

REGULATIONS GOVERNING PARTICIPATION IN DYNAMIC NEGOTIATION ON SYNERGO PORTAL by PIZZAROTTI

v.1.1

1. PREMISES

- 1.1 Dynamic negotiation comprises a mechanism for defining via electronic means the elements necessary for performing commercial transactions namely the dynamic definition of price and other contract conditions involving the exchange of goods (the **Goods**) and services (the **Services**) (the **Dynamic Negotiation**). Dynamic Negotiation is between Pizzarotti & C. S.p.A., the party willing to purchase the Goods or Services (**Pizzarotti**) and several parties invited by the Pizzarotti willing to sell them (the **Sellers**).
- 1.2 BravoSolution S.p.A. (**BravoSolution**) has developed a technological platform comprising proprietary hardware and software licensed to Pizzarotti that allow for the implementation of Dynamic Negotiation (the **Platform**). The Platform may be utilized via the Internet at the address, www.pizzarotti.it, through a standard personal computer equipped with a common browser.
- 1.3 To the end of participating in the Dynamic Negotiation and accessing the Platform, each Seller shall be in possession of a dedicated user id and password. The user id shall be chosen and the password awarded upon registration on the Synergo Portal owned by Pizzarotti (the **Portal**).
- 1.4 Participation in Dynamic Negotiation shall be allowed solely for parties having VAT registration and prior registration on the Synergo Portal by Pizzarotti.
- 1.5 The document herein defines the functioning of the Dynamic Negotiation as well as the obligations and prescriptions Pizzarotti and the Sellers shall have to comply with during the implementation of the Dynamic Negotiation (the **Regulations**).

2. CONFIDENTIALITY OF DATA AND COMMERCIAL INFORMATION

- 2.1 Pizzarotti shall treat all data and commercial information pertinent to the implementation of each Dynamic Negotiation event (the **Event**) as strictly confidential.
- 2.2 In relation to the obligation stated in prior paragraph, Pizzarotti shall undertake to adopt the most suitable organisation, procedure and technological processes to the end of ensuring confidentiality.

3. THE WORKING OF DYNAMIC NEGOTIATION SYSTEM

- 3.1 The Dynamic Negotiation System, whose real time on line working is described in Art. 7 allows Pizzarotti to choose among several alternative operating configurations for the Event, as better described in Art. 8.
- 3.2 The preparatory stages (the **Preparatory Stages**) prior to the real time on line implementation of Dynamic Negotiation comprise: a) creation of the Event and invitation to Sellers (Art. 4); b) amendment of data (Art. 5); c) acceptance by Sellers (Art. 6).
- 3.3 All actions and communications made by the Sellers may, in all senses, be in accordance with two operating systems or even a combination of the two: a) on line; b) off line. The availability of both the afore stated operating systems shall be at the choosing of Pizzarotti. Should only one of the dual methods be operational, the Sellers shall undertake to operate on the system available.

- 3.4 The online operation envisages that the Sellers enter and change data, communicate with Pizzarotti and express their will by clicking on the dedicated keys or icons available on the Portal and/or using the messaging tool of Platform.
- 3.5 The off line operation envisages that Sellers turn to Pizzarotti and communicate pertinent information and data, own instructions and briefs via fax, e-mail or telephone. In case of telephone communication, Pizzarotti shall be entitled, in compliance with the provisions of the law, to proceed with the recording of the conversations. The Sellers acknowledge and accept that the telephone conversations recorded by Pizzarotti shall serve as a full fledged proof of facts and circumstances, even in absence of a subsequent confirmation via e-mail or fax.
- 3.6 The use of terms in the contract herein, namely "enter", "submit", "communicate", "forward" are understood to be pertinent to both on line and off line operating systems.

4. **CREATION OF THE EVENT AND INVITATION TO SELLERS**

- 4.1 Pizzarotti, at the termination of creating an Event, shall have to forward data deemed compulsory (the **Compulsory Data**).
- 4.2 Pizzarotti shall be entitled, at its own choosing, to supply additional data also in form of attachments ("**Optional Data**")
- 4.3 Upon defining both the Compulsory and Optional Data (the **Data**), Pizzarotti shall be entitled to access the same through its Personal Folder (**Buyer's Personal Folder**) on the Portal where the Event takes place
- 4.4 The Buyer, prior to the start of each Event, shall undertake to view the Data available in the Buyer's Personal Folder, including the choice of Event parameter configuration options as envisaged in Art. 8 below. The start of the Event, in the absence of any specific communication by the Buyer contesting or disavowing the contents of Buyer's Personal Folder, implies full and unconditional acknowledgement and acceptance of all Data available therein including Event parameter configuration options as envisaged in Art. 8 below.
- 4.5 Pizzarotti, subsequent to the creation of the Event, shall forward to Sellers, through the Synergo Portal by Pizzarotti, an invitation to participate in the Event itself. Pizzarotti shall consequently make available all Data in the Personal Folders of those Sellers who have been invited provided the latter have been registered and qualified for the Synergo Portal by Pizzarotti . (**Sellers' Personal Folders**).

5. **AMENDMENT OF DATA**

- 5.1 Pizzarotti shall be entitled to amend the Data, the list of Sellers invited, as well as Platform configuration parameters (the **Amendments**) until 2 (two) working days prior to the start of the Event. Said expiry, including Event starting date and every other time frame necessary for the implementation of the same, may be separately defined in Event publication letter issued by Pizzarotti (the **Letter of Publication**).
- 5.2 The Buyer, through the Portal, shall notify the Amendments to Sellers and request them to view the same on their own initiative.
- 5.3 The Sellers acknowledge and accept that the absence of any communication rejecting the Amendments by Sellers prior to Event starting date and, however the submittal of a quotation by the Sellers during the implementation of Dynamic Negotiation shall be understood to mean acknowledgement as well as full and unconditional acceptance of the Amendments.
- 5.4 Subsequent to the elapsed deadline pursuant to Art. 5.1 above, Pizzarotti shall be entitled, in exceptional circumstances, to make amendments pertinent to Data (the **Subsequent Amendments**). Pizzarotti, no sooner it is technically viable, shall notify Sellers, through its Portal, regarding Event amendments subsequent to the expiry of the deadline to perform Amendments, and request them to view the Subsequent Amendments and express either an acknowledgement or disavowal pursuant to the provisions stated in Art. 5.3 above.

6. ACCEPTANCE BY SELLERS

- 6.1 Sellers' acceptance of Pizzarotti's invitation to participate in the Event is understood to be implicit subsequent to the issue of a quotation during the implementation of the Event.
- 6.2 The acceptance of the invitation to take part in the Event and participation therein by the Sellers shall be understood to mean full-fledged acknowledgement and acceptance of the Data as well as the Amendments.

7. IMPLEMENTATION OF DYNAMIC NEGOTIATION - GENERAL PROVISIONS

- 7.1 Every single Event operates through the issue and forwarding of subsequent quotations by Sellers , on line and in real time, (the **Real Quotations**) until the closing of the Event in compliance with the conditions of implementation, the parameter configuration options and the obligations defined in the Regulations.
- 7.2 Should connection to the Platform of one or more sellers break off, during real time implementation of the Event, standing by the provisions of Art. 9, the forwarding of the Real Quotations into the system, at Pizzarotti's choosing, may also take place off line, in compliance with the operating conditions stated in Art. 3.5.
- 7.3 The Sellers acknowledge and accept that the system shall not allow them to view the identity of the other Sellers during the implementation of the Event.
- 7.4 The Event may be configured, at Pizzarotti's choice, in accordance with the alternative options available regarding Event configuration parameters described in Art. 8 below. Sellers participating in Event are understood to have accepted the parameter configurations as set by Pizzarotti.
- 7.5 Pizzarotti shall be entitled to attribute a Weighted Coefficient to the Real Quotations, at its complete choosing, in relation to varying elements relating to the Seller in addition to the nature of quotation namely, by way of example only, the technical features and the quality of products offered, the terms and conditions of payment as well as delivery ("**Weighted Coefficients**"). Should Pizzarotti exercise the option of assigning a Weighted Coefficient, a dedicated notification shall be made to Sellers. Weighted Coefficients shall not be altered from Event starting and shall therefore remain fixed and unchanged throughout the on line real time implementation of the Event, until the awarding. The Sellers shall acknowledge and undertake that Weighted Coefficients shall not be communicated to them. In case of weighted Dynamic Negotiation, the amounts pertinent to the quotations issued during the Event by other Sellers shall be made accessible to each Seller short-listed subsequent to the application of the Weighted Coefficients (the **Weighted Quotations**).
- 7.6 Pizzarotti shall reserve the right to decline the quotation of the Seller which turns out to be ten or more Minimum Decrease below the amount of the previous quotation made in the implementation of the Event by one of the other Sellers ("**Anomalous Quotation**"). In such a case, upon informing the Seller issuing the Anomalous Quotation, Pizzarotti shall delete the Anomalous Quotation and shall be entitled to bar the Seller from further taking part in the Dynamic Negotiation. Pizzarotti shall be entitled to set a different definition of Anomalous Quotation for each Event.
- 7.7 The Sellers acknowledge and accept that for the entire length of the Event, including the Preparatory Stages, and to the end of its implementation, closing, awarding and possible suspension and/or cancellation, the official as well as the lapsed time shall be deemed exclusively as displayed on the

Platform and other Pizzarotti recording and telecommunications equipment and said recordings shall represent the full range of facts and circumstances.

- 7.8 Should a Dynamic Negotiation Event be the follow-up of a prior on line Request for Quotation procedure, the Sellers acknowledge and accept that the Quotations forwarded during the on line Request for Quotation stage may represent, at Pizzarotti's choosing, the initial Quotation for the dynamic negotiation Event and/or its base price.

8. **IMPLEMENTATION OF DYNAMIC NEGOTIATION - EVENT CONFIGURATION PARAMETERS**

Standing by each of the afore stated and under-mentioned provisions governing all Events irrespective of their configuration, each Event could also configure the specific options listed in Pizzarotti's Personal Folder, Sellers' Personal Folders and/or in the Letter of Publication. Configuration parameters listed and described here below shall be available at Pizzarotti's choosing.

8.1 **Base Price**

The base price is the initial price for starting Dynamic Negotiation (the **Base Price**).

8.2 **Reserve Price**

The reserve price is the ceiling set by Pizzarotti at or above which Pizzarotti shall pledge, pursuant to Dynamic Negotiation award rules, to implement the award of the Event. (the **Reserve Price**).

8.3 **First Real Quotation and initial access to Negotiation Monitor**

The first real quotation is the maiden quotation entered by each Seller during the Event (the **First Real Quotation**). In relation to parameter configuration choices, Sellers' initial access conditions are set differently to the end of viewing the implementation of Dynamic Negotiation (the **Negotiation Monitor**), with reference to the issue of the First Real Quotation and/or participation in a previous RFQ.

8.4 **Viewing of Negotiation Monitor by Sellers**

Negotiation Monitor viewing parameters for Sellers during implementation of Event may be configured following different options.

8.5 **Attainment of Reserve Price**

The attainment of the Reserve Price during the implementation of the Event is notified to Sellers through various methods and contents depending on the configuration choices adopted which may also envisage a non - notification.

8.6 **Number of Winners**

In case of awarding of Event, the winners or the lowest bidders of the Event may be configured in a number equal to one or higher than one (the **Predefined Number of Winners**).

8.7 **Minimum Decrease**

Minimum Decrease is understood to imply the minimum amount by which the previous Real Quotation is to be lowered (the "**Minimum Decrease**").

8.8 **Valid new bidding**

The right granted to each Seller to issue subsequent Real Quotations during Event (the **New Bidding**) may be configured according to various validity options depending on the predefined number of winners and pursuant to rules relating to Minimum Decrease.

8.9 **New Bids above Minimum Decrease**

New Bids should be higher or equal to the Minimum Decrease. Should they be higher, the New Bids may be configured differently in light of their validity as Real Quotations.

8.10 **Multi-dimensional Dynamic Negotiations**

The Events are configured differently depending on their mono or multi-dimensional features.

8.11 **Final Period**

If envisaged in the closing mechanism adopted, the final period is the term preset by Pizzarotti pertinent to the automatic extension of event closing (the **Final Period**).

8.12 **Closing Mechanism of Dynamic Negotiation**

The Dynamic Negotiation shall be deemed closed at the time and date of Pizzarotti's choosing and through various pre-set mechanisms. (the **Closing Mechanism**).

8.12.1 Auto-extension

Should a Seller make a Valid New Bidding, then the closure of the Event shall automatically be extended by an additional Final Period; the Event shall be deemed closed when there are no Valid New Biddings forthcoming during the Final Period.

8.12.2 Last Round

Prior to start of Event, Pizzarotti shall define: a) a qualitative ranking of Sellers, and b) a Minimum Price, below Reserve Price, at which lowered price is deemed satisfactory. During the implementation of the Event, each Seller shall be entitled to align with the Minimum Price within a time frame notified during the Event: in said case, to the end of awarding, shall prevail the Buyer's pre-defined qualitative ranking of Sellers list comprising all Sellers opting for alignment.

8.13 **Weighting**

If included, the Weighted Coefficients, as described and regulated in Art. 7.5, shall be configured in different alternative options.

8.14 **Methods of Awarding**

Subsequent to the conclusion of the closing mechanism, the Dynamic Negotiation may be deemed as awarded or not awarded according to various predefined awarding systems (the **Methods of Awarding**). Notification to Event participants pertinent to awarding or non awarding shall be made by Pizzarotti following closure of Event and after a sufficient period of time needed to implement relative technical verifications.

8.14.1 Dynamic Negotiation with automatic awarding

Based on the criteria of the lowest bid prevailing.

8.14.1.1 Should the lower Weighted Quotation be below the Reserve Price, the Automatic Negotiation shall be awarded to the Seller issuing the lower Weighted Quotation.

8.14.1.2 Should the lower Weighted Quotation be above the Reserve Price , Pizzarotti shall be entitled, alternatively:

- a) not to award ; or
- b) award. In the said case, Pizzarotti shall be entitled, within 15 (fifteen) days prior to the closing date of the Dynamic Negotiation procedure and on penalty of invalidity, to award to the Seller issuing the lowest Weighted Quotation and subsequently view all Real as well as Weighted Quotations and the identity of all Bidders issuing them.

8.14.2 Dynamic Negotiation with discretionary awarding Based on

Pizzarotti's predefined awarding criteria.

- 8.14.2.1 Should the lower Weighted Quotation be below the Reserve Price, Pizzarotti shall be deemed to apply the predefined awarding criteria within 15 (fifteen) days prior to the closing date of the Dynamic Negotiation procedure.
- 8.14.2.2 Should the lower Weighted Quotation be above the Reserve Price , Pizzarotti shall be entitled, alternatively:
 - a) not to award ; or
 - b) award, within 15 (fifteen) days prior to the closing date of the Automatic Negotiation procedure, to the Seller chosen pursuant to predefined awarding criteria.
- 8.14.2.3 Pizzarotti, pursuant to Article 8.14.2.2. b), shall be entitled to access all Real and Weighted Quotations besides the identity of all Sellers issuing them; subsequently, Pizzarotti shall pledge to award the Event to the chosen Seller/s. Pizzarotti acknowledges and accepts that by viewing the Sellers and the Quotations, he pledges to award, irrespective of actually awarding to one or more chosen Sellers.

9. **SUSPENSION AND/OR CANCELLATION OF THE EVENT**

- 9.1 Pizzarotti shall be entitled, owing to a just cause, to suspend each Event for a length of time to be agreed between Pizzarotti and all the invited Sellers. The Sellers shall pledge to exempt and relieve Pizzarotti and BravoSolution, its directors and employees from any claim, actions and demands of any nature for damages suffered consequent to the suspension.
- 9.2 In case of a technical breakdown or malfunctioning of Pizzarotti and Platform IT and/or telephone connections and/or recording equipment, that may jeopardize the regular implementation of the Event, Pizzarotti shall be deemed to call off the Event until all the necessary repairs have been performed. Pizzarotti, in said cases, shall reserve the right to cancel the Event, also subsequent to its termination, with no liability whatsoever towards the Sellers.
- 9.3. Should connection to the Platform of one or more sellers break off, Pizzarotti shall be entitled, in its unquestionable judgment, to suspend the Event or proceed with its implementation by activating the procedure stated in Art. 7.2 above, with no liability whatsoever towards the Sellers.
- 9.4 In case of suspension pursuant to the Articles above, the date and resuming time of the Event besides its remaining length shall be mutually agreed between Pizzarotti and the Sellers. Unless otherwise agreed between Pizzarotti and the Sellers , the Event shall then resume on the basis of the last quotation made by the Sellers and recorded by the system, that is to be deemed valid under all circumstances.
- 9.5 Pizzarotti shall be entitled, in its unquestionable judgment, to bar from taking part in the Event any Seller guilty of or party to violations of Articles 7.6, 10 & 12, with no further liability towards the Sellers and shall reserve the right for compensation for any damage. Said ban on Sellers shall come into force through a routine e-mail communication to their respective address.

- 9.6 In every case of suspension and/or interruption of the Event for any reason and/or cause, Pizzarotti shall be entitled to proceed with the recording of the possible conversations with the Sellers. The Sellers acknowledge and accept that the telephone conversations shall serve as a full fledged proof of facts and circumstances.

10. **OBLIGATIONS AND GUARANTEES OF PIZZAROTTI AND SELLERS**

- 10.1 The Data shall be deemed to be the essential elements of the Goods and/or Services trading contract between Pizzarotti and the winning Seller.
- 10.2 Pizzarotti and the Sellers shall agree amongst themselves the conditions and time frame within which to evaluate whether the Goods and/or Services offered comply with the description made as well as the quality promised by the Sellers.
- 10.3 Pizzarotti and the Sellers shall adopt all possible precautions and technical measures to the end of safeguarding the safety of all Data and commercial information traded during the Event in addition to barring access to the same by un-authorised personnel.

10.4 Fees charged to Seller(s)

Fees related to utilization of services and the BravoSolution platform are charged to Pizzarotti, excluding the following fees:

- Annual Entry Fee for participation on the BravoSolution platform according to the manner in which expressed in the section “Terms and Conditions related to Request for Quotation and Dynamic Negotiation services” on “Synergo by Pizzarotti” portal to which reference should be made fully.
- Seller Fee charged to awarded Seller for an event, which should be agreed with BravoSolution before the same event.

- 10.5 Therefore a prerequisite related to participation to Events on the Synergo portal is defined that the participating Seller/s accepts the Fee prior to commencement of each single Event to BravoSolution. The Sellers mutually acknowledge that the Goods or Services trading contract that may be stipulated consequent to the Event (the **Trading Contract**), just like its negotiation and implementation, shall be exclusively a two-way act between Pizzarotti and them, and BravoSolution shall be deemed outside of said negotiation, successful/unsuccessful conclusion.

- 10.6 Pizzarotti and the Sellers acknowledge that BravoSolution is solely a provider of a consultancy and e-procurement service, technical assistance and Platform use, but it is outside of taking part or intervening in direct negotiations pertinent to the stipulation of a Trading Contract. The Sellers therefore acknowledge that the fees owed to BravoSolution shall in no way be linked to or dependent on the conclusion of the Trading Contract or possible claims arising between Pizzarotti and the Sellers.

11. **OBLIGATIONS AND GUARANTEES OF PIZZAROTTI**

- 11.1 During the Event, Pizzarotti shall pledge to comply with the procedures and the Regulations
- 11.2 Whenever the Event terminates with an award, Pizzarotti, in compliance with award terms defined during Event configuration, shall pledge to sign the Trading Agreement with the Seller, selected as the winner following the Dynamic Negotiation and Event implementation procedures, within the time frame agreed upon by the parties.
- 11.3 Whenever the Event terminates with an award, Pizzarotti shall pledge not to sign the Trading Agreement with third parties not participating in the Event, except for cases where the Sellers have breached their obligations as stated in Art. 12 below.

12. OBLIGATIONS AND GUARANTEES OF SELLERS

- 12.1 Each Seller shall pledge, in an irrevocable fashion, to keep Real Quotation valid throughout the Event and the period following necessary for its award as well as for the signing of the Trading agreement throughout its length and until the signing of the Trading Agreement, but in any case, unless otherwise agreed upon by the parties, not beyond 12 months from the date of Event implementation.
- 12.2 The winning Seller shall pledge to stipulate the Trading Agreement with Pizzarotti within the deadline agreed upon by the parties.
- 12.3 The Sellers shall comply, during the Event, with the procedures and obligations envisioned in the Regulations in addition to the general principles of correctness and good faith.
- 12.4 The Sellers shall pledge to Pizzarotti:
- a) to maintain ownership and availability of Goods and/or Services provided and not to deliver or transfer said Goods and/or Services to third parties other than Pizzarotti throughout the length of the Event and subsequently until the conclusion and the awarding of the Trading Agreement.
 - b) to supply a truthful, honest and fair description of Goods and/or Services;
 - c) not to upset the proper implementation of the Event via codes of behavior and conduct which may be deemed anti-competitive, unlawful, anti-regulatory or against third party rights namely, as way of example only, the fixing of prices or other conditions by some Sellers to the detriment of others;
 - d) not to market Goods and/or Services of doubtful or illegal provenance; counterfeit Goods and/or Services manufactured in violation of third party rights and/or national and international regulations safeguarding industrial and intellectual property; Goods and/or Services of any nature whose sale is forbidden by law namely, by way of example only, arms and ammunition, body organs, tobacco products and drug addiction substances.

13. AMENDMENTS OF REGULATIONS

- 13.1 Pizzarotti and the Sellers acknowledge and accept that Pizzarotti shall be entitled to amend the Regulations at any point in time. Any possible amendment shall be communicated to the Sellers through the publication of a notice on the Portal or, at Pizzarotti's choosing, via e-mail.
- 13.2 Any amendments in the Conditions shall be understood to have been tacitly accepted by the Sellers should Pizzarotti not have received, within 72 hours of the related publication on the Portal or e-mail notification, a fax or an e-mail communication by Pizzarotti and/or the Sellers expressing disavowal of the amendments. Absence of a communication therein and the uninterrupted use of the User ID shall be understood to imply unconditional acceptance of the Regulations as amended.
- 13.3 It is understood that acceptance of amendments shall not be partial and cover the entirety of the amendment/s made.
- 13.4 In case of failure to accept merely one single amendment to the Regulations, Pizzarotti shall be entitled to cancel the Sellers' access to User ID and Password.