**CITY OF VENICE**

***Restricted procedure for the award of the concession to manage the gambling house in Venice after the sale of VeneziaCasinòGiocoSpA, wholly owned by CMV SpA***

**ANNEX 5 TO THE TENDER SPECIFICATIONS**

**APPLICATION TO PARTICIPATE IN THE PROCEDURE[[1]](#footnote-2)**

Messrs

City of Venice

\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_ Venice

**APPLICATION TO PARTICIPATE IN THE PROCEDURE**

I, the undersigned............................................................born on........................... at ............................................. and residing at ............................. (.....) in .............................., in my capacity as .......................................................... [or as a special proxy holder, based on the special power of attorney signed and authenticated on ......................... by the Notary in................................, Mr....................................., index no. .................] ................................................................................... and legal representative of the Company, headquartered at........................., in................................................... with tax file number …………………………… and VAT number .......................................... ... .................................................. ([or: of the temporary grouping of companies - "RaggruppamentoTemporaneo di Imprese” – “**RTI”**)[or Consortium] to be/already established with principals ..................................................................... ........................ [with the consortium member companies .....................................................................................], within which the Company ......................................... shall be the parent company/agent)] (the "**Company**")………………………………….. ([for RTI in the process of formation: and with the commitment to grant, if awarded the contract, collective special mandate with free and irrevocable representation to the company designated as parent company/agent])

**ASK**

that the Company be allowed to participate in the Procedure in question.

To this end, the undersigned, in the name of and on behalf of the Company, in compliance with the matters set forth by the Contract notice (the “**Contract notice**”), the relatedTender Specifications (the “**Specifications**”), whose contents are accepted in full, aware of the penalties set forth under article 76 of the same Presidential Decree 445/2000 as amended, for any falsified documents or mendacious declarations made herein under own responsibility, according to and for the effects of articles 46 and 47 of Presidential Decree 445/2000 as amended

**HEREBY DECLARES**

under own responsibility,

A) with reference to the matters set forthunder point III.2.1) of theContract notice,

1) that the conditions of exclusion set forth under article 38, section 1, of letter a) to letter m-*quater*, of the Legislative Decree no. 163 of12 April 2006 (the “**PublicContract Code**”) do not apply. Specifically:

a) that the Company is not involved in bankruptcy, forced liquidation, composition with creditors, except in the case under article 186-bis of theRoyal Decree no. 267 of 16 March 1942, and that against him there are no procedures for declaration of one of these situations (article 38, paragraph 1, letter a);

b) that no proceeding is pending against theCompany[[2]](#footnote-3) and its representatives or technical director or sole partner or the majority shareholder for a company of less than 4 (four) partners, for application of the preventative measures under article 6 of Legislative Decree 159/2011 or one of the impediments set forth under article 67 of Legislative Decree 159/2011 (article 38, section 1, letter b);

c) that no conviction with final judgment (*res judicata*) or irrevocable decree or plea bargainin accordance with article 444 of the Code of Criminal Procedure has been issued against theCompany[[3]](#footnote-4)and its representatives or technical director or sole partner or the majority shareholder for a company of less than 4 (four) partners,for serious crimes against the state or the European Community which could affect professional ethics nor has any conviction in a criminal proceeding been issued for one or more crimes of participation in a criminal organization, corruption, fraud, or money laundering, as defined by the European Community provisions cited in article 45, paragraph 1, Directive 2004/18 EC (note that, where criminal convictions have been issued, it is essential to identify all, including also convictions that enjoyed the benefit of being stricken from the record pursuant to article 38, section 2, of the Public Contract Code unless the crime was decriminalized, the perpetrator was rehabilitated, the crime is no longer punishable after the conviction, or the conviction was rescinded) (art. 38, section 1, letter c);

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………..;

c1) in the year prior to the date of publication of theContract notice, no individuals have left company office pursuant to article 38, paragraph 1, letter c, of the Public Contract Code;

*or*

c1) the names and details of the individuals leaving company office indicated in article 38, paragraph 1, letter c, of the Public Contract Code in the year prior to the date of publication of the Contract notice, are as follows:

………………………………………………………………………………………………….................................……………………………………………………………………………………………….................................………………………………………………………………………………………………….............................................................................................................................................................................................. and against these individuals during the time they played company roles:

i)no conviction with final judgment (*res judicata*) or irrevocable decree or plea bargainin accordance with article 444 of the Code of Criminal Procedure has been issuedfor crimes which could affect professional ethics nor has any conviction with final judgment (*res judicata*) been issued for one or more crimes of participation in a criminal organization, corruption, fraud, or money laundering, as defined by the European Community provisions cited in article 45, paragraph 1, Directive 2004/18 EC (note that, where criminal convictions have been issued, it is essential to identify all, including also convictions that enjoyed the benefit of being stricken from the record pursuant to article 38, section 2, of the Public Contract Code unless the crime was decriminalized, the perpetrator was rehabilitated, the crime is no longer punishable after the conviction, or the conviction was rescinded);

……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………..;

*or*

ii) in the event of convictions against them, the company must demonstrate the comprehensive and actual disassociation from the criminal conduct demonstrated with the attached documentation

……………………………………………………………………………………………………………………………………………………………………………………………………………………………………….………….;

d) the Company has not violated the prohibition on trust companies set up by article 17 of Law no. 55 of 19 March 1990 (article 38, section 1, letter d);

*or*

d) the company has violated the prohibition on trust companies set up by article 17 of Law no. 55 of 19 March 1990, one year has passed since this violation has been certified and the Company has removed this violation;

e) the company has not committed serious infractions duly certified under the provisions regarding safety and any other obligation arising from work relationships resulting from data in possession of the Institute (article 38, section 1, letter e);

f) according to the motivated assessment of the City of Venice, the company has not committed gross negligence or intentional action in execution of the services assigned by the City of Venice which has announced the Procedure and which has not committed a serious error in exercise of the professional activity certified with any means of proof by the City of Venice (article 38, section 1, letter f);

g) the company has not committed serious violations (as defined by article 38, section 2, of the Public Contract Code), definitively certified, with respect to the obligations related to payment of the taxes and fees, according to Italian legislation or legislation of the state in which it operates (article 38, section 1, letter g);

h) in accordance with article 38, section 1-ter of the Public Contract Code, there have been no notations made in the records pursuant to article 7, section 10, of the Public Contract Code for submitting falsified declarations or untrue statements in relation to requirements and conditions related to the participation in contract procedures for awarding subcontracts (article 38, section 1, letter h);

i) the company has not committed serious, proven violations to regulations relating to social security and health care fees, according to Italian legislations or the country in which the company operates (article 38, section 1, letter i);

l) in accordance with article 17 of Law no. 68 of 12 March 1999, the company is in compliance with the rules relating to employment of disabled persons pursuant to Law no. 68/1999 (if a contract participant employs fewer than 15 employees or if a contract participant employs from 15 to 35 employees if no new hires have been made after 18 January 2000) (article 38, section 1, letter l);

*or*

l) the Company has complied with the mandatory employment commitmentsunder Law no. 68/1999 (if a contract participant employs fewer than 35 employees orif the contract participant employs from 15 to 35 employees and has made new hires after 18 January 2000) (article 38, section 1, letter l);

m) no ban has been applied against the company under article 9, section 2, letter c), of the Leg. Decree no. 231 of 8 June 2001 or another penalty that leads to the ban on contracting with the public administration including the bans under article 36-bis, section 1, of Decree Law no. 223 of 4 July 2006, amended and converted by Law no. 248 of 4 August 2006 (article 38, section 1, letter m);

n) the Company does not possess any SOA certificationnor, consequently, in accordance with article 40, section 9-quater of the Public Contract Code, no registration in the records of the Institute under article 7 section 10 of the Public Contract Code for submitting mendacious statements or falsified documents regarding issue of the SOA certification (article 38, section 1, letterm-bis);

*or*

n)in accordance with article 40, section 9-quater of the Public Contract Code, there is no information registry of the Observatory under article 7 section 10 of the Public Contract Codes, for submitting mendacious statements or falsified documents regarding issue of the SOA certification (article 38, section 1, letterm-bis);

o) there is no condition under article 38, section 1, letterm-ter of Leg. Decree 163/2006against the Company[[4]](#footnote-5) and against the legal representatives or technical director or sole partner or majority shareholder for companies with fewer than 4 (four) shareholders,which sets forth the exclusion from participation in procedures under section 1 of the individuals which, while victims of the crimes set forth and punished under articles 317 and 629 of the Criminal Code, aggravated according to article 7 of Decree Law no. 152 of 13 May 1991, amended and converted by Law no. 203 of 12 July 1991, have not reported the events to the police, save for the cases set forth under article 4, first section, of Law no. 689 of 24 November 1981, (article 38, section 1, letter m-ter)[[5]](#footnote-6);

p) with respect to another participant in the same granting procedure, the company is not involved in a control situation as described under article 2359 of the Civil Code or in any relationship, including de facto, which implies that the offers have been made by a single decision-making unit, based on unique elements; to this end, in accordance with article 38, section 2, of the Public Contract Code, the company declares (*alternatively*);

(i) to not be in a situation of control under article 2359 of the Civil Code with any subject, and to have formulated the offer autonomously;

(ii) to not be aware of the participation in the same procedure of individuals who, with respect to the Company, are in a control situation under article 2359 of the Civil Code with any subject, and to have formulated the offer autonomously;

(iii) to be aware of the participation in the same procedure of individuals who, with respect to the Company, are in a control situation under 2359 of the Civil Code with any subject, and to have formulated the offer autonomously.

2) for consortia,pursuant to article 34, section 1, letters b) and c) of the Public Contract Code under which the consortium, in accordance with the matters set forth under article 36, section 5 and article 37, section 7of the Public Contract Code compete with the following associated companies (identify name, company name, legal office, and tax code of each member, as well as the percentage of ownership in the consortium and the parts of the service that will be executed by the individual associated economic operators:

…………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

*or*

2) for RTI, established or in the process of formation pursuant to article 37 of the Public Contract Code that the company participates in the competition as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(parent company/agent), together with the following, indicate the name and role played in the RTI: agent/parent companyagent: …………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

3) the company is registered in the Companies’ Register of the Chamber of Commerce, Industry, Handicrafts and Agriculture of the Province of: ………………………………. (for businessesset up in countries outside of Italy, members of the European Union, identify the date of registration in the Register or the Official List in the state of membership) for the following activities:

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………..; and that the registration information is as follows:

registration number…………………………………………………… date of registration …………………………………………………………………….…duration of the enterprise /term ………………………………………………………………………… legal form ………………..……………………………………………….……………........... owners, partners[[6]](#footnote-7), technical directors, legal representatives(indicate the names, credentials/title, date of birth and place of residence):

……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………..…………………………………………………………………………………………………………;

*or*

3) the Company does not have legal office in the European Union but it is registered in the Register or Official List of the state of belonging (where existing) for the following activities:

………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………..;and that the registration information is as follows:

registration number…………………………………………………… date of registration …………………………………………………………………….…duration of the enterprise /term ………………………………………………………………………… legal form ………………..……………………………………………….……………........... owners, partners[[7]](#footnote-8), technical directors, legal representatives (indicate the names, credentials/title, date of birth and place of residence):

……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………..………………………………………………………………………………………………………….

The company is established pursuant to point III.2.1)A) of theContract notice andarticle 3 of the Specifications, only for the purpose of carrying out the controls indicated, an administrative office in the country of the European Union indicated below:

……………………………………………………………………………………………………under the responsibility of the representative engaged for that purpose:

……………………………………………………………………………………………………

4) no reasons for exclusion indicated under article 24, section 25, of Decree Law no. 98 of 6 July 2011, as amended and convertedby Law no. 111 of 15 July 2011.

Specifically:

i) the owner or legal representative, or the general director of the Company or the individual responsible for the secondary offices or establishedorganizations in Italy of non-resident operators, as well as the spouse not legally separated of the individuals indicated above are not convicted or charged with one of the offences set forth under articles 2 and 3 of Legislative Decree no. 74 of 10 March 2000, and articles 314, 316, 317, 318, 319, 319-ter, 320, 321, 322, 323, 416, 416-bis, 644, 648, 648-bis and 648-ter of the Italian Code of Criminal Procedure of, if committed abroad, for a charge of organized crime or money laundering from illegal activities;

ii) the company is not owned, directly or indirectly, in an amount greater than 2% of the share capital or equity by individuals or their spouses (not legally separated) who have been convicted or charged with one of the offences set forth under articles 2 and 3 of Leg. Decree no. 74 of 10 March 2000, and articles 314, 316, 317, 318, 319, 319-ter, 320, 321, 322, 323, 416, 416-bis, 644, 648, 648-bis and 648-ter of the Criminal Code or, if committed abroad, for a charge of organized crime or money laundering from illegal activities;

5) the company has not violated, subsequent to the entry into force of article 1, section 17 of Law no. 190 of 6 November 2012, clauses contained in the protocols of legality or in the agreements signed with contract awarding companies or public administrations pursuant to article 1, section 17, of Law no. 190 of 6 November 2012;

6) there is no reason for an inability to contract with the public administration set forth under53, section 16-ter, of Leg. Decree no. 165 of 30 March 2001;

7) (with reference to Operators in the field covered by article 37 of Decree Law no. 78 of 31 May 2010), the Ministry of Economics and Finance has issued authorization, pursuant to article 37 of Decree Law no. 78 of 31 May2010, according to the methods and terms established underthe Decree of the Ministry of Economics and Finance of 14 December 2010, published in the Official Journal of the Italian Republic, issue 46 of 25 February 2011;

8) the company is registered at the following Revenue Office (for operators established outside of Italy, indicate the registration information at a similar office – where such office exists – of the country of membership):

……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………...;

B) with reference to the matters underpoint III.2.2) of the Contract notice, the company realized in the last three years (2010-2011-2012), specific average annual revenue related to the management service of gambling houses for an amount (VAT not included) not less than double the amount earned by the actual CMV Gioco group in the last year (2012) and, as a result, equal to € 202,929,864,00[[8]](#footnote-9). To this end, the following are attached: i) declaration of at least two banks or brokers authorized pursuant to Leg. Decree no. 385 of 1 September 1993, attesting to the economic and financial capacity to fulfil the obligations that arise from winning awards;ii) declaration signed in compliance with theprovisionsof the Presidential Decree no. 445 of 28 December 2000, related to financial statements or abstracts of the company;

C) with reference to the matters required underIII.2.3) of the Contract notice, the company has accrued at least five years of experience in the segment of gambling facilities[[9]](#footnote-10). Also attached is a list of the main services in the sector subject to contract awarding and provided in 2008, 2009, 2010, 2011 and 2012;

D) to satisfy possession of the requirements set forth under points III.2.2) e III.2.3) of the Contract notice, the company shall use, within the limits and according to the methods set forth by article 49 of the Public Contract Code. To this end, the documentation set forth by article 49 of the Public Contract Code.

\*\*\*\*\*

In accordance with and for the effects under Leg. Decree no. 196 of 30 June 2003, the company gives its consent the City of Venice to process of my personal and/or sensitive data relating to the company. Pursuant to article 79, section 5-bis of the Public Contract Code, every communication related to the Procedure can be sent to the registered office of the company in …………………………………..……………………., tel. no. …………………………… and fax no…………………………….., e-mail address:………………………………., to the attentionof Mr………………………..

The following documents are enclosed:

a) list of shareholders/partners[[10]](#footnote-11);

b) declaration of at least two banks or brokers authorized pursuant to Leg. Decree no. 385 of 1 September 1993, attesting to the economic and financial capacity to fulfil the obligations that arise from contract awarding;

c) declarationsigned in compliancewith the provisionsof the Presidential Decree no. 445 of 28 December 2000, related tofinancial statements or abstracts of the company;

d) list of the key services in the segment subject to tender, awarded in2008, 2009, 2010, 2011 and 2012;

e) documentation related touse under point D) of the declaration above.

………………………………

………………………………

In witness whereof,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_, on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date / Location

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of the Company (affix stamp here)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Full signature of the legal representative or duly authorized special proxy holder, and Company stamp)

N.B.

- This declaration must be accompanied by a photocopy, not authenticated, of the signer’s identity document.

In the case of a special proxy holder, a certified copy of the power of attorney document must also be attached.

In the case of Temporary Groupings of Companies or Consortia already established, this statement must be signed in full at the bottom by the legal representative or by a person authorized to sign by the designated parent company/agent.

In the case of Temporary Groupings of Companies or Consortia not yet established, this statement must be signed in full at the bottom by the legal representatives or by persons authorized to sign by all the businesses in the group or consortium.

1. This application form must be adapted to the specific nature of the form of participation in the procedure permitted by the Contract. The indications referring to RTI or Consortia are therefore not exhaustive. [↑](#footnote-ref-2)
2. For individual companies, the declaration must be made with reference to the owner or technical director; for general partnerships, the declaration must be made with reference to the partners or technical director; for limited partnerships, the declaration must be made with reference to the general partner or technical director. [↑](#footnote-ref-3)
3. For individual companies, the declaration must be made with reference to the owner or technical director; for general partnerships, the declaration must be made with reference to the partners or technical director; for limited partnerships, the declaration must be made with reference to the general partner or technical director. [↑](#footnote-ref-4)
4. For individual companies, the declaration must be made with reference to the owner or technical director; for general partnerships, the declaration must be made with reference to the partners or technical director; for limited partnerships, the declaration must be made with reference to the general partner or technical director. [↑](#footnote-ref-5)
5. The circumstance under the first stage must emerge from clues based on the request for adjournment formulate against the accused in the year prior to the publication of the announcement and must be communicated, with the general information of the subject who omitted the aforementioned report, the public prosecutor from the authority under article 6 of the Contract Code, which publishes the communication on the Institute’s web site. [↑](#footnote-ref-6)
6. For listed companies, a list of the shareholders/partners must be provided, if available, and/or indication of the sole shareholder or the majority shareholders. [↑](#footnote-ref-7)
7. For listed companies, a list of the shareholders/partners must be provided, if available, and/or indication of the sole shareholder or the majority shareholders. [↑](#footnote-ref-8)
8. In the case of R.T.I. or ordinary consortia or groupings of companies, the revenue related to operation of gambling houses must be held by an operating component of the industry or, in the case of multiple operators of gambling houses members, the R.T.I. or ordinary consortia or groupings of companies, cumulatively, by the operators of gambling houses. [↑](#footnote-ref-9)
9. In the case of R.T.I. or ordinary consortia or groupings of companies, the experience related to operation of gambling housesmust be held by at least one member of the R.T.I. or ordinary consortia or groupings of companies. [↑](#footnote-ref-10)
10. For listed companies,a list of the shareholders/partners must be provided, if available, and/or indication of the sole shareholder or the majority shareholders. [↑](#footnote-ref-11)