

## Proger Managers & Partners S.r.l.

Date: 01/08/2022

### COMMUNICATION: ARBITRATION AWARD PROGER MANAGERS&PARTNERS vs CADOGAN PETROLEUM HOLDING B.V

With the Arbitration Award dated July 28<sup>th</sup>, 2022 (published on July 29<sup>th</sup>, 2022), the Arbitration Board composed of Prof. Daniele U. Santosuosso (Chairman), Silvio Martuccelli and Roberto Carleo (Arbitrators), ruling unanimously, definitively resolved the dispute brought by Proger Manager & Partners ("PMP") and Proger Ingegneria S.r.l. ("PI") against Cadogan Petroleum Holdings B.V. ("Cadogan").

Specifically, the Arbitration Board:

1. Rejected Cadogan's counterclaim with which the latter requested the declaration of the existence of a credit against PMP by virtue of the "loan agreement" dated 25 February 2019 (the "Contract") and the consequent condemnation of PMP to the payment of the sum of Euro 13,385,000.00, plus default interests.
2. On the other hand, the Arbitration Board upheld the (subordinate) claim proposed by PMP and PI for the declaration of simulation, declaring that the option for conversion into shares envisaged in the Contract simulated a preliminary contract for the purchase, by Cadogan, of 33% of the share capital of PI, because:
  - i. what appeared in the Contract as an option to purchase 33% in favour of Cadogan, to be exercised apparently at its sole discretion, concealed an actual obligation to purchase, in respect of which the payment of the sum disbursed by way of purported "loan" was to be considered to all intents and purposes as an advance payment of the consideration for the shares; and therefore;
  - ii. the parties - as a result of the declaration of the simulation and of the ascertainment of the existence of a preliminary contract - are now obliged to enter into the final contract for the sale of the IP shares, subject to the formalities required by the regulations of the English Stock Exchange for this kind of transactions (so-called Reverse Take Over requirements).

As a result of the Award, Cadogan is obliged to acquire a minority share (33%) of PI's share capital, in which a Shareholders' Agreement is in force between the majority shareholders who currently represent 100% of PI's share capital and who will represent 67% of PI's share capital following Cadogan's entry.

Finally, it is worth noticing that the Award cannot be challenged for breach of the rules of law relating to the merits of the dispute, since such right - provided for by article 829 paragraph 3 of the Italian Code of Civil Procedure. - was not expressly included by the Parties in the arbitration clause.

Therefore, in this case, the Arbitrators' decision can be challenged only on the grounds of formal nullity provided in art. 829 para. 1 of the Code of Civil Procedure, that envisages such nullity, for example, in cases of an award lacking the statement of the grounds, the signature of the arbitrators and the operative part of the judgment, or in cases of an award pronounced beyond the time deadlines or beyond the limit of the arbitration clause.

Sole Director  
Marco Lombardi