

**CALL FOR EXPRESSIONS OF INTEREST IN SUBMITTING BINDING BIDS FOR THE TRANSFER, INSEPARABLY AND AS A WHOLE, OF THE FIMER S.p.A. BUSINESS COMPLEX UNDER EXTRAORDINARY ADMINISTRATION**

**FIMER S.p.A. under Extraordinary Administration**, with registered office in Milan (20144), 25 Via Tortona Tax Code 09286180154, VAT Id. number 01574720510, in the person of the Special Commissioners Prof. Dr. Eugenio D'Amico, Avv. Maurizio Ascione Ciccarelli, and Prof. Dr. Gerardo Losito (the "**Company**" or "**FIMER**");

**1. PREAMBLE**

- 1.1. FIMER is an Italian company that deals - also through its foreign subsidiaries - in the production and marketing of string and centralised inverters as well as systems for charging electric vehicles with two industrial plants located in Italy, Terranuova Bracciolini (AR), and India.
- 1.2. In a judgment dated 5 October 2023, the Court of Milan declared the state of insolvency of the Company, pursuant to Article 8 of Legislative Decree No. 270 of 8 July 1999 (the "**Prodi bis Law**") and appointed Avv. Maurizio Ascione Ciccarelli, Prof. Dr. Eugenio D'Amico and Prof. Dr. Gerardo Losito as Judicial Commissioners, assigned with the management of the company.
- 1.3. In an order dated 30 November 2023, the Court of Milan, judging that FIMER met the requirements under Art. 27 of Legislative Decree 270/1999, opened the Extraordinary Administration procedure and ordered that the business activities would continue "*under the management of the Judicial Commissioners, until the Ministry of Enterprise and Made in Italy takes measures in accordance with Art. 38 of Legislative Decree 270/1999*".
- 1.4. By decree dated 7 December 2023, published in the Official Gazette No. 295 of 19 December 2023, the Minister of Enterprise and Made in Italy (the "**Ministry**") appointed Avv. Maurizio Ascione Ciccarelli, Prof. Dr. Eugenio D'Amico and Prof. Dr. Gerardo Losito (the "**Special Commissioners**" or the "**Commissioners**") as Special Commissioners of the Company.
- 1.5. On 23 April 2024, the Ministry, having consulted with the Supervisory Committee (the "**Committee**"), authorised the Transfer Programme, pursuant to Article 54 et seq. of Legislative Decree 270/99 (the "**Programme**").
- 1.6. On 11 July 2024, the Commissioners gave the Ministry and the Committee the information about the initiation of the present transfer procedure (the "**Transfer Procedure**") aimed at identifying interested parties (the "**Interested Parties**") with which to initiate a transaction for the transfer, **inseparably and as a whole**, of the FIMER Business complex

(the “**Subject of the Procedure**”) to be completed by means of an assignment (the “**Transaction**”), in compliance and in accordance with **(i)** the principles of equal treatment, transparency, publicity and non-discrimination, **(ii)** the provisions of Articles 62, 63 and 64 of Legislative Decree No. 270/99, and **(iii)** taking into account the value of the Business Complex determined by the expert appointed pursuant to Article 62, Paragraph, 3 of Legislative Decree 270/99.

## **2. SUBJECT OF THE PROCEDURE**

- 2.1. The Subject of the Procedure is the transfer, **inseparably and as a whole, by assignment of:**
- a. the business complex owned and operated by Fimer at its plant in Terranuova Bracciolini (AR) consisting essentially of **(i)** real estate located in Terranuova Bracciolini (AR); **(ii)** plant, machinery and equipment; **(iii)** inventories (consisting essentially of raw materials and goods in progress); **(iv)** certifications, authorisations, permits *et similia*; **(v)** employment contracts (266 employees to this date); **(vi)** other contracts resulting in receivables and payables; **(vii)** movable assets including registered assets; **(viii)** intellectual property rights, Know how, trademarks and patents;
  - b. the foreign equity investments held by Fimer in **(i) Fimer India Private Limited** (industrial and commercial) (100 percent of the latter's capital); **(ii) Fimer Singapore Pte. Ltd.** (commercial and services) (100 percent of the latter's capital); **(iii) Marici Taiwan Co. Ltd.** (commercial and services) (100 percent of the latter's capital); **(iv) Fimer Turkey Yenilenebilir Enerji Sistemleri Ticaret Anonim Şirketi** (commercial and services) (100 percent of the latter's capital); **(v) Fimer Inc. (USA)** (commercial and services) (100 percent of the latter's capital); and **(vi) Marici Australia Holdings Pty Limited** (commercial and services) (100 percent of the latter's capital),

Hereinafter referred to as, jointly and inseparably, the “**Fimer Business Complex.**”

## **3. PARTIES ADMITTED TO THE TRANSFER PROCEDURE AND APPLICATION FOR ADMISSION TO THE DUE DILIGENCE ACTIVITY**

- 3.1. Only the parties admitted to the due diligence activity may be admitted to the Transfer Procedure (the “**Eligible Persons**”)
- 3.2. A request for admission to the due diligence activity (the “**Application for Admission**”) may be submitted by sole proprietorships or corporate enterprises (also deemed to be such under the law of their home state) of any nationality, either individually or jointly with other

sole proprietorships or corporate enterprises (the “**Consortium**”) that are able to guarantee **(i)** the continuation of the production activity of the **Fimer Business Complex** and **(ii)** the maintenance of employment levels.

- 3.3. The request for admission to the due diligence activity may not be submitted by sole proprietorships or corporate enterprises that: **(i)** are or have been in liquidation in the last 12 (twelve) months preceding the date of publication of this Call and/or in any of the situations referred to in Articles 2446 and 2447 of the Italian Civil Code and/or in situations that are equivalent according to the laws of their Country; **(ii)** are or have been subjected in the last 12 (twelve) months preceding the publication of this Call, in accordance with the laws of their Country, to any bankruptcy or other procedure indicating that they are in a state of insolvency, crisis, cessation of business and/or situations that are equivalent according to the laws of their Country, **(iii)** are subjected to a disqualification under Art. 9, paragraph 2, letter c) of Legislative Decree 231 of 8 June 2001, as amended and supplemented, and/or to any of the disqualifications or precautionary measures under Articles 13 et seq. of the same Decree or have been subjected to penalties that are equivalent according to the laws of their Country **(iv)** have been subjected or – for corporate enterprises – the members of their management, governance and supervisory bodies have been subjected (a) to procedures for the application of any of the prevention measures under Legislative Decree 159 of 6 September 2011, as amended and supplemented, or to equivalent procedures or similar impediments under the laws of their Country, subject to the effects of rehabilitation; (b) to a final sentence or penalty order become irrevocable, for crimes affecting professional morality, subject to the effects of rehabilitation, or to similar measures for equivalent crimes, in accordance with the laws of their Country; (c) to a judgment applying a penalty requested by the parties within the meaning of Article 444 of the Italian Code of Criminal Procedure, for crimes affecting professional morality, or to a similar measure in accordance with the laws of their Country, subject to the effects of rehabilitation.
- 3.4. Requests for Admission that are proposed for a person to be nominated, that are expressed by intermediaries or trust companies, or for which the sole proprietorship or corporation or the members of the Consortium are not clearly identifiable will not be considered.
- 3.5. The absence of the impediments to participation in the Procedure referred to in paragraph 3.3 above shall be attested by the applicant by means of a statement in lieu of affidavit made in accordance with the provisions of Presidential Decree No. 445 of 28 December 2005.

- 3.6. The Commissioners reserve the right to carry out any appropriate verification of the truthfulness of the statements made as well as to request any further useful and/or necessary documentation regarding the contents of the statements.

#### **4. THE CONTENTS OF THE APPLICATION FOR ADMISSION**

- 4.1. The Application for Admission must contain:
- a. the basic information necessary for the complete identification of the applicant or of each member of the Consortium (if a corporate enterprise: the name, registered office, tax code and VAT number, or other identifier according to the law of the State of affiliation; if a sole proprietorship: the first name, last name, tax code and VAT number, or other identifier according to the law of the State of nationality/residence);
  - b. an indication of the contact details at which the applicant wishes to receive all communications regarding the Procedure, including a regular and certified e-mail address. In the case of a Consortium, only one valid address must be given for all members of the Consortium;
  - c. the statements under item 3.5 above;
  - d. the confidentiality commitment and due diligence regulation signed by the person signing the Application for Admission or, in the case of a Consortium, by each member of the Consortium. **Both documents are published on the websites** referred to in Article 11.7 below and must be (i) signed at the bottom by the applicant as well as initialled on each page as a sign of formal, express and unconditional acceptance of the relevant contents, without making any changes and/or additions, and (ii) submitted in accordance with the provisions of Article 5.1 below.
  - e. Both documents referred to in (d), are published in Italian (the official language of the Procedure according to Article 4.3 below) and in English.
- 4.2. The Application for Admission must also be accompanied by:
- a. a copy of this Call initialled on each page and signed at the bottom by the applicant (if a corporate enterprise, by its legal representative or by a person with the necessary powers to validly bind the applicant; if a Consortium, by the legal representative of each member of the Consortium or by a person with the necessary powers to validly bind all the members of the Consortium), as a sign of full and unconditional acceptance of all the terms and conditions indicated therein;
  - b. in the case of a corporate enterprise, documentation proving the signing authority of the person signing the Application for Admission, a copy of an extract of all past records referred to the company (or other equivalent document) updated to no more

than 7 (seven) days prior to the date of the Application for Admission. In the case of a Consortium, the above documentation must be submitted by each member of the Consortium.

- 4.3. The Application for Admission and all documentation attached to it must be written in Italian. Should the Application for Admission and/or any documents be in a language other than Italian, they must be accompanied by a sworn translation. In any case, only the Italian language translation will be considered.
- 4.4. If the applicant is an entity controlled or subject to management and coordination by another sole proprietorship or corporate enterprise or is part of a corporate group, it must provide the information referred to in Article 4.1 above and the chamber of commerce extract referred to in Article 4.2(b) also with reference to the parent company or the ultimate parent company that is the effective owner of the power to control and direct and coordinate the group to which the applicant belongs. Control is deemed to exist where the situations referred to in Article 2359, first and second paragraphs, of the Italian Civil Code are present, or equivalent situations in accordance with the laws of their Country.

## **5. TIME LIMITS FOR SUBMITTING THE APPLICATION FOR ADMISSION**

- 5.1. The Application for Admission must be sent, complete with the documents and statements provided in this Call, to the certified e-mail address: **as1.2023milano@pecamministrazionestraordinaria.it** and/or to the ordinary electronic mail address **as1.tender@fimer.com** indicating as **subject line** "*Expression of Interest in submitting binding bids for the transfer, inseparably and as a whole, of the Fimer Business Complex.*"
- 5.2. Applications for Admission must be received **by 31 August 2024 at 15:00 CET**.
- 5.3. The date and time of the email message will be recognised as the date and time of receipt.

## **6. ADMISSION TO THE DUE DILIGENCE ACTIVITY**

- 6.1. Within the next 3 (three) business days after the expiration of the deadline referred to in Article 5.2, the Commissioners shall notify the Eligible Persons, who have been found to meet the requirements, of their admission to the due diligence activity together with the appropriate letter of procedure (the "**Letter of Procedure**") that will regulate the terms and conditions of the submission of the Binding Bids and the future transfer.
- 6.2. Within the same timeframe as in Article 6.1, the Commissioners will notify the applicant of any additional documentation deemed necessary to prove possession of the requirements. Until the applicant has proved that it meets the requirements and has filed

all the documentation specified in this Call, it will not be admitted to the due diligence activity.

## **7. TRANSFER PROCEDURE STEPS**

- 7.1. The Procedure consists of two steps, the second of which is optional.
- 7.2. The first stage regards the submission of Binding Bids and the identification of the best Binding Bid (the "**First Step**") according to the provisions of the Letter of Procedure.
- 7.3. If more than one Binding Bid is submitted, the Commissioners reserve the right to request, from the Eligible Persons who submitted such Binding Bids, to submit an improved bid (the "**Improved Bid**"), with respect to the best Binding Bid (the "**Second Step**"). Such a request, if any, will be made by means of an appropriate communication (the "**Letter for Relaunch Bids**").
- 7.4. If the Commissioners do not, in their sole discretion, deem it necessary to call for an Improvement Bid, the Procedure shall be provisionally awarded to the Binding Bid found to be the best at the end of Step One.
- 7.5. The outcomes of the Procedure will in any case be reported to the Ministry. The final award and the transfer by assignment, inseparably and as a whole, of the **Fimer Business Complex** are subject, after hearing the Committee's opinion, to the Ministry's authorisation in accordance with current legislation.

## **8. SUBMISSION OF BINDING BIDS**

- 8.1. Binding Bids for the First Step must be submitted by the Eligible Persons -regardless of their due diligence start date- by **15 October 2024 at 15:00 CET**.

## **9. LETTER OF PROCEDURE AND AWARD CRITERIA**

- 9.1. The Letter of Procedure will specify, *inter alia*, the evaluation criteria and related scores, if any, of the Binding Bids to be used for the selection of the best bid and which will mainly concern:
  - a. the price offered;
  - b. the business plan submitted, with particular regard to ensuring the continuation of the company's business activities (i.e., the operational and business development programs and the economic-financial budget for the two-year period following the transfer by assignment of the Fimer Business Complex, the minimum planned investments and any other indication useful to corroborate the industrial, economic and financial capacity of the Bidder for the purposes of the provisions of Article 63, third paragraph, of the Prodi *bis* Law);

- c. the plan for organising personnel and maintaining employment levels (*i.e.*, the number of employees of the Fimer Business Complex to be hired, broken down by category and classification level) and the Bidder's commitment to maintain these levels for at least two years following the transfer of the Fimer Business Complex.

## **10. REQUEST FOR FURTHER EXPLANATIONS**

- 10.1. Should the interested parties wish to receive further explanations and/or information in connection with the submission of the Application for Admission, they may request them by sending appropriate communication in Italian, exclusively by e-mail, to the PEC address **as1.2023milano@pecamministrazionestraordinaria.it** and or to the ordinary electronic mail address **as1.tender@fimer.com**.

## **11. ADDITIONAL PROVISIONS**

- 11.1. The publication of this Call and the receipt of the Application for Admission by the Commissioners shall not imply any obligation or commitment on the part of the Commissioners to act on this Call with respect to the applicants, nor shall the applicants have any right to make any claim against the Commissioners.
- 11.2. The Commissioners reserve the right to discontinue this Call at any time and without any justification, and/or to collect Binding Bids or to suspend, discontinue and/or modify the terms and conditions of this Call and/or any other subsequent act of the Procedure, without the applicants having any claim against the Commissioners for compensation or indemnity, or for any other reason, including with respect to the costs incurred in submitting the Application for Admission and/or the subsequent submission of the Binding Bid.
- 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 solicitation of public savings within the meaning of Articles 94 et seq. of Legislative Decree No. 58 of 24 February 1998.
- 11.4. Each applicant will bear its own costs arising from its own research and evaluations, including any expenses due to its attorneys and consultants, as well as any other costs related to the analysis of this Call, the study and submission of the Application for Admission and/or the submission of the Binding Bid and/or to due diligence activities.
- 11.5. The processing of data submitted by applicants will be carried out in accordance with the provisions of EU Regulation No. 2016/679 (GDPR). Pursuant to the aforementioned legislation, the processing of personal data will ensure the full protection of the rights of applicants and their privacy; the processing of the aforementioned data is intended to enable the verification of the eligibility of applicants to submit the Application for

Admission. The data controller will be FIMER S.p.A. under Extraordinary Administration, in the person of the Commissioners (or the person delegated by them).

- 11.6. This Call and the provisions hereof shall be (i) governed by and construed in accordance with Italian law, (ii) subject to Italian jurisdiction, and (iii) any and all disputes relating to this Call and/or connected with and/or dependent upon and/or consequent upon it shall be submitted to the exclusive jurisdiction of the Court of Milan.
- 11.7. This Call is published in full, in Italian and English, on the FIMER procedure website <https://fimerspainas.fallcoweb.it/> and on the Company's website <https://fimer.com>, whereas an extract in Italian is published in "*Il Sole 24 Ore*" and "*Corriere della Sera*" and an extract in English in the "*Financial Times*".

Milan, 18 July 2024

**The Special Commissioners**

Prof. Dr. Eugenio D'Amico

Avv. Maurizio Ascione Ciccarelli

Prof. Dr. Gerardo Losito

