXMN, I-EXMO, I-EXMU.

- 2.2 The consideration for the sale of the Aircrafts (hereinafter, the “**Consideration**”) is irrevocably set to be the amount of Euro [●] (*[in letters/00]*), plus applicable taxes.

Such Consideration shall be allotted as follows:

[INDICATE THE CONSIDERATION TO BE PAID FOR EACH AIRCRAFT, AS THE TOTAL CONSIDERATION OFFERED DIVIDED IN EQUAL PARTS FOR EACH AICRAFT]

The Parties mutually acknowledge and represent that the Consideration to be paid by the Purchaser for the purchase of the Aircrafts has been fully paid to the Seller, by way of ***[PLEASE INSERT THE DETAILS OF THE BANK TRANSFERS]***.

The Seller, by signing this Agreement, gives full receipt of the payment.

3. **FACTUAL AND LEGAL STATE OF THE AIRCRAFTS**

- 3.1 The Seller hereby represents and warrants to the Purchaser its free and clear title to the Aircrafts and free from third party rights, undertaking guarantee for eviction in favor of the Purchaser, it being understood that the removal of any potential encumbrance relating to the Aircrafts pursuant to Article 64 of Legislative Decree No. 270 of 8 July 1999, shall be carried out at the Purchaser’s own expenses, save for the undertaking of the Seller to cooperate with the Purchaser for the promptly submission of the relevant request to the Ministry.
- 3.2 With the sole exception of the warranty set forth under art. 3.1 above, the Seller does not provide any further representations and/or warranties in connection with the sale and purchase of the Aircrafts, any defects in the same, including latent defects, absence of qualities of the Aircrafts and/or “*aliud pro alio*”. The purchase of the Aircraft will take place on an “as is” basis, in their current factual and legal state, which is presumed to have been “seen and accepted” (“*visti e piaciuti*”) by the Purchaser. In particular, the Purchaser hereby represents to have full knowledge of the current factual and legal state of the Aircrafts and to have also considered, in view of entering into this Agreement, all the burdens, liabilities, obligations and risks which may arise pursuant to the applicable laws or under any agreement, in connection with the purchase of the Aircrafts. In any case, in relation to any legal and contractual effect which may arise, the Purchaser hereby represents and acknowledges to have decided to enter into this Agreement following an independent and non-coerced assessment and an evaluation of the benefits deriving from it and of the risks associated with such purchase. The Purchaser hereby also declares to purchase the Aircrafts at his own risk, to release any current or future objection which may arise in connection thereof, and to waive the right to raise any claim towards the Seller, including those in connection with any indemnity and the termination of the Agreement.

4. **TRANSFER OF POSSESSION**

- 4.1 The Purchaser, acknowledge that the Aircrafts are currently located at Clermont-Ferrand (France), except for No. 2 aircrafts registered with marks I-EXMA and I-EXMO, which are currently located in Lille (France) and No. 1 aircraft registered with marks I-EXMN which is currently located into the territory of the Republic of Italy, at the airport of Fiumicino, Rome, Italy. Through the execution of this Agreement, the Purchaser takes possession of the Aircrafts and of all the documents pertaining to the Aircrafts which are in the possession of the Seller, it being understood that, if any of the above-mentioned documents is missing or is not delivered, this would not be considered a cause for any objection, claim or request by the Purchaser towards the Seller. The Seller and the Purchaser, through the execution of this Agreement, acknowledge and confirm that the Aircrafts have been delivered by the Seller in the place whereby they are currently located and that they have been accepted by the Purchaser; therefore, this Agreement shall substitute and, be considered as, the record for delivery and for its acceptance, certifying the date and time of such delivery. It is understood that if any other documents relating to the Aircrafts will be found, such documentation will be provided to the Purchaser.
- 4.2 Therefore, as from the date of execution of this Agreement, all the expenses, costs, burdens and risks in connection with the ownership, the possession, the use, the maintenance, the custody and the preservation of the Aircrafts shall be borne by the Purchaser.
- The execution of this Agreement will be noticed to the companies which manage the spaces where the Aircrafts are parked and to any other interested party in order to inform them about the transfer of the burdens and risks to the Purchaser.

5. OTHER OBLIGATIONS AND REPRESENTATIONS BY THE PURCHASER

- 5.1 The Purchaser acknowledges that none of the distinctive marks “Alitalia” and “Alitalia Express” will be transferred by the Seller. The Purchaser, therefore, hereby undertakes to refrain from using the distinctive marks “Alitalia” and “Alitalia Express”, and to replace, at its own expense and responsibility, immediately following the purchase the Aircrafts and, in any case, before the Aircrafts leave the territory where they are currently located, the livery the Aircrafts and to remove any other distinctive mark on/in the Aircrafts.
- 5.2 Moreover, the Purchaser represents:
- a) that the execution and performance of this Agreement is not subject to any authorization or approval by the Purchaser’s competent corporate bodies or by any regulatory or administrative authority, or to any other authorization or approval;
 - b) that it is not subject to any insolvency or winding-up proceedings or to any type of proceeding which, under Italian law, denotes a state of insolvency, and that no insolvency proceeding or action which may result in a bankruptcy proceeding has been commenced or threatened in writing to be commenced;
 - c) that all the data and information provided in connection with the Aircraft sale procedure subject of the Notice are true and correct;
 - d) to have full knowledge of the Italian, EC and regulatory laws related to aeronautics, to have full understanding of the investment to be carried out and of any risk in connection thereof and to assume all risks and expenses in connection with the registration of the Aircrafts in Italy, or in any other non-Italian registry.

[INSERT THE DECLARATION ON THE RETURN OF THE GUARANTEE, IF NOT CASHED-IN]

[INSERT ANY DECLARATION OF THE PURCHASER REQUIRED FOR THE DETERMINATION OF THE TAX REGIME]

6. GENERAL PROVISIONS

- 6.1 The Purchaser acknowledges and accepts that all the translations into the English language of the documents related to the Aircrafts sale procedure subject of the Notice and to the same Aircrafts, and of this Agreement, were drafted in order to allow the participation of potential purchasers of foreign language and that in the event of discrepancy, the Italian texts shall prevail.
- 6.2 None of the Parties may transfer this Agreement or the rights arising in connection thereof without obtaining the previous written consent of all the other Parties.
- 6.3 Any amendment to this Agreement shall not be deemed to be valid and binding without it being executed by way of a written deed signed by all the Parties .
- 6.4 Each Party shall bear the expenses and costs due to its advisors and consultants which have been instructed to negotiate, draft and execute this Agreement and the other agreements relating to this transaction.
- 6.5 **[INSERT TAX CLAUSE IN ACCORDANCE WITH THE APPLICABLE TAX REGIME]**
- 6.6 All the current and future taxes and expenses arising from the execution of this Agreement (also those related to future verifications by the competent tax authorities with regard to the applicable tax regime) shall be borne by the Purchaser who undertakes to fully indemnify and hold harmless the Seller from any direct or indirect damage it may arise in connection thereof. The carrying out and completion of any act or formality, also at the public registries, in connection with the sale of the Aircrafts specified under this Agreement, including, in particular, all the required recordings and registrations, shall be borne at the Purchaser's own expenses and responsibility, save for the cooperation of the Seller, without any expenses related thereto, in relation to the transfer of the ownership of the Aircrafts. The Parties mutually authorize the competent aviation authority, as an effect deriving from the execution of this sale, **[to register this Agreement in favour of the Purchaser / to cancel of the Aircrafts from the aircrafts' register]**, and, in general, to fulfill any publicity obligation deriving from this agreement, and release such authority from any potential liability in connection thereof.
- 6.7 This Agreement is governed by Italian law.
- 6.8 The Court of Rome shall have exclusive jurisdiction over any dispute that may arise between the Parties in connection with this Agreement.
- 6.9 Upon request made by the Parties this Agreement shall be kept in the records of the authenticating public notary.

[Legalized signatures]