

## CONFIDENTIALITY AGREEMENT

**BETWEEN**

**Autostrada Pedemontana Lombarda S.p.A.**, \_\_\_\_\_

(hereinafter also referred to as "**APL**")

**AND**

[\*], With residence / registered office in \_\_\_\_\_, \_\_\_\_\_ social security number \_\_\_\_\_, VAT number \_\_\_\_\_, in the person of Mr. [\*], born in [\*] on [\*] resident in \_\_\_\_\_, \_\_\_\_\_ no. \_\_, entrusted with the necessary powers pursuant to \_\_\_\_\_;

(hereinafter also referred to as "[\*]")

**APL** and [\*] are hereinafter jointly referred to as "**Parties**" and individually as "**Party**".

**GIVEN THAT:**

- I. On 1<sup>st</sup> August 2007 the Single Convention of Concession for the purpose of "awarding the design, realization and management of the motorway between Dalmine, Como, Varese, Valico del Gaggiolo and the related works", approved by inter-ministerial Decree, on 12<sup>th</sup> February 2008, no. 1667 (registered by the Court of Auditors, on 18<sup>th</sup> April 2008, reg. 4, sheet 144), was signed between the Concessioni Autostrade Lombarde S.p.A . (hereinafter referred as the "Grantor") and APL;
- II. Following the meeting of 1<sup>st</sup> August 2014, in which the Inter-ministerial Committee for Economic Planning ("CIPE") approved the new company's financial and economic plan which includes tax relief measures pursuant to Article 18 of Law 183/2011, the APL Board of Directors has announced the launch of the procedure for the awarding of the following contracts:
  - medium–long term loan agreement of a maximum amount of approximately € 2,950,000,000.00 (two billion nine hundred fifty million / 00) of which:
    - a) € 2,600,000,000.00 (two billion six hundred million / 00) as Senior Facility (the "**Senior Line**"), for the execution of the works included in the Convention and - for an amount equal to € 200,000,000.00 (two hundred million / 00) - for the refinancing of the Bridge Loan Agreement ("line A");

- b) € 350,000,000.00 (three hundred and fifty million / 00) as VAT Facility;
  - c) a Guarantee Facility, of € 200,000,000.00 (two hundred million/00), earmarked to (i) the release of the sureties pursuant to Art. 6 of the Single Convention, as amended by the Additional Act no. 2 of the Single Convention, for the proper execution of the works or for the proper performance of the operations covered by the Convention, and (ii) a possible replacement of the Guarantee Facility ("Line B") of the Bridge Loan Agreement, amounting to approximately € 14,000,000.00 (fourteen million/00 ) or (iii) a possible replacement of the performance guarantee for the construction of Section B1 and the final design of the Second Batch of the Work and its validation, for a total amount of about € 10,000,000.00 (ten million/00), in the event that they have not yet been settled, by the publication of a notice for expression of interest.
- III. to participate in the tender procedure mentioned in the previous point, the interested parties should have access to the documentation inserted by APL in a dedicated Virtual Data Room;
- IV. since the information and documentation contained in the Virtual Data Room are strictly confidential and private, by signing this Agreement, the Parties seek to regulate the confidentiality obligations to which the Party accessing the virtual Data Room is subject.

### **IN VIEW OF THE ABOVE, THE FOLLOWING IS AGREED**

#### **1. DEFINITIONS**

**1.1.** In this Agreement, the terms and expressions specified shall have the meanings stated below. The singular terms include the plural and vice versa:

**"Agreement"** means this agreement;

**"Confidential Information"** means any information contained in the records, in the documents and in any written text available in the Data Room except for information that is already in the public domain or which will become after the signing of the agreement for reasons other than the default of a Party. Such information includes but is not limited to: technical, financial and business information, models, contracts, agreements, information related to contractors, suppliers, consultants, partners, estimates, projects, market projections, software, compendia of codes, cards, logic diagrams, market intelligence, procedures, formulas, graphs and other materials, inventions, documentation, know-how, forms, techniques, drawings and sketches, data and any other information, including any information for products / contents / channels / services / technical and publishing projects, be the information directly related to APL and/or to other companies of the same corporate group that owns APL - as determined pursuant to article 2359 of the Civil Code, including the subsidiaries, parents, affiliates, associated and / or fellow companies –

or be the information related to third parties, without prejudice to their right to authorize, where applicable, the disclosure of information.

"**Third Parties**" means parties with whom the Parties, in various capacities, exchanged or exchange information, as well as any other person who might unduly acquire/become aware of confidential information contained in the Data Room.

"**Effective Date**" means the date on which the Agreement is signed by the Parties.

## **2. SUBJECT**

- 2.1.** The Agreement covers the regulation of the rights and obligations of the Parties with respect to the Confidential Information, of "private" nature.

## **3. OBLIGATIONS**

### **3.1. Non-disclosure**

With the exception of what provided below or prescribed by Law - and unless APL provides written authorization - no subject which has been granted access to the Data Room shall reveal or transmit acquired confidential information to third parties.

The Party granted access to the Data Room, without prejudice to all the provisions of Legislative Decree no. 196/2003, commits itself not to disclose the information and the data contained in the documentation placed at its disposal by APL or of which it becomes aware during the consultation / viewing thereof to Third Parties and to prevent Third Parties from coming to know of it and using in any way and in any form, for reasons that are not strictly related to the subject of the above-mentioned support.

### **3.2. Respect of confidentiality**

The Party granted access to the Data Room shall transmit or provide access to the Confidential Information only to those subjects for which access authorization is sought under the provisions included in the notice for expression of interest.

In accordance with the previous provisions, the same Party shall inform its employees who have received Confidential Information that they are subject to any restrictions contained in the Agreement.

If the Party concerned in the access is unable to ensure that its employees will comply with the provisions of this Agreement, it commits itself to take all the necessary measures to ensure that Confidential Information is not disclosed to those employees and that they do not have access to the Confidential Information.

The Party admitted to the Virtual Data Room will be responsible towards APL if its employees or any other people come directly or indirectly, with regard to access enabled, into possession of the

information contained in the Data Room, disclose such Confidential Information in violation of the provisions of the Agreement, may this lead to harm or damage to APL.

### **3.3. Use of Confidential Information**

The Party accessing the Data Room is committed:

- (i) to maintain absolute secrecy about the information contained in the Data Room and take the necessary precautions to protect this information;
- (ii) to not use the information contained in the data room for purposes other than those related to participation in the notice for expression of interest.

### **3.4. Recognition of irreparable damage**

The Party accessing the Data Room acknowledges and agrees that, given the unique nature of the information contained in the Virtual Data Room, the violation of any of the obligations under this Agreement, will lead to irreparable damage to APL and that, therefore, as a consequence of such breach, APL will proceed by implementing any action or adequate remedy at Law.

## **4. NO RIGHTS TRANSFERRED – INDEMNITIES**

- 4.1.** The Party granted the access to the Data Room acknowledges that nothing in the Agreement requires to disclose the information contained in the Data Room.
- 4.2.** In addition the Parties mutually agree that the Agreement is solely considered as a confidentiality agreement. In particular, the parties expressly agree and mutually acknowledge that nothing in the Agreement should be interpreted as an obligation of the Parties to reach the signing of any contract or any type of agreement. Therefore, neither Party shall be liable, for any title and in any location, for the non-conclusion of agreements, of any nature and / or type, relevant and / or related to the subject of this Agreement.
- 4.3.** The Party granted the access to the Data Room agrees to indemnify APL from claims that may be made by third parties in connection with proven violations of the confidentiality obligations hereunder.
- 4.4.** The Agreement does not constitute an agreement between the Parties for granting any license or other right / discretion to use patents, trademarks, brands, models or other industrial or intellectual property rights. The Agreement shall not be construed so as to grant to the admitted Party right / discretion on the contained information, without prejudice in any case to the right of the admitted Party to use that information in connection to the notice for expression of interest.
- 4.5.** The Party admitted to the Data Room, hereby commits itself to indemnify the company Autostrada Pedemontana Lombarda SpA against any claim, claim for damages and / or compensation, costs, expenses, losses, which can directly and / or indirectly result from the communication and / or unauthorized use or disclosure of the confidential information above.

## **5. AGREEMENT DURATION, VALIDITY AND SURVIVAL**

**5.1.** The Agreement shall be effective and binding from the Effective Date.

## **6. APPLICABLE LAW**

**6.1.** The Agreement is governed by the Italian Law.

## **7. DISPUTE RESOLUTION**

**7.1.** Any possible dispute between the Parties in connection with the formation, interpretation, execution and / or termination of this Agreement shall be assigned to the exclusive jurisdiction of the Court of Milan, with the exclusion of any other court eventually competitor.

## **8. PROHIBITION OF TRANSFER**

**8.1.** Neither this Agreement nor any of the rights, interests or obligations arising from the same may be assigned or transferred by either Party to a third party, without the prior written consent of the other Party. Therefore, any assignment or transfer made in violation of this Section 8, shall be considered null and void.

## **9. AMENDMENTS**

**9.1.** The Agreement may only be amended in writing, and the corresponding amendment will be valid only if signed by authorized representatives of each Party.

## **10. WAIVER**

**10.1.** The violation of the provisions of the Agreement shall not constitute a waiver of rights or remedies provided in it or in any way affect the validity of this Agreement or any part thereof.

## **11. PRIVACY**

**11.1.** To the effects of the Agreement, the Parties shall comply with the provisions of Legislative Decree no. 196 of 30<sup>th</sup> June 2003 and subsequent amendments and additions concerning the protection of persons and other subjects regarding the processing of personal data.

Pursuant to and for the purposes of Articles 1341 and 1342 of the Civil Code, the Party granted access to the Data Room recognizes and declares that this Agreement has been carefully analyzed and evaluated in

each of its parts and, therefore, by placing its signature below, it specifically confirms and approves the following clauses:

Art. 3 (Obligations) - Art. 4 (No Right Transferred - Indemnities) - Art. 7 (Dispute Resolution) - Art. 8 (Prohibition of Transfer) - Art. 10 (Waiver) - Art. 11 (Privacy).

[Place, date]

[Signature]