



**ENEL GROUP  
GENERAL TERMS AND CONDITIONS OF  
CONTRACT  
-BASIC-**

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**GENERAL PART**

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## 1. GENERAL INFORMATION.

1.1. These General Terms and Conditions of Contract Basic (hereinafter also referred to as “General Terms and Conditions”) regulate the contractual relationship between the companies belonging to the ENEL Group (hereinafter also referred to as “ENEL”) and its Contractors (hereinafter ENEL and its Contractors together will also be referred to as “Parties”), established with the purpose of purchasing materials and/or equipment, works and/or services (hereinafter also referred to as “Contracts”).

1.2. The General Terms and Conditions are composed of this General Part, which is applicable in all the Countries, and the Annexes relative to the individual Countries. The official version of this General Part is in the English language and the official version of the Country Annexes is the one indicated in each individual Country Annex. The official version of the remaining documents of the Contract is that indicated therein.

1.3. In case of conflict or incompatibility between the documents of the Contract, the order of priority and precedence will be determined as shown below:

1. Order Letter (in the Italian Annex), Cuerpo principal del Contrato (in the Annexes for Brazil, Chile, Colombia, Spain, Peru, Portugal, Mexico, Panama, Costa Rica, Guatemala, Argentina), Agreement in the other Annexes;
2. Particular Terms and Conditions, where present;
3. Technical Documentation (e.g. technical specifications, list of payments or price list);
4. General Terms and Conditions and the respective Country Annex. In case of conflict between the General Part and the Country Annex, the Annex will prevail.

In case of conflict between the translations in the various languages, for the General Part the original version drafted in English will prevail, and for each country Annex the original version in the official language indicated in the individual Country Annex will prevail.

Any exceptions to these General Terms and Conditions proposed by the Contractor will only be applicable to the Contract to which they refer and cannot be extended to other contracts in force or that may be signed with the same Contractor at a later stage.

The Contract is established when it is signed by the Parties. By signing the Contract – which can also occur by way of a Digital Signature - the Contractor declares its full and unconditional acceptance of the same.

## 2. DEFINITIONS.

2.1 In this document, the terms below will be defined as follows, among others:

- Contract** : indivisible set of contractual documents, as indicated in article 1 of this document.
- Digital Signature**: Accreditation system/ Eletrônica Certified Signature which, where applicable and in accordance with the legislation in force in each individual Country, enables the identity of people to be verified, having the same value as a handwritten signature, and the communications generated to be authenticated by the signatory. It can also be used to verify the origin and integrity of a digital document or a set of digital documents.
- Warranty Period**: Period in which the Contractor must guarantee that the product/work functions properly or that the same is free from defects and suitable for use.
- Procurement Portal** (PortalOne): ENEL web portal that enables contractors to log in and operate online with ENEL.
- Contractor**: Natural person or company or group of companies with which ENEL establishes procurement contracts for works, services and supplies.
- Subcontract**: Contract with which the Contractor appoints third parties to execute the services that form the subject of the Contract.
- Tax**: All duties, taxes, or any other kind of levies in general, established by the competent Authorities/ local legislations, applicable to the individual Contract based on the provisions in force.
- Document of Final Acceptance**: Document (e.g. Report) which confirms the definitive receipt and acceptance of the purchased materials or equipment, of the work or service which forms the subject of the Contract and the end of the Warranty Period.
- Document of Provisional Acceptance**: Document (e.g. Report) which records:
  - 1) the positive outcome of the tests and checks performed on a certain piece of equipment or materials received by ENEL; if applicable, this document also records any requirements to amend or correct the deficiencies encountered, or
  - 2) the positive outcome of the analysis relative to the status of the work, the precise execution or correction of the service that forms the subject of the Contract and the fulfilment of the technical regulations and the clauses of the Contract relative to the various phases of the activities that form the subject of the Contract.



### **3. ECONOMIC TERMS AND CONDITIONS.**

#### **3.1 Price.**

3.1.1 The price of the Contract is the consideration agreed upon for the purchase of the materials and/or equipment and/or the performance of the work or service. It takes into consideration the total value and includes everything required for the precise execution of the performances that form the subject of the Contract, everything that needs to be provided or completed by the Contractor, all the necessary expenses or costs, without prejudice to the performances and items that have been expressly excluded and the taxes envisaged by the applicable legal provisions.

3.1.2 The prices will be specified in detail in the Contract using the methods envisaged therein.

#### **3.2 Price changes.**

3.2.1 The prices are fixed and invariable. Changes to the prices can only be made if these are envisaged in the Contract and/or imposed by the applicable law.

#### **3.3 Invoicing.**

3.3.1 The invoice will only be valid and ENEL can only accept it if it contains all the data envisaged in the Contract and by the applicable law, and if the activity that forms the subject of the Contract has been correctly executed.

Invoices which contain no references to the number of the Contract to which they refer will not be accepted or even taken into consideration for the purpose of calculating the date of receipt.

Even if the Contract were to envisage that the payment of the invoices could be made using different currencies, the individual invoice can only be issued in one currency.

3.3.2 ENEL will return to the Contractor all invoices that:

1. are missing compulsory detail(s) envisaged by the Contract and/or by the law;
2. contain items not authorised by ENEL;
3. contain amounts expressed in a different currency from that established in the Contract.

In any case, ENEL will motivate its decision to return the invoices. In these cases, the restitution of the invoices will nullify the original date of receipt.

Unless alternative provisions are set forth in the contract, all the invoices and, where applicable, the relative accompanying documentation must be sent to the address set forth in the Contract.

Invoicing can be performed using the following methods:

##### **A. Using the ENEL digital systems (Procurement Portal):**

The Contractor, in compliance with the terms and conditions envisaged in the Contract, and having obtained from ENEL the required authorisation to invoice (the invoice will contain the details of the quantity of the elements/provided/executed on which the payment due is based), will issue the individual invoices.

Having received authorisation to invoice from ENEL and in compliance with the contractual agreements, the Contractor will send the invoice complete with the mandatory details required by the applicable law, using digital systems (e.g. EDI) which must guarantee the authenticity and integrity of the contents of the above-mentioned invoice.

The Contractor, in compliance with the legislation in force on digital invoicing, can send the invoices created to ENEL in digital format. This method guarantees the integrity of the details contained therein and unequivocally attributes the document to the issuing party.

##### **B. Use of means other than those of a digital nature:**

In case no digital systems are available and/or the applicable legislation fails to permit the digital transmission and issuance of invoices, The Contractor - in compliance with the terms and conditions envisaged in the Contract - having obtained the required authorisation to invoice from ENEL (the invoice will contain the details of the quantity of the elements/provided/executed on which the payment due is based), will issue the individual invoices, sending the original copy to the invoicing addressed indicated in the Contract.

3.3.3 Should the Contractor use its branches or subsidiaries or permanent establishments in the Country in which the Company of the ENEL Group is established, the service, work or supply to the company of the ENEL Group, as well as the invoicing of the same, must be performed by its branches or subsidiaries or permanent establishments which have their registered office in the same Country in which the company of the ENEL Group to which the same is provided is established.

#### **3.4 Payment terms.**

3.4.1 All payments will be made by ENEL via bank transfer, in line with the methods and within the terms established in the Contract.

To this end, the Contractor undertakes to notify ENEL of the full details of its current account.

The Contractor must promptly notify ENEL of any variations in its general and tax details (including, for example: VAT no., address, company name, etc.) or variations in the ownership/shareholder structure.

Failure to communicate the above-mentioned details could lead to the suspension of the payments of the invoices containing details that are not updated.



In exceptional circumstances, ENEL can accept other means of payment that are legitimate and valid, in compliance with the legislation applicable to the individual Contract.

3.4.2 The fact that ENEL pays the price does not assume that it deems the Contract as having been correctly executed by the Contractor, or that it waives its rights and its entitlement to raise the relative actions against the same, expressly reserving the right to exercise said rights, without prejudice to the payment made.

3.4.3 ENEL can, in compliance with the applicable law, and in the cases and with the methods envisaged by the Contract, withhold and offset the suspended payments still due to the Contractor, should these be due and collectable.

3.4.4 In case of a delay in the payment of the price, where said delay is attributable to ENEL, interest will be applicable, in line with the terms set forth in the Contract and in compliance with the applicable legal provisions.

#### **4. TAX.**

4.1 ENEL, at the time of the payment of the due amount for the goods/works/services received, will withhold any amounts due as duties, taxes and contributions (valid as taxes) from the payments to the Contractors, based on the legislation in force in the country of residence of the Contractor and/or based on any other legislation applicable to the above-mentioned Contract.

The Parties mutually undertake to fulfil all the duties, manage all the bureaucracy and submit all the necessary documentation for the correct payment of the taxes, including withholdings and other duties set forth by the law applicable to the ENEL, to the Contractor and to the Contract, respecting the procedures envisaged by the laws in question.

In the same way, the Parties undertake to cooperate in striving to obtain exemptions and other tax benefits applicable to the Contract. Should ENEL miss the opportunity to take advantage of a tax benefit due to lack of diligence or for any other cause attributable to the Contractor, the former can deduct the amount of the tax benefit not obtained from the price due to the Contractor.

4.2 Should an agreement exist between the Contractor's country of residence and the country of residence of the Company of the ENEL Group, to avoid double taxation and ensure that the Contractor only invokes the application of one of the provisions of this agreement, the Contractor must submit to ENEL the certificate of residence (or any other declaration /certification necessary for the purposes of applying the agreements designed to prevent double applications) that attests to its tax residence for the purposes of the terms of the agreement in question; for the purpose of classifying the type of income according to the terms of the agreement designed to prevent double taxation, attention must be paid to the interpretative guidelines in force in the country in which the Company of the ENEL Group has its registered office. Said certificate is usually valid for one year, unless the legislation of the country in which the Company of the ENEL Group has its registered office establishes a shorter validity. In any case, upon the expiry of the validity of each certificate, the Contractor must submit another valid one.

4.3 Should ENEL have been obliged to withhold amounts from the payments due to the Contractor and should the latter request one, ENEL will submit to the latter a certificate relative to the withholdings specifying the amounts paid and the amounts withheld.

4.4 If the materials or equipment come from overseas, the taxes will be paid as indicated below:

- a) The Contractor will pay all the taxes, charges and costs of the country of origin of the goods and of the countries through which the goods may transit before their final delivery. It will also pay the taxes applicable in the country of destination of the goods, due based on the economic benefits obtained from the sale.
- b) Additionally, the Contractor will pay the import expenses and taxes or the equivalent in the country of destination, as well as the other official customs charges relative to the imported materials and/or equipment, unless different agreements are reached with ENEL.

4.5 In case of national materials or equipment, the taxes are either paid by ENEL or by the Contractor depending on the terms established by the law in force.



## **5. CONDITIONS OF DELIVERY AND RECEIPT.**

### **5.1 General details.**

5.1.1 The delivery, including partial delivery, of the goods and services, must be carried out on the date or within the term indicated in the Contract.

5.1.2 If the Contract fails to indicate a pre-established expiry date and only the term of the end of the execution or delivery is established, said term must be calculated starting from the date of commencement of the execution of the activities that form the subject of the Contract or from the date on which the above-mentioned Contract is signed.

5.1.3 The date of the conclusion of the Contract can only be anticipated or postponed and the term of execution or delivery of the Contract can only be reduced or extended if ENEL expressly approves the same. The approval of the anticipation as above on the part of ENEL will not imply the anticipated payment of all or part of the price.

5.1.4 ENEL reserves the right to request to the Contractor, at any time, the anticipation of all or part of the performance object of the Contract and the right to evaluate a possible recognition of an economic bonus. ENEL may request the anticipation with a specific written request and the Contractor will communicate, always in writing his agreement, expressly accepting the new deadline requested by ENEL. It is understood that the Enel request to anticipate does not produce an automatic recognition of the economic bonus, even though specifically accepted by Contractor. The recognition of the economic bonus, to the extent indicated in the contract, remain subject to the specific acceptance of Enel and subject to the aforementioned anticipation is carried out by the Contractor in full compliance with all its legal and contractual obligations, especially in the field of work, health and safety. No bonus can be recognized if penalties have been applied to the Contractor during the execution of the contract.

### **5.2 Materials and/or equipment.**

5.2.1 Where envisaged in the Contract, before making the delivery, the Contractor will notify ENEL accordingly with due prior notice.

5.2.2 The materials and equipment will be delivered to the place established in the Contract.

5.2.3 The Contractor will be liable for the transportation of the same to its destination and its unloading. If the type of material requires permission to transit, a licence, authorisation or police chaperone, the Contractor must obtain these from the competent Authorities for its transportation and will bear all the relative costs. The signature of receipts, transport documents or documents attesting that the shipment of the goods do not prejudice the acceptance of the quantity or quality specified for the received materials.

5.2.4 ENEL, with the date of delivery deemed as having been fulfilled in all cases, reserves the right to delay the sending or shipment of any materials or equipment. In this case, the Contractor will bear all the storage and insurance costs for the period defined in the Contract. Should the delay in shipment be extended for a longer time, the Parties, by mutual agreement, will establish the compensations due for the additional storage expenses.

5.2.5 Once ENEL has received the material or equipment, a Provisional Acceptance Document will be drafted

### **5.3 Similar works and/or services .**

5.3.1 With reasonable prior notice, the Contractor will communicate to ENEL the final date of the full completion of the works, so that the date and time of the completion of the works can be established. ENEL must respond as soon as possible, and no later than 30 days from the receipt of the communication.

5.3.2 On the date established by mutual agreement for the formalisation of the Provisional Acceptance Document for the completion of the works, the Parties will arrange to analyse the status of the work or service. ENEL will express its final approval of the work/service by drawing up the appropriate Final Acceptance Document (e.g. definitive acceptance report) which must be signed by both parties and must certify the integral fulfilment of the Contractor.

The above-mentioned Document drawn up by ENEL will in any case be valid as if had also been signed by the Contractor, in cases in which the latter fails to participate, despite having been requested to do so.

### **5.4 Transfer of Ownership and Risk.**

5.4.1 Unless otherwise envisaged in the Contract, the materials, appropriately packaged in line with the terms of the above-mentioned Contract, will be deemed, to all legal effects, as the property of ENEL at the time of their receipt by ENEL in the place and under the conditions agreed upon and/or at ENEL warehouses, premises and/or plant. It is implicitly agreed that, where not otherwise envisaged, in such cases, unloading will also be performed by, and at the expense of, the Contractor.

Without prejudice to the terms stated above, the Contractor authorises ENEL to take possession of all or part of the materials and equipment, when these become part of a work or installation that belongs to ENEL and to make appropriate use of the same, including the performance in/with the same of works, installations or jobs and the inclusion of the same in the work or installation of ENEL, unless said authorisation to ENEL is restricted for valid reasons. Should there be no restrictions in force, ENEL can include the materials and equipment in its development processes and consider the results of said processes as its own. In any case, up until the time when the risk is transferred to ENEL, the Contractor must have in place an insurance policy with adequate cover for the materials and equipment, even when these are already in the possession of and being used by ENEL.

The results of the work that forms the subject of the Contract will become the property of ENEL when the Provisional Acceptance Document is signed.

ENEL, without prejudice to the rights of the State or of third parties, reserves the rights of possession and ownership of all the findings made during the excavations and demolitions carried out in its own land, as well as any mineral substances that can be used.



## 5.5 Quality.

In the contract performance, the Contractor guarantees that the quality of goods, services and works object of the contract, fully satisfy the purpose pursued by the Parties upon the signing of the Contract itself. The Contractor guarantees in the contract performance the compliance with the quality requirements indicated in the technical documents part of the Contract itself and he is responsible for maintaining commercially acceptable quality control standards in the production of a product or in the performance of the service or work, including production standards required by any local government entity and good manufacturing practices.

## 6. ASSIGNMENT OF THE CONTRACT, SUBCONTRACTING AND ASSIGNMENT CREDITS.

6.1 The Contractor must perform the works and services and provide the supplies that form the subject of the Contract on its own behalf. Therefore, the Contract can only be transferred to third parties subject to the express authorisation of ENEL, in the cases envisaged by the applicable legislation. Without prejudice to the terms stated above, all the works, supplies and services can be subcontracted within the limits of the individual national laws in force.

6.2 Usually the maximum share that can be subcontracted cannot exceed 30%. Any variations of the above-mentioned share must be subject to specific authorisation.

6.3 Usually, without prejudice to the terms envisaged by the national legislations in force, assigning works under a subcontract is subject to the following terms and conditions:

- that, upon the assignment of the contract, even when variations occur during the execution, the participants in the offer or the contractor, have indicated the works/services/supplies they intend to perform under subcontract;
- that the contractor arranges to register the Subcontract with ENEL before the date on which the execution of the relative works/supplies/services effectively commence;
- that when the subcontracting Contract is registered with ENEL, the contractor also sends the certificate attesting to the possession of the requisites by the subcontractor;
- that the execution of the subcontracted works/supplies/services cannot be further subcontracted, unless this is envisaged by the legal provisions in force in the individual countries and is prior authorized by ENEL .

6.4 The Contractor will in any case remain fully and exclusively liable to ENEL for the execution of the entire Contract.

6.5 Unless alternative provisions have been envisaged in the Contract, the Contractor cannot transfer the Contract itself, and/or transfer or sell all or any of the rights and credits deriving from the Contract to third parties.

## 7. ADDITIONAL DUTIES OF THE CONTRACTOR.

7.1 The Contractor will be fully responsible for providing everything necessary to ensure the execution of the works, services or supplies that form the subject of the Contract and, in any case, for all the costs and liabilities that derive from and are in any case connected with the execution of the inspections, tests and checks requested by ENEL, the appointment of a person from its own organisation to act as an interface with ENEL and the management and acquisition of visas, authorisations and licences.

7.2 The Contractor must:

- fulfil all its legal, tax-related and contractual duties to its contractors and subcontractors;
- prevent any situations that might generate conflicts of interest and, therefore, implement all the measures for their detection and prevention, promptly notifying ENEL of any behaviour that might generate the same;
- ensure that the people who fill essential roles (for example, team leader, supervisor, site foreman, etc.) are capable of understanding and communicating in the official language of the country or in the language established within the Contract (written and verbal communication). The Contractor must also have in-depth knowledge of the legislation on health and safety in the workplace and the environment in force with regard to the activity to be performed;
- ensure:
  - a) the suitability, exclusive ownership and/or legitimate availability of the materials and/or equipment and that these are free from burdens and encumbrances;
  - b) that all the materials and equipment:
    - comply with the legal provisions, specifications, regulations and the terms and conditions of the contract in force;
    - are free from visible and hidden defects;
    - are suitable for the use or purpose for which they are to be used;
    - are of the requested quality;
    - are new and from recent fabrication;



- c) that the work complies with all the provisions set forth in the Contract and that it is in any case suitable for the use for which it is intended.

The Warranty Period of the materials and equipment and of the works/services and all the other guarantees envisaged, must cover the duration envisaged in the Contract.

7.3 The Contractor undertakes, without delay and with no expenses of costs for ENEL, to:

- a) replace, as soon as possible or within the times envisaged by the Contract, the materials and equipment that fail to comply with the requirements and/or are faulty;
- b) repair the equipment that presents defects in terms of the design, materials, labour, manufacturing, working order or performance;
- c) return the equipment/sites provided by ENEL in the same condition as that in which they were delivered.

## **8. INDEMNITY.**

8.1 The Contractor undertakes to indemnify ENEL from any liability deriving from claims or legal subpoenas of any kind, directly related to the Contract, both in court and out of court, which are the result of acts or failures to act on the part of the Contractor or its employees, representatives or subcontractors.

8.2 The above-mentioned indemnity covers both the amount that ENEL might pay, and the amounts spent or the costs of any kind that ENEL might incur as a result of the claim or subpoena, in any case without prejudice to the right of the same to act in its own defence.

8.3 The failure of the Contractor to meet the requirements set forth in this article is deemed a serious breach of contract and will entitle ENEL to terminate the Contract due to breach on the part of the Contractor.

## **9. SUSPENSION, WITHDRAWAL AND TERMINATION.**

### **9.1 Suspension.**

9.1.1 If, for any reason, ENEL deems it necessary or is obliged to temporarily suspend all or part of the activities which form the subject of this Contract, it must notify the Contractor accordingly in writing, specifying the relative reason and estimating the duration of the suspension.

The suspension will have effect from the day established in the communication.

From said date, the Contractor must suspend the relative activities, arranging to safeguard and maintain the materials, equipment and works at a standstill, without prejudice to the applicability of all the other duties assigned to the same by the applicable law and/or established within the Contract.

The resumption of the activities must be notified by ENEL with reasonable advance notice by way of a written communication sent to the Contractor. The residual time assigned for the completion of the works will be calculated starting from the date of the resumption of the works indicated by ENEL.

The Contractor will be entitled to receive payment, in line with the terms and conditions established within the Contract, for the activities/works already completed. The payment for activities/works which, at the time of notification, are in an advanced state of execution, where not envisaged in the Contract, will be negotiated between the Parties.

### **9.2 Withdrawal.**

9.2.1 ENEL can withdraw from the Contract at any time.

The withdrawal must be notified by way of a written communication and will be valid from the date on which the latter is received. ENEL will indicate the activities that must be completed and those to be immediately interrupted. The activities regularly performed up until the date of the withdrawal will be compensated in line with the prices established in the Contract.

For the interrupted activities and those which are not performed, ENEL will reimburse Contractor for the documented expenses incurred by the same for any commitments already undertaken that cannot be revoked without incurring financial consequences, or the documented amount of the above-mentioned consequences, if this is more advantageous for ENEL.

The Contractor can withdraw from the Contract in the cases envisaged by the law.

### **9.3 Termination.**

9.3.1 ENEL can terminate the Contract in the cases envisaged by the law and/or in all the cases envisaged by the above-mentioned Contract and/or in the following cases, when there is a reason that prevents or significantly compromises the correct execution of the performance which forms the subject of the Contract. For example, in case of:

- a) dissolution, transformation, reduction of capital or in case of variations of the management bodies of the Contractor, should these changes have a negative effect on the execution of the Contract or violate the terms set forth by article 18 "CODE OF ETHICS";



- b) reduction of the financial ability or of the economic solvency or any financial difficulties that, at the sole discretion of ENEL, might influence the regular fulfilment of the Contractor's duties;
- c) refusal of the Contractor to begin performing the activities that form the subject of the Contract;
- d) unjustified interruption or suspension of the execution of the Contract by the Contractor;
- e) refusal of the Contractor to resume the execution of the activities that form the subject of the Contract in relation to which ENEL - for any reason - may have ordered the suspension, when ENEL has ordered that the same be resumed;
- f) significant delay, without due cause, on the part of the Contractor, in delivering the materials or equipment or in performing the works or services;
- g) the Contractor's inability to obtain the certificates and approvals required for the execution of the Contract in due time, or the loss of the same during the validity of the Contract;
- h) the Contractor's inability to correct any errors or defects in line with the indications provided by ENEL;
- i) non-fulfilment or breach on the part of the Contractor and/or the subcontractor and/or any third party appointed by the Contractor to perform the activities which form the subject of the Contract, of any of the provisions of the applicable legislation, also with regard to employment, environmental, taxes and health and safety in the workplace;
- j) breaches related to intellectual property, confidentiality and the processing of personal data, in compliance with the law applicable to the Contract;
- k) the detection, at any time following the signature of the Contract, of omissions and/or falsehoods and/or the failure to update the information and statements provided by the Contractor relative to the fulfilment of the legal, economic, financial, technical or contractual terms and conditions;
- l) failure to compensate damages caused to any party;
- m) the performance on the part of the Contractor of repeated actions that damage the reputation of ENEL;
- n) actions, failures to act, behaviours, situations of the Contractor that, at the sole discretion of ENEL might generate a risk to ENEL's reputation and reduce ENEL's trust in the honourability and integrity of the Contractor and its reliability in relation to the execution of the activities that form the subject of the Contract;
- o) loss of even only one of the requisites necessary for the Qualification (where required), establishment and execution of the Contract;
- p) breach, on the part of the Contractor and/or the subcontractor, of even only one of the law provisions for the protection of Occupational Safety and Health in the workplace or other Health and Safety provisions expressly provided for in the Contract and its annexes, including therein:
  - failure to complete/sign/prepare/update/submit the documents relative to health and safety in the workplace, with the methods and within the terms envisaged by the applicable law and/or by the Contract;
  - the use, verified in any way by ENEL, of unsuitable personnel and/or personnel that is not authorised in accordance with the provisions set forth by the applicable law and/or by the Contract;
  - breach, verified in any way by ENEL, of any provision designed to protect health and safety in the workplace with regard to the use of the working equipment and the personal protection equipment, or with regard to the regulation of the sites, the signage, the manual handling of the loads;
  - execution or application of bad practices in industrial safety and risk prevention, including but not limited to the lack of training of professionals, according to the applicable technical rules;
- q) fatal or severe accident of a contractor's or subcontractor's employee (occurred also in other contract between ENEL and Contractor or in contracts between ENEL and a company belonging to the same Contractor's parent-company), in whatever way it is ascertained by ENEL, with clear contractor's or subcontractor's accountability on Health and Safety management.

Should the Contractor fail to inform ENEL about the above-indicated situations, without prejudice to the latter's right to terminate the Contract, ENEL can suspend the payments due to the Contractor with the purpose of fulfilling the duties undertaken to third parties, which derive from the failure to execute the Contract by the above-mentioned Contractor.

The Contractor will bear any and all additional costs and all other expenses that may derive from the non-fulfilment of the activities that form the subject of the Contract for reasons attributable to the same.

In the cases described above, ENEL can terminate the Contract from the date of the written communication, or request the fulfilment of the same without prejudice to the right to request compensation of any damages or detriments suffered. In all the cases described above, without prejudice to its right to receive payment of the relative fines and to defend its rights in court in order to obtain compensation for any damage and detriments suffered, ENEL can suspend the payments still due to the Contractor also with the purpose of fulfilling duties undertaken with third parties, which derive from the failure on the part of the Contractor to execute the Contract.

The Contractor can terminate the Contract in the cases envisaged by the law.



## 10. FORCE MAJEURE.

10.1 The term 'force majeure' is defined as an event caused by nature or by the actions of man that cannot be foreseen or that, even if its is foreseen, cannot be prevented, and fully or partially impedes the execution of the Contract. Neither of the Parties shall be considered liable for the non-fulfilment of their duties when the execution of the same is delayed or hindered as a result of causes of force majeure, but only if and to the extent that: (i) the non-fulfillment is caused by an event beyond the control of the Party affected; (ii) it was not reasonable expect that such Party, upon signing of the Contract, considered probable the occurrence of such event and its consequences on the ability of the Party to perform its obligations under this Contract; and that (iii) cannot reasonable be avoided or removed by the Party affected or mitigated the consequences thereof.

10.2 The party that suffers the consequences of a cause of force majeure must notify the other Party promptly and in any case not later than the termination of the cause that prevents it from communicating.

10.3 The Parties will collaborate and actively exchange all the documentation and information necessary to attempt to minimise or remove the cause of force majeure.

10.4 In case of force majeure, the fulfilment of the activities involved will be suspended for the period of duration of the cause of force majeure, without any request for compensation from either of the Parties.

10.5 Without prejudice to the terms established above, at the end of the cause of force majeure, the Parties will agree on the extension of the contractual terms or the measures that can be implemented to fully or partially recover the time lost and so succeed, where possible, in executing the Contract within the original times.

## 11. LABOUR LAW AND OCCUPATIONAL HEALTH AND SAFETY OBLIGATIONS.

### 11.1 General details.

11.1.1 The Contractor states that it is fully aware of all the duties and conditions regarding employment law social security, health and safety in the workplace, undertaking to comply with the relative provisions, and with the duties and conditions indicated in the Contract.

In particular, the Contractor undertakes to implement health and safety measures designed to prevent the risks deriving from the breaches reported in the table in paragraph 11.2 "Sanctions for breaches of the legislation regarding the protection of health and safety in the workplace".

11.1.2 The Contractor is the sole party responsible for the organisation of the personnel who has engaged - in various qualification - in the execution of the Contract, so that its own responsibilities can be clearly identified, and distinguished from those of ENEL, at all times.

11.1.3 Smoking is prohibited in all the working areas of the Companies of the ENEL Group. In compliance with the legislation in force regarding Health and Safety, smoking is only permitted in the areas marked as "Smokers' Area" set out for this purpose. The Contractor, therefore, undertakes to comply with said obligation. Additionally, the Contractor undertakes to notify the workers engaged in the execution of the Contract, that smoking is prohibited - within the sites of the companies of the ENEL Group- during the performance of the activities envisaged by the Contract. In this regard, the Contractor is also responsible for carrying out the relative checks in line with the Health and Safety legislation.

11.1.4 The Contractor's personnel is prohibited from carrying out activities under the influence of alcohol, drugs or psychotropic substances, from remaining on the premises of the ENEL Group when under the influence of alcohol, drugs or psychotropic substances, and from drinking alcohol, or using drugs or psychotropic substances in the workplace.

For this purpose, the contractor is also responsible for carrying out the relative controls in conformity with the legislation in force.

### 11.2 Sanctions for breaches of the legislation regarding the protection of health and safety in the workplace.

11.2.1 Without prejudice to the right to proceed with the termination of the Contract, ENEL, with regard to each non-compliance on the subject health and safety in the workplace, without prejudice to the request for reimbursement of the greater damage suffered, has furthermore the right - with its decision being final - to apply, by notifying the Contractor by means of a registered letter with return receipt of delivery (or a similar communication with proof of delivery), a pecuniary penalty of the amount specified in the Country Annex.

In particular, the amount of the pecuniary sanctions for "VERY SERIOUS (II)" non-compliances, as classified in the table below, is double that of the sanctions for "SERIOUS (I)" non-compliances, as classified in the same table.

"VERY SERIOUS (III)" non-compliances, as indicated in the table below, will significantly reduce the safety index of the Vendor Rating, in addition to the penalty envisaged for said non-compliances.

Should the "SERIOUS" and "VERY SERIOUS" non-compliances cause accidents in the workplace or in any case damage to people, ENEL reserves the right, at its sole discretion, to apply - in relation to the gravity of the breach and/or the damage to the person - a pecuniary sanction of up to 2% of the overall amount specified in the Contract and in any case not inferior to the amount indicated in the Country Annexes.

Jointly with, or as an alternative to, the application of the sanctions specified above, ENEL, with its decision being final, can:

- suspend, for a number of days commensurate with the seriousness of the non-compliance - and in any case until any adaptations or corrective measures adopted to confront the non-compliance have been verified - the performance of any work object of the Contract, without this entitling the Contractor in any way to an extension of the term for completing the works, nor to any compensation or indemnification whatsoever, or;
- request that the Contractor impose on its workers / employees - to whom the above-mentioned non-compliance is attributable - up to 16 hours additional training on the subject of health and safety in the workplace. The workers to



whom the above-mentioned non-compliances are attributable , will be re-admitted to the work-site only after having attended the specific training courses envisaged, or;

- suspend payment of amounts due to the contractor to an extent equalling 10% of the amounts accrued at the time the violation on matters of health and safety in the workplace occurred, until the contractor adopts suitable corrective measures for its safety management system, as prescribed by the Principal.

Should the grand total of the sanctions imposed reach 5% of the amount of the contract, ENEL can also terminate the Contract. The application of sanctions as provided for by this article will have negative effects on the Vendor Rating index .

Application of sanctions will take place according to the modalities envisaged by the tax regulations in force.

The amounts incoming from the application of sanctions will be assigned by ENEL to a fund for financing information and training on the subject of safety, aimed at promoting the culture of safety in the workplace among contractors.

**INDICATIVE LIST CONTAINING EXAMPLES OF SERIOUS AND VERY SERIOUS NON-COMPLIANCES REGARDING SAFETY AT WORK – ADMINISTRATIVE DUTIES.**

CATEGORY	BREACH	SEVERITY <sup>1</sup>
<b>Accident reporting</b>	Failure to notify ENEL (within 12 hours from the event) of fatal or serious accidents in the workplace <sup>1</sup> (with an initial prognosis of over 30 days or with a critical or unknown prognosis) or, regardless of the prognosis, of electrical accidents and accidents involving falls from height.	III
	Failure to notify ENEL (within 24 hours from the event) of non-serious accidents (with initial prognosis of between 1 and 30 days).	II
<b>General provisions</b>	Failure to participate in the coordination meetings (if binding based on the H & S regulations or the ENEL procedures).	I

**INDICATIVE LIST CONTAINING EXAMPLES OF SERIOUS AND VERY SERIOUS NON-COMPLIANCES REGARDING SAFETY AT WORK REGARDING ON-SITE ACTIVITIES.**

CATEGORY	BREACH	SEVERITY
<b>General provisions</b>	Failure to appoint a supervisor.	II
	Inadequate supervision of the activities to be performed.	II
	Failure to carry out the "pre-job check" (if applicable).	II
	Consumption of alcohol or controlled substances in the workplace.	III
	Use of personnel not declared to ENEL or not authorised.	III
	Use of personnel without the professional profile / qualification / training required to carry out the activities in compliance with the H & S and ENEL regulations (such as electrical works, works in confined spaces, works at a height, underwater works).	III
	Commencement of the activities before the issuance of authorisation by ENEL.	III
	Use of equipment and machinery that fails to comply with the legislation and the technical regulations in force.	II
	Use of special vehicles not previously declared to ENEL (e.g. vehicles for lifting loads, aerial platforms).	II
	Unauthorised use of special vehicles, machinery or equipment belonging to ENEL.	II

<sup>1</sup> Accidents which occur during commuting are not included.

	Absence of the documentation regarding to controls/tests performed on the company's vehicles / machinery / equipment, used for the works on ENEL's behalf, in compliance with the H & S laws.	II
	Failure to comply with the provisions of the Highway Code.	II
	Tampering with temporary works and protections of ENEL or of other contractors.	III
	Absence of company safety procedures relative to the activities to be performed.	II
	Non-compliance with the provisions contained within the Health and Safety Plans defined by ENEL for managing interferences.	II
	Non-conformity and integrity of the Personal Protective Equipment (PPE) to the health and safety standards (e.g. EC marking).	II
	Failure to mark and cordon off the working areas where necessary.	II
	Lack of/erroneous/incomplete implementation of temporary signage for road sites.	I
	Failure to respect the safety signage.	II
	Lack of/erroneous/incomplete implementation of safety signage.	I
	Unsatisfactory organisation of the materials in the working area.	I
	Lack of adequate measures for managing emergencies.	II
<b>Electrical risks</b>	In case of works involving live elements, the failure to apply / erroneous or incomplete application of the relative Health and Safety procedures.	III
	Failure to apply / erroneous or incomplete application of the 5 golden rules regarding electrical risk.	III
	Failure to use PPE and Collective Protective Equipment (CPE) for electrical risks.	III
	Use of PPE or Collective Protective Equipment (CPE) that fail to comply with the Health and Safety regulations for electrical risks.	III
	Non-compliance / partial compliance with the Health and Safety laws and the ENEL provisions regarding the prevention of electrical risks.	II
<b>Works at a Height</b>	Failure to use PPE and Collective Protective Equipment (CPE) for risks associated with falls from a height.	III
	Use of PPE and Collective Protective Equipment (CPE) that fail to comply with the Health and Safety regulations for risks associated with falls from a height.	III
	Non-compliance / partial compliance with other Health and Safety laws regarding the works at a height.	III
<b>Mechanical load lifting activities</b>	Incorrect use of equipment designed to lift the loads/adoption of incorrect load lifting methods.	II
	Absence to a Health and Safety Plan relative to the lifting operations performed using mechanical equipment.	II
<b>Chemical Risk</b>	<b>CARCINOGENIC – MUTAGEN – ACUTE TOXIC SUBSTANCES</b>	
	Failure to notify ENEL of the admission of said substance to its sites.	III
	Failure or partial failure to comply with the health and safety legislation and the ENEL provisions regarding the handling, movement, carriage, use and storage of chemical substances, with reference to the labelling and the technical safety sheet for the substance.	II
	<b>OTHER CHEMICAL SUBSTANCES<sup>2</sup></b>	

<sup>2</sup> For example, corrosive/skin irritant substances; substances capable of causing serious injuries to the eyes/eye irritation; Sensitisation of the respiratory system or the skin; specific target organ toxicity; toxic substances for the reproductive system ..

	Failure to notify ENEL of the admission of said substance to its sites.	II
	Failure or partial failure to comply with the health and safety legislation and the ENEL provisions regarding the handling, movement, carriage, use and storage of chemical substances, with reference to the labelling and the technical safety sheet for the substance.	I
<b>Physical agents</b>	Emission of physical agents not notified to ENEL (e.g. noise, vibrations, dust).	I
<b>Risk of Fire/ Explosion</b>	Failure/partial failure to comply with the laws and the provisions of ENEL regarding the prevention of fires.	II
	Failure/partial failure to comply with the health and safety laws and the provisions of ENEL regarding protection from explosive atmospheres (ATEX), for the areas classified accordingly by ENEL.	III
<b>Hot Work Activities (such as welding and cutting)</b>	Failure to comply with the health and safety laws and the provisions of ENEL regarding hot work activities.	II
<b>Excavations depth of more than 1.5 metres)</b>	Failure to comply with the health and safety laws and the provisions regarding the prevention of the risks caused by excavations.	II
<b>Works performed in confined spaces</b>	Failure to comply with the health and safety laws on the prevention of the specific risks occurring in the confined spaces classified as so by ENEL.	III
<b>Above water activities/ with hydraulic risk</b>	Failure to comply with the health and safety laws and the provisions of ENEL regarding the prevention of the risks caused by working on the water.	II
	Failure to comply with the health and safety laws and the provisions of ENEL regarding the prevention of hydraulic risks.	III
<b>Working under water</b>	Activities performed in a way that differs from that envisaged by the health and safety laws and by the provisions of ENEL regarding the prevention of risks when working under water.	III

#### LEGEND

I	Serious non-compliance.
II	Very serious non-compliance.
III	Very serious non-compliance that will cause a significant reduction in the Vendor Rating Indicator.

### 11.3 Obligations of the Contractor concerning health and safety in the workplace.

11.3.1 The Contractor, for the entire duration of the Contract, undertakes to:

- choose a supervisor from among its personnel who is responsible for supervising the working activity and ensuring the implementation of the received directives, monitoring that these are correctly performed by the workers;
- employ personnel who have been adequately trained and informed in relation to the work to be performed and the risks and prevention and protection measures to be adopted;
- employ people who have suitable qualifications and certificates for the activities to be performed, envisaged by the individual national legislations and by the Enel procedures;
- execute the works/supplies/services in full compliance with the Contract, all the provisions of applicable Laws regulations, standards, including technical standards and provisions of the competent authorities in force over the entire duration of its execution and whatever else might affect the Contract, taking upon itself all the relative duties and costs;
- use duly employed personnel and to pay its employees all remuneration, fiscal, insurance, social security and contributions sums envisaged by law and collective employment contract agreements where applicable;
- comply with all the legal provisions in force regarding the safety, health and hygiene of the workers;
- enable the workers to be identified by the ENEL personnel and/or to third parties appointed by ENEL for the performance of the checks envisaged by the Contract and/or by the applicable legislation;

- in case of serious or fatal accidents<sup>3</sup> and, regardless of the prognosis, of electrical accidents or accidents caused by falls from a height, occurring during the execution of the activities that form the subject of the Contract:
  - immediately notify ENEL of the accident (by telephone within 4 hours from its occurrence);
  - within the 12 hours following the accident, send ENEL a written communication containing a detailed description of the event and all the available preliminary information;
  - within 8 calendar days from the accident, send ENEL the accident investigation Report;
  - within 24 hours from its occurrence notify ENEL of any non-serious accidents occurring during the execution of the works on behalf of ENEL, by way of a written communication;
  - within 3 days notify ENEL of any "near misses"<sup>4</sup> occurring during the execution of the works on behalf of ENEL;
  - by the 15th day of each month, send ENEL the report on the number of hours (ordinary and extraordinary) worked in the previous month on the job that forms the subject of the Contract.

Additionally, the Contractor undertakes to notify ENEL, **before the commencement of the activities that form the subject of the**

**Contract:**

- should it decide to assign to third parties the execution of part of the activities that form the subject of the Contract, where this is allowed;
- the names, personal details, and the details of the insurance and social security statuses, certified by the competent Authorities, for all the personnel employed, for various reasons, in the execution of the Contract;
- all and any variations to the personnel used in the execution of the Contract. ENEL reserves the right to make checks at any time in order to ascertain fulfilment of this obligation.

The Contractor is the sole party responsible for the work of its employees and in any case, those engaged in the execution of the Contract for any reason.

In case of breach of the aforementioned duties, identified in any way ENEL will be entitled to terminate the Contract.

Before commencing the works, the supervisor, appointed by the Contractor for the activities that form the subject of the Contract, undertakes to organise a Pre-Job Check meeting with the members of the team, with a view to guaranteeing, if necessary with the aid of specific check-lists, that all the operators:

- are fully informed about the job to be carried out and about the operating procedures to be followed;
- are aware of the risks involved;
- consequently adopt all the measures necessary in order to ensure that the job is carried out in safe conditions.

In the "Pre-Job Check" the supervisor and the operators re-examine all the phases of the work and the relative duties, evaluating together the situations of potential risk for health and safety that could occur and the behaviours to be implemented in order to prevent any accidents.

11.3.2 ENEL, in case of breach of the above-mentioned duties can, at its discretion:

- a. Suspend the execution of the activities that form the subject of the Contract for a variable number of days depending on the gravity of the non-compliance without, in any case, the Contractor having any right to extend the term envisaged for the execution/delivery of the above-mentioned Contract or to any remuneration or compensation for the same.
- b. Request that the Contractor organise an additional training course on health and safety in the workplace, for the personnel responsible for the non-compliance.

**11.4 Duties of the Contractor in case of assignment of the activities under Subcontract.**

11.4.1 When choosing the subcontractor, the Contractor must first check that the same holds the requirements in terms of health and safety in the workplace prescribed by the national reference legislation and by ENEL for the activity assigned to it, such as, for example:

- company policy on health and safety;
- risk assessment document;
- safety documents and procedures that clearly regulate the methods of performing the activities;
- internal structure (names and roles) for the implementation and management of safety at work;
- procedures regarding:

<sup>3</sup> Serious accident: accident with initial prognosis of more than 30 days or with a critical prognosis, until the same is declared as no longer being critical, or with unknown prognosis.

<sup>4</sup> Near Miss: an unforeseen event related to the work, which could have potentially caused an injury or a professional illness, but failed to do so. Only a lucky break in the chain of the events prevented the injury or damage from occurring.



- personnel safety training;
  - management of the personal protection equipment (PPE);
  - management and performance of safety controls;
  - analysis of accidents and implementation of the consequent corrective actions.
- copy of the accidents register (or similar document certified by the national institute for accidents in the workplace, if one exists);
  - statistics on accidents for the last 3 years and for every year (e.g: index of frequency and index of gravity<sup>5</sup>);
  - if available, certification of the Health and Safety Management System pursuant to the OHSAS 18001/2007 standard (or equivalent);
  - if available, document provided by the national institute for accidents in the workplace, which bears the premium rate applied for insurance purposes.

11.4.2 To enable the appropriate checks to be carried out for the purpose of authorisation, the Contractor must send to ENEL, under its own responsibility, a declaration attesting to the fact that any subcontractor involved holds the required health and safety requisites. The above-mentioned Contractor must keep the relative documentation for the entire duration of the procurement Contract, to permit any checks to be carried out by ENEL or, sent by the Contractor directly to ENEL, where required by the legislation in force.

11.4.3 ENEL, based on the declaration received, will evaluate whether to proceed in acquiring the documentation described above for the purpose of granting or withholding the authorisation to subcontract, in line with the provisions of the national legislation in force. Additionally, before proceeding in authorising the subcontract, ENEL can carry out further checks regarding the possession of the prescribed requisites on the part of the subcontractor, where doing so fails to explicitly conflict with the individual national reference laws in force.

11.4.4 The Contractor must make available the documentation relative to safety in the workplace with reference to the activities that constitute the purpose of the same, for the entire duration of the procurement Contract, in line with the provisions of the individual national law in force and with its duties of collaboration and coordination towards its own subcontractors. The safety documents of the subcontractors must be present in the places in which the activities that form the subject of the procurement Contract take place, both for the purposes of their application, and so that they can be readily exhibited, on request.

11.4.5 The subcontractor must choose at least one safety supervisor from its personnel, notifying the Contractor of their name(s) and any variations of the same. In any case, the subcontractor cannot carry out any activities unless the safety supervisor is present.

11.4.6 The Contractor must immediately notify ENEL of any events (including near misses) affecting or that could affect the safety of people during the execution of the works, also with reference to the activities performed by the subcontractors.

11.4.7 Additionally, the Contractor, in case an accident occurs to its employees and/or the workers engaged in the procurement Contract and/or to any subcontractors and/or additional companies engaged by the former in the execution of the procurement Contract, must attach a copy of each accident report presented to the competent national Authorities to the communication.

## 12. INDUSTRIAL AND INTELLECTUAL PROPERTY.

12.1 The Contractor guarantees to ENEL, at all times and, if requested, will be obliged to prove to the same, by exhibiting documentation, its legitimate use of the brands, of patents for inventions, utility models and industrial designs or the relative licences for said rights, as well as the mandatory licence for the operation of the activity, when the same requires special authorisation in order to perform the services/works/supplies that form the subject of the Contract. It must also prove that said brands and licences fail to breach any third party rights.

In case of licences, these must be registered at the competent Offices, with ENEL reserving the rights to request that the Contractor provide the relative documentation and/or proof of the same, if necessary.

The Parties agree that, with regard to the products of ENEL or samples that are delivered by ENEL to the Contractor, for the purpose of executing the Contract, the Contractor: (i) cannot, in any way, copy, reproduce, process, translate, amend, adapt, develop, decompile, disassemble, use reverse engineering (or, in any case, carry out operations with the purpose of extracting the source code) - fully or partially - of those products or samples of, ENEL, and (ii) guarantee that the prohibitions described above are also respected by the authorised persons involved and by those who, might be involved in the execution of the Contract on the part of the Contractor.

12.2 The Contractor is responsible for obtaining the licences, permits and authorisations required from the owners of the patents, models and relative factory brands, as well as the required intellectual property rights, and for paying all rights and compensation due to these ends.

In case of supply contracts, should, as the result of a claim by the owners or licence-holders of the rights described in this article, ENEL be obliged to fully or partially change the materials to be supplied, the Contractor will change these as soon as possible entirely under its own responsibility and at its own expense without this leading to a deterioration in the quality of the supply, the working characteristics and the guarantees. In the case described above, where envisaged by the type of supply and before following it through, a new prototype homologation and approval pathway will be instigated.

<sup>5</sup> Frequency Rate: (No. of injuries/hours worked) x 1,000,000.

Severity Index: (No. of days lost/hours worked) x 1,000.



Should ENEL be subpoenaed by a third party for breach on the part of the Contractor of the duties described in the previous point, the Contractor, upon ENEL's request, will be obliged to present a guarantee that covers the amount of the claim received, within ten (10) calendar days.

12.3 The Contractor indemnifies ENEL from liability for any violations of the industrial or intellectual property rights of which ENEL might find itself as the perpetrator and undertakes to do everything necessary to hold ENEL harmless in relation to any claims or subpoenas that may be raised. It also undertakes to compensate ENEL for all the direct and indirect damages and detriments deriving from the claims or subpoenas.

Any claim raised in or out of court against the Contractor by third parties relative to industrial or intellectual property rights, must be promptly notified to ENEL.

12.4 All the documents, drawings, plans, IT programs will be the property of ENEL, as will the relative copies, submitted by ENEL to the Contractor for the execution of the services/works/supplies that form the subject of the Contract. The same goes for the inventions, patents, utility models and other industrial property rights that are, or may become necessary for the execution of the services/works/supplies based on the documentation submitted to the Contractor by ENEL; The Contractor must only use these for the purposes of executing the Contract and must return them at the conclusion of the same, at all times maintaining suitable precautions in place for the processing, use and transmission of the information that guarantees the safety and confidentiality of the same, pursuant to article 13 "CONFIDENTIALITY", below.

12.5 The intellectual property rights, technology and methodology deriving from the works or services provided by the Contractor for the execution of the Contract, as well as any recordings made, are property of ENEL, cases in which the Contractor has no right to increase the price defined in the Contract for said works or services, once already included in Contract price,.

12.6 The drawings, documents, designs, IT programs, and the copies of the same, and in general any result (and the related industrial and intellectual property rights, including, for example, patent applications, patents awaiting approval, rights regarding databases, copyright, commercial brands, rights related to commercial and industrial secrets and any application of these worldwide, software designs and models, know-how) generated by the Contractor during the execution of the Contract (the "acquired Intellectual Property Rights") will be the sole property of ENEL, which will also automatically become the owner of any pertinent work in progress, generated from time to time during the execution of the Contract. The Parties acknowledge and accept that the pre-existing intellectual property rights of each Party will remain the sole property of each Party, and that the counterpart will not have any rights to these; The term pre-existing intellectual property rights is defined as all the current and future intellectual and industrial property rights, including, for example, patent applications, patents awaiting approval, rights regarding databases, copyright, commercial brands, rights related to commercial and industrial secrets and any application of these worldwide, software designs and models, know-how), belonging to each Party before the signing of this Contract or acquired subsequently during parallel projects that fall beyond the scope of this Contract. Therefore, should the Contractor have to use its own pre-existing intellectual property rights for the execution of this Contract, any acquired Intellectual Property Rights that are the property of ENEL will be limited to the additions (the "Additions"), that constitute the additional parts (generated by the Contractor during the execution of the Contract based on the pre-existing intellectual property rights) which fail to include or cover in any way any of its own pre-existing intellectual property rights. The Parties accept in writing the list of the elements which constitute the Additions in advance and/or within 30 (thirty) days subsequently to the expiry or dissolution of the Contract

12.7 The method for selling and disseminating to the third parties the technology that forms the subject of the Contract and the benefits that could derive from the same are regulated in the Contract.

12.8 In case of non-compliance on the part of the Contractor of the duties relative to the industrial and intellectual ownership described in this article, ENEL is entitled to terminate the Contract, without prejudice to its right to take all actions and receive compensation for the damage suffered.

### **13. CONFIDENTIALITY.**

13.1 All the information made available by the Parties (verbally, in writing, in digital format or in any other form) before and/or during the execution of the Contract, in addition to any other information that may come to the Parties' knowledge by virtue of other contracts signed between the Parties and/or pre-contractual negotiations relative to said contracts, similarly to all the documents, information and specific knowledge, regardless of how this has been collected, obtained or processed, can only be used for the execution of the Contract and are confidential.

For example, "confidential" information includes all the information relative to business strategies, information about products and/or manufacturing processes (design, research and development), production means, sales information, strategies for developing and managing customers, etc. Other documents considered as confidential include economic, financial and technical documents, as well as processes, patents, licences or any other information that either of the two Parties (hereinafter referred to as "Owner Party") might have made available to the other Party (hereinafter referred to as "Receiving Party"), in relation to the execution of the Contract.

The confidential information will include all the information that the Owner Party makes available to the Receiving Party before or during the execution of the Contract, both through the directors, managers, or employees of the Owner Party, and through the contractors, subcontractors or branches of the Owner Party and the directors, managers, or employees of these (hereinafter referred to as, "Representatives of the Owner Party"). The confidential information also includes all the information regarding the Representatives of the Owner Party, which said Party or the Representatives of the Owner Party have provided to the Receiving Party, directly or indirectly, before or during the execution of the Contract. To this end:

- The term 'branch' refers to any company controlled by one of the Parties or by said Party together with third parties, for the entire duration of said control and for all the time during which the piece of information is made available;
- The term 'control' refers to the direct or indirect ability to manage the functioning and the strategy of the branch, and to the cases in which any company of the group of one of the Parties owns more than fifty per cent (50%) of the share capital or of the shares with voting rights in the branch, either directly or indirectly.



The information that the Receiving Party shows to have been lawfully possessed by the same before the commencement of the execution of the Contract, and/or that it may have received from third parties not subject to a confidentiality agreement, is not considered confidential.

The confidential information cannot be disclosed without prior express written authorisation of the Owner Party, except in cases in which the Receiving Party is legally obliged to disclose it or is asked to do so by a Public Authority, or when it is not possible for it to refuse. Without the prior express written authorisation of the Owner Party, the Receiving Party cannot copy, reproduce, translate, amend, adapt, develop, disassemble, separate, perform reverse engineering operations on or any operation destined to extract the source code - fully or partially - of the confidential information provided.

#### 13.2 The Receiving Party:

- Will limit itself to disclosing the confidential information only to its own directors, managers or employees, or to its contractors, subcontractors or branches or to the directors, managers or employees of the latter (hereinafter referred to as, "Representatives of the Receiving Party") who need to have or know it for the purpose of executing the Contract;
- It will oblige its Representatives and guarantee that the same fulfil the duties specified in this article;
- It will be held liable for any action or failure to act of its Representatives which leads to a non-compliance of the confidentiality duty.

13.3 The Receiving Party must create and manage logistic and physical data, using the best techniques and international practices available, to guarantee the protection of the data against unauthorised destruction, tampering, access or reproduction.

13.4 Both Parties must guarantee that they will, under no circumstances, disclose the confidential information during the execution of the Contract and for a period of five (5) years from its conclusion, except in cases in which a different duration is established within the above-mentioned Contract or when obliged to do so by the law or by a provision issued by a Public Authority. In the cases in which this kind of disclosure is required, the Receiving Party asked to disclose confidential information must promptly notify the Owner Party of this request, where legally possible, so that the latter can take all the actions necessary in order to protect its rights. The Receiving Party will only disclose the information that is required by law and will undertake to obtain a statement to ensure that those who receive said information preserve its confidentiality.

#### 13.5 If the information is defined by ENEL as "strictly confidential", the following rules must be applied:

- The password required for accessing the IT system must be personal, kept secret and changed every sixty (60) days. The access to the IT systems must be limited to the software or tools specifically provided for the execution of the requested activities;
- The network services and the connections cannot be used for purposes other than the activities to be completed;
- None of the transactions completed using the IT systems of ENEL must breach the local laws in force;
- The workstation used (both fixed and mobile) must not be connected to Internet services other than those provided or authorised by ENEL and must have the necessary anti-virus software. All possible counter-measures must be taken to avoid the propagation of viruses, malware or any unlawful form of software that can cause breaks in service or data loss;
- All the email accounts, file storage and communication platforms (including the social networks) used must be provided and explicitly authorised by ENEL;
- Sensitive data must be filed, sent or erased using a suitable encryption software;
- It is prohibited to make any amendments to the configuration of the System in order to avoid safety checks.

13.6 Both the Parties will agree in writing on the content, means of communication, publication date of any press articles and news or communications of any kind that concern the Contract or any matter or piece of information related to it.

13.7 If ENEL authorises in writing the subcontracting or transfer of the Contract, the Contractor must first obtain a confidentiality agreement with the same content as that of this article from the subcontractor or transferee.

13.8 ENEL reserves the right to carry out regular checks, with particular attention to the safety measures applied in cases involving information deemed and classified by ENEL as confidential.

13.9 At any time, if requested by the Owner Party, the Receiving Party must return or destroy, or have its Representatives return or destroy all the copies of the confidential information in written form in its own possession, or in that of its Representatives. Additionally, the Receiving Party will make all reasonable efforts and ask its Representatives to do the same, to return or destroy any piece of data stored digitally and will confirm the destruction of said data to the Owner Party within a maximum term of fifteen (15) days from the request. The Owner Party can carry out the checks that it deems suitable in relation to the restitution or destruction.

13.10 Nothing in the Contract can be understood – unless it is expressly indicated in writing – as the concession of a licence or any other element in terms of patents, copyright, inventions, findings or improvements carried out, conceived or acquired, both before and after the execution of this Contract.

13.11 Both Parties acknowledge and agree that the compensation of the damage might not constitute sufficient indemnity in case of the non-fulfilment of the confidentiality duty and that the damaged Owner Party has the right to prove and obtain additional compensatory measures or avoid any potential breaches or damages arising from said non-fulfilment in accordance with the legislation in force.

13.12 In case of breach by Contractors of the confidentiality duty, ENEL will be entitled to terminate the Contract.





#### **14. PERSONAL DATA PROCESSING.**

14.1 Both ENEL and the Contractor undertake to comply with the legislation regarding the protection and processing of personal data, as established in the Contract and in compliance with the applicable legislation.

#### **15. PROTECTION OF THE ENVIRONMENT.**

##### **15.1 Introduction.**

15.1.1 The Contractor declares that it is aware of all its duties and conditions regarding environmental protection, undertaking to act in compliance with the relevant provisions and also with the duties and conditions set forth in the Contract.

15.1.2 Except as otherwise stipulated in the following article 17 "GLOBAL COMPACT", in compliance with the principles of the environmental policy applied by ENEL, the Contractor agrees to implement all necessary measures and precautions to ensure environmental protection.

##### **15.2 Environmental Requirements.**

15.2.1 The Contractor must prevent harmful environmental impact, always acting in accordance with the applicable legislation and the ENEL standards on the subject.

15.2.2 The Contractor must ensure that all waste generated by its personnel within ENEL facilities be managed in accordance with the instructions indicated by applicable legislation and the site personnel.

15.2.3 All the Contractor 's personnel or its subcontractors visiting ENEL sites are strictly prohibited from carrying out hunting or fishing activities, cutting down vegetation and lighting fires in both the working site and its surrounding area.

15.2.4 The Contractor undertakes to implement all the appropriate measures to guarantee strict compliance with the duties assigned to the Contractor in accordance with the provisions of all the applicable environmental legislation. This is especially true with regard to the correct packaging and labelling of the supplied products (packaging date, manufacturing date, expiration date, etc.), as well as the returnability of containers for chemical products where such products are deemed to be dangerous substances or materials by the applicable laws, notwithstanding any future legal developments that may arise in this respect in the future. The Contractor also undertakes to reinstate the damage caused as a consequence of any breach of the applicable regulations.

15.2.5 The Contractor undertakes to supply products or materials with environmental labelling, greater energy efficiencies, a long service life involving lower costs and less likelihood of waste being generated due to shelf life expiry and lower final disposal costs. It also undertakes to maximize its recycling operations, both for materials and in waste management.

15.2.6 The Contractor undertakes to ensure that the usable elements in its materials and equipment are not chemically unstable and that they do not contain carcinogens.

15.2.7 The Contractor shall respect the limitations on the marketing of dangerous substances and materials established by applicable legislation, as well as any other future legal amendments in this regard. Particularly, the Contractor shall certify the absence of PCBs in the oils used in its equipment, and the absence of CFCs, HCFCs, halons, etc., with trade restrictions.

15.2.8 The Contractor shall be responsible for ensuring that the transport methods fulfil the provisions of the applicable legislation.

15.2.9 If the Contract includes the acquisition of substances in the form of compounds or substances contained in other elements, including, but not limited to, insulating oils, lubricating oils, greases, paint, ink (including Toner) and varnish, solvents, chemical products, electric batteries, gases (in bottles or equipment), Fuels (diesel, fuel oil), laboratory reagents, cleaning products, controlled products, the Contractor shall ensure the compliance with current legislation on the registration, evaluation, authorization and restriction of substances and chemical compounds, providing the safety data sheet (MSDS), and on the handling and storage of the substances or mixtures that it supplies, prepared in accordance with the current legislation. The safety data sheet must describe the uses for the supplied substances and compounds, including any potential limitations or instructions related to their storage.

15.2.10 The Contractor of Electric and Electronic Equipment (EEE) shall comply with the conditions imposed by local legislation, also in relation to the end-of-life management.

Where is foreseen by national regulatory framework, the Contractor has to demonstrate:

- to have adhered to an end-of-life recycling collective system recognized and valid for the Country where the Electric and Electronic Equipment will be installed.
- to be registered to the National Register of EEE Producers.



In case of a Country without specific regulatory framework about Electric and Electronic Equipment recovery system, ENEL in agreement with the Contractor manufacturer will evaluate how to proceed case by case.

### **15.3 Failure to fulfil Environmental Requirements.**

15.3.1 The Contractor and its subcontractors must strictly comply with all applicable National Laws and Standards in terms of the Environment and the applicable ENEL standards (included in this document). In case of inconsistency between the Law and the ENEL standards, the more restrictive provision in favour of environmental protection will prevail.

15.3.2 The Contractor shall be responsible for the fulfilment of all provisions included in this Contract and the current legal regulations by its subcontractors.

15.3.3 In cases in which the failure to meet the environmental requirements involves, in ENEL'S opinion, an imminent danger, understood as any situation that creates an evident and manifest risk of damage to people's physical integrity or incurs the possibility of severe environmental harm, ENEL can request the immediate correction of the identified situation and stop the work until the problem is solved. ENEL, at its sole discretion, can also:

- require the Contractor to ensure that its employees – who were responsible for the violation – attend up to 16 hours of additional training on environmental issues. The workers responsible for these violations shall only be re-admitted to the site after attending the prescribed specific training courses, or;
- suspend payment of sums due to the Contractor, to the extent of 10% of the amounts accrued at the time of the environmental violation, until the Contractor implements the changes to its environmental management system required by ENEL.

### **16. VENDOR RATING.**

16.1 ENEL has established a Vendor Rating system in order to assess and constantly monitor the performances of its contractors (providing works, supplies and services).

16.2 The Vendor Rating is applied to all the companies that work with ENEL.

16.3 The assessment of the Contractor is based on indicators that express the level of quality offered, compliance with the lead times, conformity with the environmental and safety laws in force, the upholding of the principles of social responsibility. These indicators are then combined to produce an Vendor Rating Indicator (so-called VRI).

16.4 ENEL proceeds in objectively and systematically identifying the information about the behaviours of the Contractor from the procurement phase to the execution of the services/works/supplies regulated by the contract.

16.5 In case of unsatisfactory works/supplies/services, ENEL can ask the Contractor to submit plans of action - with contents and terms to be agreed upon - or proceed in taking the appropriate penalising actions.

### **17. GLOBAL COMPACT.**

17.1 The Contractor undertakes to adopt and fully comply with the Principles of the Global Pact, gearing all its activities, performed by its own personnel or by subcontractors, to complying with the above-mentioned Principles.

17.2 The Principles of the Global Pact are as follows:

#### a) HUMAN RIGHTS.

- One:** Businesses must support and respect the protection of internationally proclaimed human rights in their own fields.
- Two:** Businesses must make sure that they are not complicit in human rights abuses.

#### b) LABOUR.

- Three:** Businesses must uphold the freedom of association and the effective recognition of the right to collective bargaining.
- Four:** Businesses must support the elimination of all forms of forced and compulsory labour.
- Five:** Businesses must support the effective abolition of child labour.
- Six:** Businesses must support the elimination of discrimination in respect of employment and education.

#### c) ENVIRONMENT.

- Seven:** Businesses must implement a precautionary approach to environmental challenges.
- Eight:** Businesses must support initiatives designed to promote greater environmental responsibility.
- Nine:** Businesses must encourage the development and diffusion of environmentally friendly technologies.

#### d) CORRUPTION.



**Ten:** Businesses must work against corruption in all its forms, including extortion and bribery.

17.3 The Contractor undertakes to comply with the applicable legislation in force, tied to the principles mentioned above and undertakes to inform ENEL of any situation in which a non-fulfilment of said principles might occur, as well as the plan for remedying this situations.

17.4 For the entire duration of the Contract, the Contractor undertakes to allow ENEL to verify the level of fulfilment with the terms required as specified in this article. ENEL will be entitled to request the termination of the Contract, for reasons attributable to the Contractor, in all cases in which the same has due reason to believe that the Contractor or its subcontractors have contravened any one of the above-mentioned Principles.

## **18. CODE OF ETHICS.**

### **18.1 General details.**

18.1.1 The ENEL Group, when conducting its business and managing its relationships refers to the principles contained in its own Code of Ethics, in the Zero Tolerance plan against corruption and in the Human Rights Policy.

The Contractor, when conducting its own business and managing its relationships with third parties, refers to equivalent principles.

The Contractor states that it acknowledges the pledges made by ENEL in the Code of Ethics and states that it will strive to comply with the legal obligations regarding the prevention of child labour and the protection of women; equal treatment, the prohibition of discrimination, abuse and harassment; freedom to join a union, the freedom of association and representation, forced labour, environmental safety and protection, health and hygiene conditions and the compliance with the terms and conditions of the laws in force regarding remuneration, contributions, insurances, tax, all with reference to all the workers engaged in any capacity in the execution of the Contract. It is fully understood that the ILO Conventions shall be applicable, or the laws in force in the country where the activities need to be carried out wherever the latter are more restrictive.

In this area, ENEL reserves the right to carry out any control and monitoring activity geared to verifying whether the above-mentioned duties have been fulfilled, both on the part of the Contractor and also on that of any of its subcontractors or other parties in any case appointed by the same for the execution of the Contract, and to terminate the same immediately should proof that the above-mentioned duties have been breached come to light.

We would also like to stress that ENEL complies with the Global Compact and that, in compliance with the tenth principle of the same, it intends to pursue its commitment in the struggle against all forms of corruption. Therefore, ENEL prohibits the use of any kind of promise, offer or request for unlawful payment, in cash or other utility, for the purpose of furthering its relationships with its stakeholders, and this prohibition is extended to all its employees. The Contractor states that it acknowledges the commitments undertaken by ENEL and undertakes not to make any promises, offers or requests for unlawful payment during the execution of this Contract in the interest of ENEL and/or to the benefit of its employees.

In case of breach of one of these duties, ENEL reserves the right to terminate the Contract and to request compensation for the damage from the Contractor.

### **18.2 Conflict of interest.**

18.2.1 During the execution of the Contract, the Contractor undertakes to have exclusive regard for the interests of ENEL, ensuring that there are no situations that might lead to the occurrence of any conflict of interest in relation to the activities to be performed.

For the entire duration of the Contract, the Contractor undertakes to behave in a way designed to avoid conflicts of interest from arising. Whenever this might result in a situation which could generate any conflict of interest – subject to the right of ENEL to terminate the relationship – the Contractor undertakes to promptly give written notice to ENEL and to comply with the reasonable instructions of the latter, which will be dictated upon consultation and assessment of the requirements justifiably represented by the Contractor.

### **18.3 Company health and safety clause.**

18.3.1 In ENEL, protecting not only the health and safety but also the psychological and physical integrity of people is not only a legal duty but also a moral responsibility towards its own employees and those of its Contractors.

The objective that ENEL hopes to fulfil is a “**Zero Accident**” workplace. In ENEL no work can be performed in a way that might compromise safety. This is why, as established in the Stop Work Policy, any risky situation or unsafe behaviours must cause the works to be suspended and safe conditions restored.

ENEL strives constantly and diligently to consolidate the culture of health and safety, by promoting a closer focus on and awareness of the risks and by encouraging those who work for us and with us to behave responsibly.

The Declaration of our commitment to health and safety and the Stop Work policy can be viewed at the following link:

<http://globalprocurement.enel.com/it-IT/documents/documentation/safety/>

All Contractors, when performing their working activities must behave in line with these principles.



#### **18.4 Code of Ethics of the Contractor.**

18.4.1 Alternatively, should the Contractor have its own Code of Ethics and its own policies against corruption and on the respect for Human Rights, ENEL can acknowledge, at its sole discretion, such documents, as long as according to the Contractor they refer to principles deemed similar to those established in the same documents of ENEL.

#### **19. LIMITATION OF LIABILITY.**

19.1 None of the Parties, for the execution of the Contract, shall be liable for indirect damages, loss of profits, loss of production or loss of profits of the complying Party.

19.2 The responsibility of each of the Parties for the execution of the Contract shall not exceed 100% of the total amount thereof, including price revisions and extensions. The penalties applied, as they do not have a compensatory nature, will not be taken into account for the calculation of the aforementioned limit.

19.3 The exclusion contained in 19.1 and the limitation of liability contained in 19.2 will not be applicable in cases in which the aforementioned responsibility of the breaching Party comes from any of the following assumptions:

- Breach of Criminal Matters.
- Breach of Protection of Personal Data or Confidentiality.
- Breach of Intellectual or Industrial Property.
- Breaches in Environmental matters.
- Breach of Tax, Salary, Social Security, or Health and Safety.