



**ENEL GROUP GENERAL CONTRACT  
CONDITIONS**

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Title:

**ENEL GROUP GENERAL CONTRACT CONDITIONS  
GLOBAL PROCUREMENT (GENERAL PART)**

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## 1. SCOPE.

1.1. These Terms and Conditions of contract (hereafter referred to as "General conditions" or "General Part") regulate the contractual relationship between companies of the ENEL Group (hereafter also referred to as "ENEL") and its Contractors (hereinafter jointly referred to as the "Parties") regarding the acquisition of materials, equipment, works and services (hereafter the "Works Contract").

The General Conditions are intended to form one document composed of the present document and the Country Annexes. Normally, the time in which the specific Country must perform the object of the contract, the corresponding Country Annex shall be applied, which contains the specific clauses applicable to each respective Country.

These conditions shall also apply, without prejudice to any other agreement to the contrary and taking into account the order of precedence set out in the criterion in clause 5 - "Interpretation and hierarchy".

1.2. The Agreement indicates the Web page on which these Terms and Conditions can be consulted, and if you do not have access to the Web page, request a copy of these conditions, we will send it to you in an electronic/hard copy format.

1.3. Any exceptions to these general conditions proposed by the Contractor shall only be valid if made in writing and accepted as they are by ENEL, and they shall only apply to the Works Contract they have been proposed for, excluding the possibility of exceptions being extended to other contracts in progress or that may be signed later with the same Contractor.

## 2. DEFINITIONS.

2.1. The following definitions, among others, are used in this document:

□ **WORKS CONTRACT (hereafter "Contract")**: an inseparable combination of contractual documents, listed below, which regulate, in writing, the obligations of the Parties and the acquisition of materials or equipment and/or the execution of works or the provision of a specific service:

1. **Agreement (or "Lettera d'Ordine" in the "Annex ITALIA" or Cuerpo principal del contrato" in the Annex Brasil, Chile, Colombia, España, Perú, Portugal)Esp)**: the document that contains the Parties' detailed data, specifies the object and the duration of the contract, and contains specific provisions of an economical, administrative and regulatory nature, and which list and refer to all the documents that the Contract is composed of;

2. **Particular Conditions**: a document containing the specific conditions which regulate the Works Contract;

3. **Technical-Economic documents**:

- **Technical Specifications**: the document containing the technical requirements relating to the Contract;

- **Remuneration List or Price List**: the document that contains the amount to be paid for the individual services provided by the Contractor, which may be grouped into several categories;

- **Any additional documents**: other documents relating to a specific Works Contract (e.g. description of the works and interventions; graphic and descriptive design print-outs; chronological schedules, etc.).

4. **General Conditions:** this present document and the applicable Country Annex.

5. **Country Annex:** the document attached to the General Part containing the specific clauses applicable to the Contract in each respective Country.

**Electronic signature:** an accreditation system which, where applicable and in accordance with the legislation of each country, allows you to verify the identity of parties with the same value as a handwritten signature, and which authenticates communications generated by the signatory, as well as verifying the origin and integrity of an electronic document or a set of electronic documents.

**Financial guarantee:** Documentation that the Contractor provides to ENEL, concerning a financial guarantee for the exact fulfilment of all contractual obligations and/or any other obligations.

**Warranty Period:** Period in which the Contractor shall ensure the proper functioning of the product/works, or that the same is free from defects and fit for use.

**Procurement Portal:** ENEL Portal which Contractors can access and use with ENEL via the web.

**Contractor:** Natural or legal person or groups of the latter with which ENEL signs contracts for works, services and supplies.

**Subcontract:** Contract with which the Contractor entrusts the execution of contractual services to third parties.

**Taxes:** Any taxes, duties, or any other charge in general, determined by the relevant authority/local laws applicable to an individual Contract in accordance with current regulations.

**Final Receipt Document:** document (e.g. a report) confirming the final receipt and acceptance of purchased materials or equipment , the works or services a Contract concerns, and the end of the Warranty Period;

**Provisional Receipt Document:** document (e.g. a report) which records:  
1) the successful outcome of inspection and testing activities in regard to particular equipment or material received from ENEL; this document also records any necessary modifications or corrections of deficiencies found during inspection and testing or  
2) the successful outcome of a works progress examination, the exact execution or completed correction of the service a Contract concerns, and compliance with technical standards and contractual clauses relating to the various phases of activities under Contract.

### 3. LANGUAGE.

3.1. The original version of this General Part is in English.

The original version of each Country Annex is the one indicated in the single Country Annex.

The original version of the remaining Contract's documents shall be that indicated in the Agreement or in each of the Contract's documents.

3.2. Notwithstanding the foregoing, any amendment or supplement to the Contract shall be made in writing.

#### **4. FORMALISATION.**

4.1. The Contract is agreed upon the Parties signing it. By signing the Contract – which may also be carried out using an electronic signature - the Contractor declares its full and unconditional acceptance of the same.

4.2. Any additions and/or subsequent additional contractual terms, or deletions of contractual clauses relating to a specific Contract, must be interpreted in a restrictive manner in relation to the intent of the amendment, and do not in any case have any novation effect unless expressly agreed otherwise.

4.3 In the case of agreements which ENEL may stipulate with the Contractor for the benefit of two or more companies of the ENEL Group, the Contract shall be formalised between the individual companies of the ENEL Group receiving the service, works or supply and the Contractor or its subsidiaries or associated companies or permanent organisations located in the same country as the ENEL Group company.

#### **5. INTERPRETATION AND HIERARCHY**

5.1. In the case of conflict or incompatibility between the Contract's documents the order of priority and precedence shall be determined as indicated as follows:

1. **Agreement;**
2. **Particular Conditions** (if present);
3. **Technical-Economic documents** (Technical Specifications, Remuneration List or Price List, Any additional documents);
4. **General Conditions.** The General Conditions are intended to form a single document composed of the present General Part and the applicable Country Annex. In the case of conflict between the General Part and the Country Annex, the Annex shall have precedence;

In every case, in the case of conflict between the Contract's documents and the mandatory norms of the applicable law of the contract, the mandatory norms of the applicable law of the contract shall have precedence.

5.2. Without prejudice to clause 28 "Applicable law", should any doubts and/or conflicts arise concerning the Interpretation of Contract, they shall be resolved amicably by the Parties, in accordance with the subject matter and purpose of the Contract and in compliance with the provisions applicable to it.

5.3. In the case of conflicts between the original version of the present General Part in English and the translations into other languages, the original version in English shall have precedence. In the case of conflicts between the original version of the Countries' Annexes and translations into other languages, the original version in the official language of the respective Country shall have precedence.

5.4. It shall not be held that a Party has waived any right, power or privilege conferred by the Contract, unless such waiver is expressly made in writing and known by the other Party. The

waiver of a right, power or privilege shall not imply a waiver of any future rights even if they are of the same nature.

5.5. In the event that any provision of the Contract is held to be invalid, such invalidity shall not affect the remaining provisions, which may be executed without the invalid provision. The Parties shall, taking into account the spirit of the Contract and by mutual agreement, seek to amend the invalid provision in such a way that it respects the purpose of the provision in question as closely as possible.

## **6. COMMUNICATIONS.**

6.1. Communications between the Parties shall be in writing, at the location or address and in the manner stated in the Contract. The Parties undertake to promptly report any changes. In the absence of such notification, communications shall be deemed effective if sent to the addresses and executed in the manner mentioned above.

6.2. ENEL reserves the right to use electronic procedures for the exchange of documents relating to the Contract, using systems it is authorised to use.

Unless expressly stated in the Contract, electronic means of communication may be used, provided that they allow the tracking of communications.

6.3. The Contractor shall abide by and promptly give effect to all communications it receives from ENEL, without any further formalities.

## **7. FINANCIAL CONDITIONS**

### **7.1. Price.**

7.1.1. The price of the Contract is the consideration agreed for the acquisition of materials and/or equipment and/or the performance of works or services, and it takes into account the total value. It includes everything necessary for the exact execution of the contractual services, and everything that has to be provided or performed by the Contractor, all costs or charges as may be necessary, without prejudice to the services and items that have been expressly excluded and the taxes imposed by applicable legislation.

7.1.2. The prices shall be detailed in the Contract in the manner provided for therein.

### **7.2. Modification of Prices.**

7.2.1. The prices are fixed and invariable. Any price changes may be made only if provided for in the Contract and/or required by applicable law.

### **7.3. Invoicing.**

7.3.1. Invoices shall be valid and ENEL shall accept them only if they contain all of the information required by the Contract and the applicable regulations, and if the activities covered by the Contract have been correctly completed.

Invoices without the relevant Contract number shall not be accepted and shall not be taken into account for the calculation of the date of receipt.

Even if the Contract provides for payment of invoices in various currencies, an individual invoice may be issued in a single currency.

7.3.2. ENEL shall return invoices to the Contractor that:

1. are missing some information or compulsory data required by the Contract and/or the law;
2. contain items not authorised by ENEL;
3. show amounts expressed in a currency other than that defined in the Contract.

ENEL shall in any case specify the reasons for returning invoices. In this case, the return of the same cancels the original date of receipt.

Unless otherwise provided for in the contract, all invoices and, where applicable, the documentation accompanying the same shall be sent to the address provided in the Contract.

Invoicing may be carried out as follows:

**A. Using ENEL'S electronic systems (Procurement Portal):**

The Contractor, under the terms and conditions set forth in the Contract, and after obtaining the necessary authorisation to invoice from ENEL (invoices shall include data on the quantities supplied and/or services provided correspond with the amounts indicated therein), shall issue individual invoices.

After receiving authorisation to invoice from ENEL and in accordance with contractual arrangements, the Contractor shall send invoices with the mandatory data required by applicable laws, using electronic systems (e.g. EDI) that ensure the authenticity and integrity of the information contained therein.

In accordance with the law on electronic invoicing, the Contractor may send ENEL invoices created in an electronic format. This method ensures the integrity of the data and the univocal attribution of the document to the issuer.

**B. Without using electronic systems.**

In the event of electronic systems being not available and/or applicable legislation does not allow electronic submission and electronic invoicing, the Contractor, in compliance with the terms and conditions set forth in the Contract, after obtaining the necessary authorisation to invoice from ENEL (invoices shall include data on the quantities supplied and/or services provided commensurate with the amounts indicated therein) shall issue the individual invoices, sending the originals to the invoicing addresses indicated in the Contract.

7.3.3 "In the case referred to in sub-clause 4.3, if the Contractor uses its subsidiaries or its associated companies or permanent establishments in the country where the ENEL Group companies are established, the service, supply or works provided for the ENEL Group companies, as well as the consequential invoicing, must be provided directly by its subsidiaries or its associated companies or its permanent organisations established in the same country in which the ENEL Group company is located".

**7.4. Payment Conditions.**

7.4.1. All payments shall be made by ENEL by bank wire transfer, in the manner and within the time limits set out in the Contract.

To this end, the Contractor undertakes to communicate the complete account data to ENEL.

The Contractor has the obligation to promptly report any changes to its fiscal and general data to ENEL (such as: VAT number, address, company name, etc.) or changes in ownership/corporate shareholding.

Failure to communicate the above information may result in the suspension of payments of invoices containing data that is not up to date.

Exceptionally, ENEL may accept other legitimate and valid means of payment, in accordance with the law applicable to individual Contracts.

7.4.2. Payment of the price shall not mean that ENEL considers the Contract to have been properly performed by the Contractor or that it waives its rights and actions against the latter, expressly reserving the right to exercise them, without prejudice to any payments it makes.

7.4.3. ENEL may, in accordance with applicable law and in the cases and in the manner provided for in the Contract, withhold and make suspended payments due to the Contractor, where they are due and payable.

7.4.4. In case of delay in payment of the price, if such delay is due to ENEL, arrears interest shall be payable in accordance with the provisions of the Contract and in accordance with applicable law.

## **8. TAXES**

8.1 While paying contractors for goods/works/services received, ENEL shall withhold amounts in accordance with tax and contributions legislation (with fiscal effect) applicable in the Contractor's country of residence and/or under any other law applicable to the Contract.

The Parties mutually undertake to fulfil all obligations, to deal with all the paperwork and deliver all documents necessary for the proper payment of taxes, including withholdings and other legal obligations applicable to the Contractor, complying with the procedures provided for by the law.

Similarly, the Parties undertake to cooperate in obtaining exemptions or other tax benefits applicable to the Contract. If, due to a lack of diligence or any other cause attributable to the Contractor, ENEL loses an entitlement to a tax benefit, it may discount the amount of the tax benefit it has not been able to take advantage of on the price due to the Contractor.

8.2. In case if there is an agreement between the Contractor's country of residence and the country of residence of the ENEL Group companies for the avoidance of double taxation, and the Contractor invokes the application of the provisions of such an agreement, it must provide ENEL with its certificate of residence (or any other declaration/certificate necessary for the application of conventions against double taxation) certifying its tax residence for the purposes of the provisions of the agreement in question; for the purposes of classification of the type of income under the Convention against the double taxation, the Contractor shall take into account the interpretation in force in the country in which the ENEL Group companies are located. This certificate is, in principle, valid for one year, unless the legislation of the country in which the ENEL Group companies are located establish a shorter period. In any case, when the validity of each certificate expires, the Contractor shall submit another valid certificate.

8.3. If ENEL is required to make deductions from payments due to the Contractor, and if requested by the latter, a certificate showing the deductions shall be provided which proves the amounts paid and the amounts withheld.

8.4. If materials or equipment are sent from abroad, the taxes shall be paid as indicated below:

a) The Contractor shall pay all taxes and charges applicable to goods in the countries they come from and those applicable in countries through which said goods transit until final delivery, as well as the taxes charged in the country of destination of the goods and payable in respect of the financial benefits obtained from selling them.

b) The contractor also, shall pay the expenses and import taxes or equivalent in the Country of destination, as well as other official customs charges on the imported materials and/or equipment, unless otherwise agreed with ENEL.

8.5. Regarding national materials or equipment, the taxes shall be paid either by ENEL or the Contractor, according to the provisions of the applicable law.

## **9. EXECUTION.**

### **9.1. Introduction.**

9.1.1. The Contractor, if required by the Contract, shall be obliged to appoint and maintain, throughout the performance of its activities under Contract, one or more representatives with full power to discuss technical and financial matters, with particular reference to safety and occupational health, work-related social obligations and respect for the environment.

ENEL reserves the right, during the execution of the Contract, to refuse said representative(s) for just cause. In such a case, the Contractor shall be obliged to replace the representative(s) within ten (10) working days, unless otherwise indicated in the Contract.

ENEL undertakes to provide, if requested by the Contractor, all the necessary data in the execution of the activities covered by the Contract. If the data provided by ENEL is insufficient or incomplete, the Contractor undertakes to request missing information in good time.

9.1.2. ENEL has the right to check and verify the exact fulfilment by the Contractor of all the obligations assumed under the contract and all instructions issued by ENEL, as well as the proper and timely performance by the Contractor of all activities necessary for the execution of the Contract in a skillful manner, and in accordance with the terms and conditions set forth in the Contract.

Without prejudice to its right to terminate the Contract, if ENEL, at the outcome of said checks and inspections, in any manner and at its sole discretion, determines that there have been breaches - also consisting of errors or inaccuracies - in the exact execution of the Contract's subject matter, the Contractor shall remedy the deficiencies at its own expense, without this in any way affecting the chronological schedule (where applicable) or any other contractually determined deadlines.

9.1.3. Unless otherwise contractually agreed, ENEL's personnel and/or third parties designated for that purpose at ENEL's discretion, shall be given access to the Contractor's workshops or warehouses and/or those of any subcontractors, in order to check the manufacturing, inspection and testing phases and be informed of the processing cycles, as well as checking the execution of the works or services, including the materials the Contractor uses to carry them out.

It is agreed that any such access, as well as any observations, shall not in any way constitute interference and/or a limitation of autonomy in the performance of contractual activities by the Contractor.

## **9.2. Inspection, tests and/or verification (testing).**

9.2.1. Where inspections, testing and/or checks are specified in the Contract, they shall be performed in the following manner.

Without prejudice to ENEL's right of inspection, the Contractor is obliged to carry out, at its own cost, all tests and inspections agreed upon and that need to be carried out in accordance with the applicable standards and administrative regulations, or those generally applied. The Contractor shall communicate the date on which they will be carried out, in writing, to ENEL, with a minimum notice period of ten (10) days. Similarly, the Contractor shall communicate the results of tests or checks carried out and recorded in the relevant certificates or protocols to ENEL, even if they were carried out in the presence of ENEL inspectors or representatives.

9.2.2. The Contractor may not begin or stop any manufacturing, construction or assembly phases, or ship materials, before inspections and testing have been successfully completed, where preventive inspections and testing are required, or before obtaining express written authorisation from ENEL, or unless ten (10) days have passed from notification of inspection and testing by the Contractor without ENEL giving indications to the contrary.

9.2.3. ENEL may carry out tests or inspections in addition to those provided for in the Contract, if it deems it to be necessary. If these tests show a positive outcome, any additional costs shall be borne by ENEL and, if not, by the Contractor.

9.2.4. Carrying out inspections, tests or checks, even if they satisfy ENEL's requirements, does not mean that the Contract's subject matter has been fully complied with and approved by ENEL, and neither does it exonerate the Contractor from any responsibility.

9.2.5. Failure by ENEL to make complaints about the execution of the contractual services, even after the monitoring and verification activities referred to above, shall not constitute any limitation to the Contractor's liability if it fails to fulfil its contractual obligations, even if such failure is ascertained at a later date.

9.2.6. If the results of inspections or testing or checks that are carried out show any breaches of the Contract's provisions, ENEL shall require the replacement or repair of the equipment or works, at the Contractor's expense and at no cost to ENEL. Where the Company requires the replacement of materials they must be clearly identified and the Contractor shall not be able to use them in the performance of contractual activities.

9.2.7. The duration and methods for carrying out inspections, testing and checks shall in no case be invoked by the Contractor as a reason or justification for deferring the delivery date.

## **9.3. Conditions for delivery and receipt.**

### **9.3.1. Introduction.**

9.3.1.1. Deliveries, including partial deliveries, must be made on the dates or by the deadlines specified in the Contract.

9.3.1.2. If a defined deadline is not indicated in the Contract and only a date for execution, completion, or delivery is established, this time limit shall be calculated starting from the date the execution of the subject matter of the Contract begins, or the date the Contract was signed.

9.3.1.3. The anticipation of the completion date or a reduction in the execution or delivery deadlines is only possible if expressly approved by ENEL. In such a case, the aforementioned authorisation shall not result in the advance payment of all or part of the price.

9.3.1.4. The completion dates may not be delayed, and neither may the deadlines for execution or delivery be extended, except for reasons attributable to ENEL or force majeure.

9.3.1.5. The Contractor is obliged, at its own expense, to provide any means to make up for, as far as possible, any delay compared to the required dates or deadlines, even when the delay is justified.

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

9.3.2.1. Where specified in the Contract, the Contractor, with due notice, shall send ENEL a specific communication prior to delivery.

Similarly, the Contractor agrees to immediately notify ENEL of any circumstances which alter the established delivery deadlines.

9.3.2.2. Unless otherwise provided for in the contract, terms such as ownership, insurance, etc., shall be interpreted in accordance with Incoterms.

9.3.2.3. The delivery of materials and equipment shall be carried out to the location specified in the Contract.

9.3.2.4. All equipment and materials shall be properly identified, accompanied by proper information and labelled for their correct and easy acceptance at destination, accompanied by a receipt which shall include the information specified in the Contract.

9.3.2.5. Transport to the destination and unloading shall be the responsibility of the Contractor, also in accordance with clause 20 "Insurance".  
If the type of material requires it, the Contractor shall obtain transit permits, licenses, authorisations or police accompaniments needed to transport the materials from the relevant authorities and shall bear all costs related to any work this may entail, such as: transit deviations, bridge buttresses, signs, etc.

9.3.2.6. The Contractor shall insure the transportation of goods with a financially solvent insurance company recognised as one of good standing.

9.3.2.7. The signing of receipts, shipping documents or evidence of transmission shall not affect the acceptance of the quantities or quality specified for the materials received.

9.3.2.8. In all cases where the delivery date is considered to have been complied with, ENEL reserves the right to delay any shipment of materials or equipment. In such a case, the Contractor shall be responsible for all costs of storage and insurance for the period defined in the

Contract. Should the delay in shipment be prolonged, the Parties shall, by mutual agreement, establish the amount of compensation for the additional costs of storage and insurance.

9.3.2.9. Once ENEL has received the material or equipment, a provisional receipt document shall be prepared which indicates the positive outcomes of testing or inspections and final acknowledgement, or highlights the rectification or correction methods applied to remedy the identified defects. Where no final tests and/or checks are required, delivery of the materials and equipment by the Contractor is formalised by the approval of its receipt by ENEL.

9.3.2.10. The Contractor may not - under any circumstances and, therefore, even in the event of disputes - suspend or slow down, on its own initiative, the execution of contractual activities.

If these obligations are breached, ENEL reserves the right to terminate the Contract, without prejudice to its full right to compensation for any damages it has suffered.

### **9.3.3. Similar Works and/or Services.**

9.3.3.1. The Contractor shall inform ENEL of the final date of completion of the works with adequate prior notice, so that the date and time of the works to be completed can be established. ENEL shall reply as soon as possible, and not later than 30 days from being notified. On the date fixed by mutual agreement for the formalisation of the works completion Provisional Receipt Document, the status of the works or service shall be examined, in the presence of the Contractor's representative to determine whether they comply with the Contract's requirements.

9.3.3.2. This Provisional Receipt is completed when the specific tests have been satisfactorily carried out and the good condition of the works or services required by the Contract have been proven. This document must be signed by both Parties.

9.3.3.3. If the examination of the works or service do not show a satisfactory result or the testing has shown negative results, ENEL, as an alternative to contract termination, shall draw up a document (e.g. a report) which shall highlight the defects and the deadline for the Contractor to correct them.

Once this period of time has passed, additional checks shall be carried out, and then if ENEL is satisfied, a document certifying the completion of the works shall be drawn up (e.g. a report). If ENEL is not satisfied, a new document shall be produced (e.g. a report) with an indication of the identified defects, and ENEL may choose between terminating the Contract or granting a new deadline for the Contractor to correct the defects.

9.3.3.4. The aforesaid deadlines granted to the Contractor to remedy the identified defects shall not be considered an extension to the terms of the contract and therefore, the Contractor shall be held liable for any penalties and/or compensation for damages and difficulties caused by the same for this reason.

9.3.3.5. If the Contractor considers it necessary to express its disagreement on certain technical or financial aspects, it must ensure they are included in the document (e.g. a report) drawn up by ENEL, specifying the reasons for these disagreements. Any disagreements shall be settled in the manner specified in the Contract.

9.3.3.6. After the warranty period has expired, the Contractor shall notify ENEL of this period's expiry and request final acceptance. Following this request, ENEL shall inform the

Contractor of the final acceptance date. Final acceptance must take place within the period prescribed by the Contract.

On the date fixed by mutual agreement for final acceptance, the status of the works or service shall be verified in the Contractor's presence, and the fulfilment of the required conditions shall be verified by carrying out the necessary tests.

9.3.3.7. ENEL shall show its approval by drafting the specific Final Receipt Document (e.g. final acceptance report), to be signed by both parties, and which shall certify total fulfilment by the Contractor of its obligations.

The above-mentioned document produced by ENEL shall in any case be valid, as if it were also signed by the Contractor, in cases where the latter is not present, despite being informed of when it was to be drafted.

9.3.3.8. If the Contractor considers it necessary to express its disagreement with certain technical or financial aspects these must be included in the document drawn up by ENEL, including the reasons for such disagreement.

#### **9.4. Changes to contractual terms**

9.4.1. The activities covered by this Contract shall be carried out in accordance with the terms specified in the Contract.

Any postponement of the contractual terms must be agreed in writing by ENEL and the Contractor.

#### **9.5. Transfer of ownership and risk**

##### **9.5.1. Materials and/or Equipment**

9.5.1.1. Unless otherwise provided for in the Contract, the materials, properly packed in accordance with the Contract, shall be deemed to all intents and purposes to be the property of ENEL at the time of receipt by the latter at the location and under the agreed conditions and/or at ENEL warehouses, offices and/or plants. It is agreed that, unless otherwise provided for in the above cases, the task of unloading shall be carried out under the Contractor's responsibility and at its expense.

Notwithstanding this, the Contractor authorises ENEL to take possession of the materials and equipment, in whole or in part, from the moment they become part of works or enter an installation owned by ENEL, to be used as ENEL wishes, including use in/for said works, assembly or other work, and their inclusion in ENEL'S works or installations, unless such authorisation is limited by ENEL for justified reasons. Where such authorisation is given, ENEL may use or include the materials and equipment in its development processes and may make use of the results of these processes. In any case the Contractor, up to the time the risk is transferred to ENEL, must have insurance with adequate coverage for the materials and equipment, even if they are already in the possession of and used by ENEL.

##### **9.5.2. Works**

9.5.2.1. The results of the contractual works shall be owned by ENEL from the time the Provisional Receipt Document is signed.

9.5.2.2. Without prejudice to the rights appertaining to the state or third parties, ENEL reserves the possession and ownership of all discoveries made during excavations and demolitions that take place on its own land, as well as usable mineral substances. In such a case, the Contractor shall take all necessary precautions or the precautions that shall be indicated by ENEL. ENEL shall pay the Contractor for any additional activities and/or additional costs that may arise and, if necessary, grant an extension of the period of execution.

9.5.2.3. Without prejudice to the provisions of the preceding sub-clauses, ENEL reserves the right, at any time, to require the Contractor, who shall be obliged to comply, unless there is a justified reason not to, to transfer ownership of the works, installations, materials and equipment included or existing on the site. In this case, the Contractor may continue to carry out the works and shall continue to be responsible for installation risks until the Final Receipt Document is completed.

9.5.2.4. In any case, until the transfer of ownership to ENEL, the Contractor must be insured, with adequate coverage, even if the materials, as well as any other results of the works the Contract concerns, are already owned and used by ENEL.

## **10. TRANSFER OF THE CONTRACT AND SUBCONTRACTING**

10.1 The Contractor must carry out own works, services and supplies, as an object of the Contract. Therefore, it is permitted to transfer the contract to a third parties only with the Enel previously express authorization, in compliance with any applicable law. Taking into account the previous points, all the performances can be subcontracted within the limits allowed by the national legislation.

10.2 For the works - as regard the main category - limit in subcontracting is normally up to 30% of contractual amount. For services and supplies this limit is referred to the total amount of the contract/agreement. Any possible variation of this amount, will be object of a specific authorization.

10.3 Taking into account national legislation, the subcontracting should respect the following conditions:

- competitors during bidding or the main contractor, also in case of eventual changes during execution, in the act of contracting have indicated the works/part of works or the services or supplies/part of services or supplies that are the matter of subcontracting;
- main contractor guarantees the registration of the subcontracting agreement to ENEL before the effective start of activities;
- at the moment of registration of subcontracting agreement to ENEL, the main contractor transmits also, a certification proving subcontractor meets all the requirements of subcontracted activities and a declaration that states the compliance with general requirements stipulated by the national legislation. ;
- the execution of subcontracted activities can't be the object of another level of subcontracting, excepting the requirements of local law of each Country.

10.4 The Contractor pays the safety costs<sup>1</sup>, related to the activities entrusted in subcontracting<sup>2</sup>, to Subcontractor without any reduction. ENEL checks the effective application of these provisions by referent appointed for contractor management and supervision.

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<sup>1</sup> Cost for the measures adopted to eliminate, or if it's not possible, to reduce health and safety risks caused by works interfering

<sup>2</sup> Where stipulated by the national legislation

10.5 The Contractor must respect the economic and normative conditions established by "collective work contracts" in force in every Country; where applicable in compliance with local regulations, there should be joint responsibility between Contractor and subcontractors for the fulfillment of the above-mentioned rules towards - as indicative and not exhaustive - safety, salary, contributions and insurance obligations - provided to the employees involved in the execution of the subcontracted activities.

10.6 However, the Contractor remains completely and exclusively responsible towards ENEL for the execution of Work Contract.

Any use of subcontractors to execute part of its activities does not exclude or limit the obligations and burdens contractually assumed by the Contractor, who shall remain liable towards ENEL for the execution of the Contract, as well as for paying compensation to third parties injured during its execution.

## **11. TRANSFER OF RIGHTS AND CREDIT**

11.1. Unless otherwise provided for in the Contract, and in any case after obtaining express written permission from ENEL for each activity, the Contractor shall not assign or transfer, in whole or in part, the rights or credit arising from the Contract to third parties, or carry out any other activities which result in any changes, for any reason, to all or part of the above-mentioned rights or credit.

## **12. THE CONTRACTOR'S OBLIGATIONS**

12.1. The Contractor is fully responsible for everything that is necessary to execute the contractual services, and in any case everything indicated as its responsibility in the Contract, and in particular, for example:

- carrying out the inspections, testing and checks required by the Contract and/or regulations applicable to the individual Contract, as well as all costs arising therefrom;
- managing and obtaining visas, authorisations and licenses necessary for the performance of the Contract, except those that are legally the responsibility of ENEL;
- organising its personnel, employed in various capacities in the execution of contractual activities, provided that at all times the Contractor's responsibility is clearly identified and separated from those of ENEL;
- the appointment of a person in the Contractor's own organisation to act as ENEL'S interlocutor during the execution of the Contract;
- the labour required to execute the Contract with all its associated costs.

## **13. THE CONTRACTOR'S RESPONSIBILITIES**

13.1. The Contractor, under its sole responsibility, shall comply with the law and all regulations and rules required by the relevant authorities in relation to the Contract.

13.2. The Contractor shall be liable for the proper fulfilment of its legal and fiscal obligations, as well as its contractual responsibilities to its suppliers and subcontractors.

13.3. If the Contractor is composed of a combination of two or more entities, each of them is jointly and severally obliged to comply with the requirements of the Contract and the performance of the Contract in accordance with applicable legislation.

13.4. The Contractor is obliged to prevent any situation that could give rise to conflicts of interest and therefore, must take all necessary measures for their prevention and identification, and immediately inform ENEL of any conduct that might generate them.

13.5. The Contractor agrees to indemnify and hold ENEL harmless from any liability arising from any claim or legal proceedings of any kind, which are directly or indirectly related to the Contract, both judicial and extrajudicial, arising from acts or omissions by the Contractor or its employees, representatives or subcontractors.

13.6. The aforementioned indemnity includes any amount that ENEL would eventually have to pay both in terms of expenses or costs of any kind it may incur as a result of claims or judicial summons, in any case without prejudice to its right to defend itself. Failure by the Contractor to comply with this clause is considered a serious breach and shall entitle ENEL to terminate the Contract for breach by the Contractor.

#### **14. THE CONTRACTOR'S WARRANTIES.**

14.1. The Contractor shall ensure:

- a) the suitability, exclusive ownership and/or legitimate availability of materials and/or equipment and that they are free of liens or charges;
- b) that all materials and equipment:
  - comply with the legal requirements, specifications, standards and the contractual requirements;
  - are free from visible or hidden defects;
  - are fit for their intended use;
  - are of the required quality level;
  - are not used;
- c) that the works comply with all contractual requirements and are in any case suitable for their intended use.

14.2. The warranty period for the materials and equipment, as well as the works/services and all other guarantees provided, shall cover the period provided for in the Contract.

14.3. The warranty shall not cover defects or failures if they are caused by misuse or incorrect use by ENEL, except in cases where the misuse or incorrect use arises from the application of the incorrect or confusing content of manuals or instructions provided by the Contractor.

14.4. The warranty also applies to defects in design, construction and hidden defects and whatever else may be specified in the Contract. Under this warranty the Contractor is obliged to carry out, in the shortest possible time and at its own expense, any repairs or replacements that may be necessary, including the removal and transportation of defective parts.

In particular, the Contractor undertakes to:

- a) replace, in the shortest possible time or as scheduled by the Contract, materials and equipment that do not comply with the provisions or requirements, and those that are inadequate or of poor quality. Such materials and equipment shall remain in storage at ENEL'S facilities until they are replaced, without prejudice to ENEL'S right to use the rejected materials until they are replaced;

b) fix, repair or replace equipment that has design, materials, labour, manufacturing, functioning or performance defects;

c) replace all the materials and equipment provided in the event of any defects in series, thereby justifying the solution adopted to prevent those defects being produced in the remaining materials or equipment that need to be supplied. A series defect is considered to exist when the percentage of defective materials and equipment covered by the Contract exceeds the percentage established in the Contract, or if this is not specified, where the percentage exceeds 10% of the total.

d) return the equipment/sites made available by ENEL in the same condition in which they were delivered.

e) indemnify ENEL from claims by third parties.

14.5. The above-mentioned obligations, and all expenses for various reasons arising from the execution of the warranty, shall be the sole responsibility of the Contractor, without ENEL being liable for any charges or costs.

14.6. ENEL shall always be entitled to take decisions, which shall be duly communicated to the Contractor, regarding the correction and adjustment or repeated execution, construction or assembly of anything found to be defective. ENEL may order, for justified reasons, adjustments, corrections, repairs or temporary replacements whose cost shall be borne by the Contractor, pending arrival of the new parts or new construction or assembly, as required.

14.7. In any case, the measures referred to in sub-clause 14.6. shall be carried out by the Contractor as soon as possible, so that ENEL is affected by them as little as possible and in a manner that will not cause delays in the completion of the works or stop installations or, if this is not possible, minimising the delay or the time for which installations are totally or partially unavailable.

14.8. If the Contractor fails to comply with the obligations referred to in this clause, ENEL shall carry them out independently, or through third parties, at the Contractor's expense. The Contractor shall also be obliged to compensate ENEL for any damages or losses it has suffered, as provided for in the Contract.

14.9. The warranty period is suspended on the date on which ENEL'S decision is validly communicated to the Contractor, and it shall accordingly be granted an extension to the time required to carry out repairs, replacements or new assembly activities, or works that must be carried out under the warranty.

14.10. Spare parts are also subject to the above-mentioned warranty.

14.11. When the warranty period has satisfactorily terminated and any anomalies, defects or deficiencies found or produced during this period have been remedied, the final Receipt Document shall be signed, where the Provisional Receipt Document has been previously drafted, and the financial guarantees provided by the Contractor may be returned.

14.12. The expiration of the warranty period or the final acceptance of the materials/works covered by the Contract, does not free the Contractor from liability for defects or hidden defects or any other liability applicable by law or under the Contract.

## **15. PENALTIES.**

15.1. Without prejudice to the provisions of sub-clause 16.3. "Termination of the Contract for reasons attributable to the Contractor", the failures of the latter relating to delivery dates or execution deadlines, both partial and final, as well as other possible breaches expressly provided for in the Contract, may result in the application of a penalty by ENEL, in accordance with the established terms and conditions. The above penalties do not include compensation for any further damages.

15.2. If the sum of the penalties exceeds the limit specified in the Contract, ENEL reserves the right to terminate the Contract at any time.

15.3. Payment of penalties shall not cancel ENEL'S right to require the Contractor to pay all unplanned costs and expenses that ENEL is obliged to pay third parties as a direct result of the breach in question, in any case without prejudice to compensation for any further damages.

Should ENEL be deprived, during the warranty period, of the availability or use of materials or equipment covered by the Contract or the completed works or assembled installations due to a defect, imperfection or damage not attributable to ENEL, or because of deficiencies in the execution of the activities carried out to remedy said defects, ENEL may apply the penalties provided for in the Contract.

15.4. The application of the prescribed penalties shall not exonerate the Contractor from responsibility under the provisions of clause 14 "The Contractor's warranties" above, or under clause 16 "Suspension, withdrawal and termination."

15.5. The procedure for the collection of any penalties shall be carried out in the manner and within the period prescribed in the Contract or in the applicable law.

15.7. Failure to apply one or more penalties does not imply a waiver by ENEL of the application of similar penalties, or of those that subsequently originate from the same cause.

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

### **16.1. Suspension.**

16.1.1. If, for any reason, ENEL considers it necessary or is obliged to temporarily suspend all or part of the activities covered by the Contract, it shall send a written communication to the Contractor, stating the cause and providing an estimate of its duration.

The suspension takes effect from the date stated in the notice.

The Contractor shall, from that date, cease work activities and store and maintain its materials, equipment and/or works, subject to all its other obligations arising from applicable law and/or established in the Contract.

The resumption of activities must be communicated by ENEL sufficiently in advance, in writing, to the Contractor, and must take place not later than the date specified therein. The remaining time for the completion of the works shall start to run from the date ENEL indicates for the resumption of the works.

The Contractor shall be entitled to payment, as defined in the Contract, for the activities/works it has already carried out. Payment of activities/works not provided for in the Contract which, at the time of notification, are in an advanced state of execution, shall be negotiated by the Parties.

## **16.2 Withdrawal.**

16.2.1. ENEL may withdraw from the Contract at any time and regardless of the progress of the works, processes or interventions.

Withdrawal must be expressed in a signed communication with proof of receipt and shall take effect from the date of receipt: ENEL shall communicate which activities must be completed and which must be stopped immediately. The activities are regularly performed until the date of withdrawal shall be compensated in accordance with the contractual prices.

Activities which have been interrupted, and those not yet executed, shall be subject to reimbursement of documented expenses for existing and irrevocable commitments without financial consequences, or the documented value of the consequences thereof, if the latter is more favourable to ENEL.

## **16.3. Termination for reasons attributable to the CONTRACTOR.**

16.3.1. ENEL may terminate the Contract in the cases provided by law and/or in all cases provided for in the Contract and/or in the following cases, where there is a cause preventing or significantly affecting the proper execution of the work covered by the Contract. For example, in the event of:

a) death by the Contractor, if the same is a natural person, or a change in his/her ability to work which prevents, alters or modifies the performance of the Contract in a substantial manner.

b) dissolution, transformation, reduction of capital or significant changes in the Contractor's governing bodies, if such changes have a negative effect on the execution of the Contract or contravene the provisions of clause 26 "Ethical conduct rules".

c) decrease in financial capacity or financial solvency, or any legal, economic, financial or any other kind of difficulty that affects the normal and regular fulfilment of the Contractor's obligations.

d) abandonment, interruption or unwarranted suspension by the Contractor of the Contract's execution.

e) significant delay without just cause, by the Contractor, of the delivery of materials or equipment or the execution of works or services, as well as where non-compliance with the delivery dates is considered essential for the successful completion of the Contract.

f) impossibility for the Contractor to obtain timely certificates and approvals required for the proper execution of the Contract related to its own products or activities or any loss of the same while the Contract is in force.

g) inability of the Contractor to remedy any breaches of the relevant technical specifications and/or in case of repetition of errors or defects or non-compliance with respect to the instructions provided by ENEL.

h) failure or breach by the Contractor and/or its subcontractors and/or any third party appointed by the Contractor to carry out contractual activities, of any of the requirements under applicable laws, including laws concerning employment, the environment, taxes and the protection of health and safety at work.

i) failure to fulfil obligations relating to the processing of personal data, in accordance with the law applicable to the Contract.

j) ascertainment, at any time after the signing of the Contract, of the falsity of information and declarations provided by the Contractor relating to the fulfilment of the legal, economic, financial, technical or contractual conditions

l) breach, however it has been ascertained, of the obligations laid down in clause 18 "Labour, health and safety at work obligations."

m) incorrect execution of the works covered by the Contract for reasons attributable to a subcontractor or any person appointed by the Contractor and/or failure to pay compensation for damages caused to anyone.

n) any other breach by the Contractor that may prevent or significantly and adversely affect the successful completion of the Contract, or whatever the Contract specifies as a reason for termination.

o) refusal by the Contractor to begin the execution of activities under the Contract;

p) refusal by the Contractor to resume the execution of activities under the Contract which ENEL - for whatever reason - had ordered to be suspended, where ENEL has ordered them to be resumed;

q) carrying out by the Contractor of repeated acts that are harmful to ENEL'S image.

Should the Contractor not inform ENEL of the situations described above, and without prejudice to the right of the latter to terminate the Contract, ENEL may suspend payments due to the Contractor in order to fulfil contractual obligations with third parties arising from non-execution of the Contract by the Contractor.

16.3.2. The Contractor shall be responsible for any additional costs and any other expenses that may result from contractual activities for reasons attributable to the same.

16.3.3. In the cases described above, ENEL may terminate the Contract from the date it sends a written communication - also in an electronic format, where this is provided for in the Contract- to the Contractor, or require the Contractor to comply, without prejudice to the right to claim compensation for any damages or injury it has suffered.

16.3.4. In the event of termination of the Contract for reasons attributable to the Contractor, ENEL shall have the right to acquire the materials which the Contractor has already manufactured, in whole or in part, or delivered, paying the relative prices, where they are provided for in the Contract.

16.3.5. In all of the above cases, ENEL may, without prejudice to its right to apply penalties or to take legal action in relation to its right to compensation for damages, take the following steps:

a. suspend payments still due to the Contractor;

b. enforce any financial guarantees provided by the Contractor.

#### **16.4. Termination of the Contract for reasons attributable to the CONTRACTOR due to non-compliance with health and safety requirements.**

16.4.1. The Contractor is required to perform the contractual services ensuring full compliance with all applicable legal requirements relating to the protection of the health and safety of workers in the workplace.

ENEL - at its sole discretion - may terminate the Contract in the case of violation by the Contractor and/or any subcontractor, of even one of the requirements of current legislation on the protection of health and safety at work, including:

1) failure to complete/sign/prepare/update/deliver documents relating to health and safety at work, in the manner and within the deadlines specified by applicable legislation and/or the Contract;

2) the use, in the execution of the Contract, however it is ascertained by ENEL, of unsuitable and/or authorised personnel in accordance with the requirements set out in applicable legislation and/or the Contract;

- 3) the violation, however it is ascertained by ENEL, of any requirements for the protection of health and safety at work and safety in the use of work equipment and personal protective equipment, temporary or mobile worksite regulations, health and safety signs, manual handling of loads and any other provisions of the law, including applicable special rules;
- 4) the violation, however it is ascertained by ENEL, of any other provisions for the protection of health and safety at work expressly provided for in the Contract.

## **17. FORCE MAJEURE.**

17.1. All Contracts must comply with the definition of force majeure established by legislation applicable to the Contract or defined in the Contract.

17.2. Neither of the Parties shall be held liable for the failure of its obligations if execution is delayed or cannot proceed due to force majeure causes.

17.3. The Contractor may not invoke force majeure in the examples listed below:

a) Meteorological conditions or phenomena that could be reasonably predicted by a Contractor who has experience in installations and whose harmful effects could consequently have been totally or partially avoided.

b) Delays or failures in obtaining materials or labour which occurred despite being reasonably foreseeable, or that could have been avoided or remedied in advance.

d) Strikes or conflicts at work concerning the Contractor or its subcontractors, except for national strikes or those applicable to the entire industry.

c) Delays by subcontractors, unless they, in turn, are due to force majeure.

e) The condition of the site where the contractual activities will be carried out, which the Contractor must know about after carrying out its technical inspection.

17.4. The party suffering the consequences of a force majeure cause shall notify the other party promptly and in any event not later than the termination of a cause which prevents communication.

17.5. In the event of Force majeure, the fulfilment of the tasks involved shall be suspended for the duration of the Force majeure cause, without any claims for compensation from any of the Parties.

17.6. If by reason of force majeure, the execution of the Contract is substantially impaired and the service is suspended for more than one hundred and eighty (180) calendar days, or it is possible to prove that it is impossible to carry it out, either party may request the termination of the Contract.

17.7. Without prejudice to the above, when the force majeure cause comes to an end, the parties shall agree either on an extension of the contractual terms, or measures that can be taken to recover all or part of the time that has been lost, in order to be able, where possible, to complete the Contract's activities within the original timescale.

## **18. LABOUR LAW, HEALTH AND SAFETY AT WORK OBLIGATIONS.**

### **18.1. Introduction**

18.1.1. The contractor declares that it is aware of all labour law, social security, health and safety at work, undertaking to act in compliance with the relevant provisions and also, with the obligations and conditions set forth in the Contract.

In particular, the Contractor takes the responsibility of adopting measures aimed to prevent health and safety risks, arising from the violations listed in the table in paragraph 18.2.

18.1.2 The contractor is solely responsible for the organization of the personnel it uses- in various capacities- to execute the Contract, so that their responsibilities and those of Enel.

18.1.3. In all working areas of Enel Group Companies, smoking is forbidden. The Contractor, therefore, agrees to comply with this requirement, in the areas indicated by the signs "No smoking". The contractor also, undertakes to inform the workers engaged in the execution of the contract, about the prohibition – inside the sites of the Enel Group Companies- of alcohol or drugs consumption, during the performance of activities under the Contract. In this scope, the Contractor is also responsible to carry out related checks.

## **18.2. Sanctions for violations of the rules regarding the protection of health and safety at work**

18.2.1. Without prejudice to its right to terminate the Contract, in relation to each violation regarding the protection of health and safety at work, and without prejudice to its right to claim further damages, ENEL also has the right - at its own discretion - to apply, by notifying the Contractor by registered letter with proof of receipt (or similar instrument of communication with proof of receipt), the penalties listed in the Country Annex.

In particular, the value of penalties for "VERY SERIOUS" violations, as listed in the table below, is two times higher than the penalties for "SERIOUS" violations, as classified by the same table.

If the violations referred to "SERIOUS" and "VERY SERIOUS" cause any accidents or other personal injury, ENEL reserves the right, at its sole discretion, to apply - depending on the severity of the violation and/or injury and/or damage to persons - a fine of up to 2% of the total contract value and in any case not less than the amount specified in the Country Annex.

Along with or as an alternative to the application of the penalties provided for above, ENEL, at its sole discretion, may:

- suspend, for a number of days which correspond to the seriousness of the violation - or until the verification of any adjustments or corrective actions taken to address the violation - the execution of any contractual works without this giving the Contractor any right to extend the deadline for completion of the works or payment or compensation of any kind, or;
- require the Contractor to makes its employees – who were responsible for the violation – attend up to 16 hours of additional training regarding health and safety at work. The workers responsible for these violations shall be readmitted on site only 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 health and safety at work violation, until the Contractor implements the changes to its safety management system as required by ENEL.

If the amount of the sanctions applied reach 5% of the Contract's value, ENEL shall also have the right to terminate the Contract with immediate effect. The application of the sanctions provided for in this Clause will have an adverse effect on the Vendor Rating index.

The application of sanctions shall take place in the manner prescribed by current tax legislation.

The amounts resulting from the application of sanctions shall be allocated by ENEL to a fund for the financing of information and training on safety, in order to promote a safety culture among Contractors.

## LIST of SANCTIONS for VIOLATIONS SERIOUS and VERY SERIOUS

<b>General provisions</b>	Failure to timely notify to Enel (within 12 hours) fatal or severe accidents at work <sup>3</sup> (with preliminary prognosis longer than 30 days or with guarded prognosis or unknown) or, regardless of prognosis, electrical accidents or accidents due to fall from heights	<b>VS</b>
	Failure to notify to Enel (within 3 days) non-severe accidents at work (with first prognosis from 1 to 30 days)	<b>S</b>
	Failure to identify the foreman	<b>VS</b>
	Use of personnel not notified to Enel	<b>VS</b>
	Start of activities before Enel's authorization	<b>VS</b>
	Use of equipments and machineries non-compliant with regulations and technical standards	<b>VS</b>
	Use of special vehicles not previously declared to Enel (e.g. loads hoisting/lifting equipments, bucket truck)	<b>VS</b>
	Unauthorized use of Enel equipments and machineries	<b>VS</b>
	Tampering with temporary structures and protective measures belonging to Enel or other contractors	<b>VS</b>
	Lack of documentation relevant to controls/tests on contractor's equipments, used during works on behalf of Enel, performed according to H&S regulations	<b>S</b>
	Failure to comply with the provisions reported in the Health and Safety Plans defined by Enel or Contractor (when mandatory according to H&S regulations or Enel procedures)	<b>VS</b>
	Failure/Incomplete issue of the Permit to Work (when mandatory according to H&S regulations or Enel procedures)	<b>VS</b>
	Use of Personal Protective Equipments (PPEs) non compliant with H&S standards or damaged (e.g. CE conformity marking relevant to European Community)	<b>S</b>
	Failure to participate to coordination meetings (when mandatory according to H&S regulations or Enel procedures)	<b>S</b>
	Failure to signal workplace and to adopt adequate barriers to fence the area, whenever necessary	<b>S</b>
Missing/incorrect/incomplete adoption of safety signs for temporary road works	<b>S</b>	
Consumption of alcohol or drugs in the workplace	<b>VS</b>	

<sup>3</sup> Excluding commuting accidents

	Failure to apply the instructions provided by safety signs	<b>S</b>
	Missing/incorrect/incomplete adoption of safety signs	<b>S</b>
	Inadequate housekeeping/materials storage in workplace	<b>S</b>
	Tampering with/altering scaffolds provided by Enel	<b>VS</b>
<b>Electrical works</b>	Lack of adequate qualification for electrical works in compliance with H&S regulations and Enel provisions	<b>VS</b>
	No compliance/incomplete compliance with H&S regulations and Enel provisions regarding prevention against electrical hazards	<b>VS</b>
	Lack of/improper use of grounding and short-circuiting devices on the electrical installation (while performing dead works)	<b>VS</b>
<b>Work at heights</b>	No compliance/incomplete compliance with H&S regulations while performing activities with risk of falling from heights	<b>VS</b>
<b>Mechanical loads lifting</b>	Incorrect use of loads lifting equipments/adoption of incorrect procedures for loads lifting	<b>VS</b>
<b>Chemical risks</b>	<b>CARCINOGENIC – MUTAGEN FOR GERM CELLS - ACUTE TOXIC</b>	
	Failure to notify to Enel introduction of such chemicals in Enel sites	<b>VS</b>
	Missing/incomplete compliance with H&S regulations and Enel provisions regarding labelling and safety data sheet while handling, transporting, using and storing chemicals	<b>VS</b>
	<b>OTHER CHEMICALS<sup>4</sup></b>	
	Failure to notify to Enel introduction of such chemicals in Enel sites	<b>S</b>
<b>Physical agents</b>	Emission of physical agents (e.g. noise, vibration, dust) not notified to Enel	<b>S</b>
<b>Risk of fire/explosion</b>	Missing/incomplete compliance with H&S regulations and Enel provisions on fire prevention measures	<b>VS</b>
	Missing/incomplete compliance with H&S regulations and Enel provisions on protection measures in explosive atmospheres (ATEX) as classified by Enel	<b>VS</b>
<b>Works in confined places</b>	Activities not protected against exposure to the H&S risks relevant to confined space as classified by Enel	<b>VS</b>
	Lack of/inadequate specific training of personnel employed for works in confined spaces as classified by Enel	<b>VS</b>
<b>Underwater works</b>	Lack of/inadequate specific training and qualification of personnel employed for underwater works	<b>VS</b>
	Works performed not in compliance with H&S regulations and Enel provisions relevant to underwater works	<b>VS</b>

#### KEY

**VS** Very Severe breach

**S** Severe breach

### 18.3. The CONTRACTOR'S obligations concerning health and safety at work.

18.3.1. For the entire duration of the Contract, the Contractor is obliged to:

<sup>4</sup> E.g. Chemicals which can produce: Skin corrosion/irritation; serious eye damage/eye irritation; respiratory/skin sensitization; specific Target Organ Toxicity; respiratory hazard; reproductive toxicity.

- identify from its personnel, a responsible for supervising the entire work activity and ensuring the implementation of directives received, checking the correct execution by workers (hereinafter referred to as foreman);
- employ properly trained and informed personnel , in relation to the work to be performed and to the risks and preventive measures to be adopted;
- employ staff with appropriate qualification and certification in relation to the activities to be carried out, required by national legislation and Enel procedures;
- provide the services in full compliance with the Contract, as well as comply with all provisions of applicable law, regulations, standards and techniques also required by the relevant authorities, in force at all times during its execution, and anything else that could affect the Contract. The Contractor directly assumes all its obligations and costs;
- use regularly employed personnel in accordance with current legislation, paying the remuneration due to its employees and paying all taxes, insurance, pension and social security contributions provided for by the law and applicable in accordance with collective bargaining agreements;
- comply with all applicable laws relating to safety, hygiene and the health of workers;
- permitting ENEL and/or third parties appointed by ENEL to carry out the checks provided for in the Contract and/or the applicable legislation, to identify the work-related skills of the Contractor's personnel;
- notify Enel immediately, about any fatal or severe<sup>5</sup> accident, and regardless of the outcome, about any electrical injury or fall from heights occurring during execution of activities under the contract and subsequently transmitting to Enel, a communication showing a detailed description of the event;
- notify Enel within 3 days, about non-severe and "near miss"<sup>6</sup> accidents, occurred during the course of work on behalf of ENEL;
- notify until the 15th of each month, the worked hours (ordinary and extraordinary) in respect of work covered by the contract ,executed in the previous month.

The Contractor also undertakes to inform ENEL of the following, **before contractual work activities commence**:

- the subcontracting of any part of activities under the Contract to third parties, where applicable;
- the names, personal details and the reference positions for insurance and social security purposes, certified by the relevant authorities, in relation to all personnel employed in any capacity to execute the Contract;
- any changes relating to personnel used to execute the Contract. ENEL reserves the right to carry out inspections at any time in order to ensure the fulfilment of this obligation.

The Contractor is solely responsible for the work carried out by its employees, in whatever way they are used to execute the Contract.

In case of breach, however said breach is established, of the above-mentioned requirements, ENEL may terminate the Contract with immediate effect.

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<sup>5</sup> Severe accident: Injury-causing accident with first prognosis of over 30 (calendar) days or guarded prognosis, until the injured employee is taken off the hospital/emergency room danger list or unknown prognosis.

<sup>6</sup> near miss: an unplanned work-related event that did not result in injury, illness but had the potential to do so. Only a fortunate break in the chain of events prevented an accident.

Before starting the work, the foreman, identified by the Contractor for the activities of the contract, agrees to organize a meeting of Pre-Job Check with team members, aimed at ensuring, where appropriate, with the support of special checklist, that all workers:

- are informed about the work to be done and operational procedures
- understand the risks associated to the work to be done
- consequently adopt all necessary measures to ensure the work is carried out safely.

In the "Pre-Job Check", the foreman and the staff, review all stages of the work and the related tasks, assess situations with the potential risk to health and safety that may occur and the behaviours to follow, in order to prevent accidents.

18.3.2. In case of breach of such obligations, ENEL may, at its discretion:

a. Suspend the execution of contractual activities for a number of days that may vary depending on the seriousness of the breach, without, however, this giving the Contractor any right to extend the deadline for the execution/delivery of the Contract, or to obtain any remuneration or compensation.

b. Require the Contractor to organise a training course on safety and health at work for the personnel responsible for the breach.

#### **18.4. The CONTRACTOR'S obligations concerning Subcontracting activities**

18.4.1. In order to guarantee a proper selection of subcontractors, Contractors must check if subcontractors meet the Health & Safety requirements requested by the national regulations and by ENEL, relevant to subcontracted activities, such as for example:

- Company H&S Policy;
- H&S risks assessment;
- safety documents and procedures, that regulate clearly the activities execution;
- internal H&S organization with H&S representatives appointed with clear roles and responsibilities;
- H&S procedures referring to:
  - H&S training for all personnel;
  - personal protective equipment (PPE);
  - safety inspections execution;
  - accident analysis and remediation plans implementation;
- copy of the accidents record (or similar document certified by the national institute for work accidents, if any);
- figures relevant to work accidents occurred in the last 3 years and for every year (i.e. frequency rate, severity index<sup>7</sup>);
- any certification according to the standard OHSAS 18001/2007 (or similar);
- any document issued for insurance purposes by the national institute for work accidents, that reports the applied assurance rate.

18.4.2. For the necessary checks for insurance purposes, the Contractor will have to send to Enel, under his own responsibility, a self-declaration that proves subcontractor meets health

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<sup>7</sup> Frequency Rate: (number of accidents/worked hours) x 1.000.000  
Severity Index: (number of lost days/worked hours) x 1.000

and safety requirements. The Contractor will also have to keep the relative subcontractor documentation for all contract duration, in order to permit Enel carry out checks or, sent by the contractor directly to Enel, where required by law.

18.4.3. Enel, on the basis of received declaration, will evaluate if proceed on the acquisition of above-mentioned documentation in order to grant the authorization to subcontract, according to national laws or regulations. Before granting authorization to subcontract, Enel will be able to carry out further checks about the Subcontractor requirements compliance, if isn't explicitly inconsistent with national laws or regulations.

18.4.4. For all the Contract duration contractor must provide documentation on health and safety topics relevant to the activities contracted, according to requirements of national laws and regulations and in compliance with collaboration and coordination obligations towards their own subcontractors. Subcontractors health and safety documents must be kept where the activities object of Contract are performed, or for the purposes of their application, or to be produced on request.

18.4.5. Subcontractor must appoint at least one foreman and communicate his name and any eventual variation to Contractor. However, subcontractors can't perform the activities in absence of the safety supervisor.

18.4.6. Contractor must immediately communicate to ENEL each event (including near misses) that involves or could involve workers' health and safety during works execution, also referring to activities performed by subcontractors.

18.4.7. In case of accidents occurred to workers employed and/or eventual subcontractors and/or any other Companies involved by Contractor in contract execution, the Contractor must attach a copy of each accident communication, submitted to the national competent Authorities, to fore-mentioned communication.

## **19. FINANCIAL GUARANTEE**

19.1. If requested by ENEL, that the Contractor shall be obliged to provide a financial guarantee in favour of ENEL, as indicated in the Contract, as a guarantee for the obligations arising from the Contract.

19.2. The existence of a guarantee does not mean that the Contractor's liability is limited to the amount or period of validity thereof.

19.3. If the total value of the Contract were to increase during its execution, ENEL may ask the Contractor to provide a complementary financial guarantee with the same conditions indicated in the preceding sub-clauses.

19.4 The costs of the financial guarantee shall be borne by Contractor.

## **20. INSURANCE.**

20.1. The Contractor assumes all responsibility for injury or damages caused to persons or property by carrying out - even through subcontractors or third party agents - the activities under the Contract and it undertakes to take out adequate insurance, at its own expense, in relation to the risk, and with insurance companies that are financially stable and of recognised good standing, for the entire duration of the Contract, for:

a) losses or damages that may be caused to materials and equipment covered by the Contract during their processing, loading and transportation, up to the time and place of delivery to ENEL, with the Contractor's full liability for any damage caused to the materials or equipment. This obligation is also assumed by the Contractor with regard to materials and equipment

provided by ENEL for the execution of the Contract, from the moment they are made available to the Contractor or its subcontractors, until they are returned to ENEL.

b) civil liability for losses and detriment that may be caused by it or by its own personnel or subcontractors to the personnel or property of ENEL and/or of third parties arising from the performance of activities under Contract. In all circumstances, ENEL shall not be liable for any causes attributable to the Contractor.

Similarly, the Contractor undertakes to take out insurance for civil liability with adequate limits on compensation according to the risk, to cover claims for damage to property, personnel and/or for financial damage that can be caused to ENEL or third parties arising from the defects or malfunction of materials or equipment attributable to the Contractor.

In addition, the Contractor shall be liable for environmental damage or the imminent possibility that it may take place, as well as the costs relating to prevention, reduction and repair, in accordance with the conditions laid down in applicable legislation.

If the Contract provides for the storage of materials by the Contractor on ENEL'S premises, the latter may request, and the Contractor shall be obliged to stipulate, in addition to the previously mentioned insurance, insurance for theft and other damage that can be caused to the stored materials, for the entire duration of the Contract.

20.2. The above policies must include a provision obliging the insurance company to pay ENEL directly.

The limits of the insurance policy must cover damaging events subject to claims received within the period of execution of the Contract and/or after the warranty period.

The insurance policy shall provide for the waiver of the insurer against ENEL to any exceptions, with particular reference to risk hedging, even in case of failure to pay, or partial payment of, insurance premiums.

It is agreed that the existence, validity and effectiveness of the insurance policies referred to in this clause is an essential condition for ENEL and, therefore, if the Contractor is not able to prove, at all times, that it has insurance cover, ENEL may terminate the Contract, without prejudice to the obligation to the payment of compensation for the damages ENEL has suffered.

20.3. If ENEL believes that the Contractor's insurance cover is not sufficient to cover the risk, both for the delivery of materials or equipment and the completion of works or services under the Contract, the Contractor agrees to review and change the insurance cover in accordance with the requirements of the Contract.

20.4. Similarly, the Contractor undertakes to contract, at its own expense and with financially stable insurance companies of recognised good standing, any other type of compulsory insurance that may be required by applicable law, for the entire duration of the Contract.

## **21. INDUSTRIAL AND INTELLECTUAL PROPERTY.**

21.1. The Contractor shall guarantee ENEL, at all times and, if requested, shall undertake to prove with documentation, the legitimate use of trademarks, patents, utility models, industrial designs or necessary licenses on said rights, such as a compulsory license for carrying out business activities, when it requests special authorisation for the performance of the contractual services, and that these trademarks and licenses do not infringe the rights of third parties.

In the case of licenses, they must be registered with the offices of the competent authorities, and ENEL reserves the right to ask the Contractor to produce the documentation and/or any certificates.

21.2. The Contractor is responsible for obtaining concessions, permits and authorisations required by the holders of patents, models and related trademarks, as well as intellectual property rights. The Contractor shall be responsible for payment of any royalties or fees due on this basis.

In the case of supply contracts, if, as a result of a dispute by the owners or concessionaires of the rights referred to in this clause, ENEL is obliged to totally or partially modify the materials to be supplied under the Contract, they must be modified as soon as possible at the Contractor's expense, without this resulting in a deterioration of the quality of the supply, operating characteristics or warranties. If the above occurs, a new process for the approval of prototypes shall be carried out, where this is prescribed for the type of supply in question and before the materials are supplied.

If legal action is taken against ENEL by a third party for breach by the Contractor of the obligations referred to in the preceding sub-clause, the Contractor shall, at ENEL's request, be required to provide a coverage (as indicated in clause 19 " Financial guarantee ") in regard to the value of the claims, within ten (10) calendar days.

21.3. The Contractor shall release ENEL from the liability for infringements of industrial or intellectual property rights that may occur and undertakes to do everything necessary to hold ENEL harmless with respect to any claims or lawsuits against it, and also undertakes to compensate ENEL for all losses or damages, whether direct or indirect, arising from claims or by subpoena.

Any claims, whether judicial or extrajudicial, made against the Contractor by third parties relating to industrial or intellectual property rights, shall be immediately reported to ENEL.

21.4. ENEL shall own all the documents, drawings, plans, computer programs, as well as copies thereof, it provides to the Contractor for the execution of the contractual services, as well as inventions, patents, utility models and other industrial property rights that are or will be necessary for the execution of the contractual services based on documentation provided by ENEL to the Contractor. The Contractor shall use them solely for the purposes of executing the Contract and must return them to ENEL, at all times taking appropriate precautions in relation to the processing, use and transfer of data to ensure security and non-disclosure, pursuant to clause 22 "Non-disclosure" below.

21.5. The drawings, documents, plans, computer programs as well as copies thereof, generated by the Contractor during the execution of Contract using its own documentation and technology, as well as inventions, patents, utility models and other industrial or intellectual property rights, belong to the Contractor, unless otherwise agreed by the Parties.

21.6. The intellectual or industrial property rights and technology and methodology resulting from the works or services performed by the Contractor in executing the Contract, and the records that are created belong to ENEL, without giving the Contractor any right to increase the price specified in the Contract for the said works or service.

21.7. The marketing methods and the manner in which technology covered by the Contract is distributed to third parties, as well as any benefits arising therefrom, are regulated by the Contract.

21.8 In case of breach by the Contractor, of the obligations related to industrial and intellectual property referred to in this article, ENEL has the right to terminate the Contract, due to its right to every action and compensation for any damages it has sustained

## **22. CONFIDENTIALITY.**

22.1 All of the elements that ENEL makes available for the execution of the Contract, as well as the documents, information, know-how, however they are collected, processed or developed in relation to the contract, may only be used to execute the Contract and are of a confidential nature. They may not be disclosed without obtaining express written authorisation from ENEL, except in cases in which the Contractor must comply with legal obligations or where requested by public authorities which cannot be legally refused. Information disclosed by ENEL or information that is in the public domain is excluded from the confidentiality obligations. This condition of non-disclosure affects both the existence and content of the Contract, as well as economic, financial, and technical documentation, strategic plans, information, processes, patents, licenses and any other information that any of the parties have provided for the execution of the Contract.

22.2. As well as ensuring the completeness of information and data, the Contractor shall also be held responsible for the conduct of parties it has contracted with for the execution of contractual activities (e.g. directors, office workers, consultants and subcontractors). Acquired information and data may only be used in relation to and for the purposes of undertaking contractual activities. ENEL reserves the right to take legal action to defend its interests in the event of non-compliance with the non-disclosure obligation.

22.3. The Contractor is obliged to set up and manage logical and physical data security measures to guarantee the protection of data against destruction, manipulation, unauthorised access or copying, and at the end of the Contract to return all the data, documents and information provided by ENEL, or in any case in its possession for the purposes of carrying out the activities, as well as destroying all copies and records, unless written authorisation to the contrary has been given by ENEL.

22.4. The Parties shall, unless otherwise provided in the Contract, undertake to ensure absolute non-disclosure during the execution of contractual services for a period of 5 years from the expiry of the contract, except as is necessary to execute the Contract or when disclosure is required by law or by a public authority.

In the event such disclosure is necessary, the Party who has been asked to provide confidential information shall immediately communicate this fact to the other Party so that it can do everything necessary for the protection of its rights. The Parties shall only disclose the information required by law and shall undertake to obtain a declaration to ensure that those who receive such information will keep it confidential.

22.5. The Parties agree on the content, the means of communication and the date of publication of any newspaper articles, notices or communications of any kind, relating to the existence of the Contract or matters that concern it.

22.6. Non-disclosure is not applicable to information that is in the public domain prior to the conclusion of the Contract or becomes so any time thereafter, without this being due to a breach by any of the Parties of non-disclosure obligations.

22.7. If ENEL authorises the subcontracting or transfer of the Contract, the Contractor shall be required to obtain a non-disclosure agreement with the same content specified in this clause from the subcontractor or transferee.

22.8. In case of non-compliance with the confidentiality obligations, ENEL has the right to terminate the Contract, due to its right to take any action for the compensation of any damages it has sustained.

### **23. PROCESSING OF PERSONAL DATA.**

23.1. Both ENEL and the Contractor are obliged to comply with legislation on the protection and processing of personal data, as defined in the Contract and in compliance with applicable legislation.

### **24. PROTECTION OF THE ENVIRONMENT.**

24.1. The Contractor undertakes to adopt appropriate measures to ensure the fulfilment of its environmental obligations required by applicable legislation.

### **25. VENDOR RATING.**

25.1. ENEL has established a Vendor Rating system designed to monitor and assess performance relative to the services it receives from its CONTRACTORS, as well as the quality of the products it purchases.

25.2. Vendor Rating is applicable to all firms who work for ENEL, in relation to the product categories they belong to.

25.3. The assessment concerning the combination contractor-type of product or service or works supplied/provided combination is based on a vendor rating indicator that expresses the quality level and takes into account the quality of the product or service or works and related supply/provision methods in a predetermined period of time.

25.4. ENEL shall systematically and objectively collect information relating to the Contractor's conduct during the procurement phase and during the execution of the contractual services, and in particular it shall assess:

- the quality of goods supplied (the so-called "IQ");
- on-time performance (the so-called "IP");
- correctness in the pre-contractual and execution phases (the so-called "IC");
- safety.

25.5. The Vendor Rating Index (the so-called IVR), obtained as a result of the findings described above, is used by ENEL for the overall assessment of each Contractor, with reference to the different types of services and/or goods supplied.

### **26. GLOBAL COMPACT**

26.1. The Contractor undertakes to take ownership and fully comply with the principles of the Global Compact, ensuring that all activities carried out by its own personnel, or that of subcontractors, comply with the above-mentioned principles.

26.2. The following are the principles of the Global Compact:

a) HUMAN RIGHTS.

**One:** Businesses must support and respect the protection of internationally recognised human rights in conducting their business activities.

**Two:** Businesses must ensure that they do not take part in human rights violations.

b) WORK.

**Three:** Businesses must support freedom of affiliation and the effective recognition of the right to collective bargaining.

**Four:** Businesses must support the elimination of all forms of forced labour carried out under duress.

**Five:** Businesses must support the elimination of child labour.

**Six:** Businesses must support the elimination of discriminatory practices in employment and education.

c) ENVIRONMENT.

**Seven:** Businesses must conduct their affairs in a preventive manner to avoid potential damage to the environment.

**Eight:** Businesses must support initiatives to promote greater environmental responsibility.

**Nine:** Businesses must encourage the development and dissemination of technologies that respect the environment.

d) CORRUPTION.

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

26.3. The Contractor undertakes to comply with applicable current legislation, bound by the above-mentioned principles, and undertakes to inform ENEL of any situation which may result in failure to fulfil these principles, as well as the plan to remedy such situations.

26.4. For the duration of the Contract, the Contractor agrees to allow ENEL to verify the degree of compliance with the requirements of this clause. ENEL may terminate the Contract, for reasons attributable to the Contractor, in cases in which it is justifiably and sufficiently aware that the Contractor or its subcontractors have violated any of the above-mentioned principles.

## 27. ETHICAL CONDUCT RULES.

### 27.1. Introduction

27.1.1. In conducting its affairs and in the management of its relationships, the ENEL Group complies with the contents of its Code of Ethics, and the Zero Tolerance Plan against bribery.

The Contractor shall comply with equivalent principles in conducting its business activities and in the management of its relationships with third parties.

The Contractor declares that it takes note of the commitments assumed by ENEL with its Code of Ethics and declares that it undertakes to comply with legal regulations regarding the issue of the protection of child labour and women; equal treatment; the prohibition against discrimination; abuse and molestation; freedom of association and representation; forced labour; safety and protection of the environment; hygienic sanitary conditions; as well as compliance with current laws regarding salaries, pension and social security contributions, insurance, tax, and all

of this in regard to all the workers employed in any capacity to execute the Contract. ILO conventions or regulations in force, will be applicable in the country where the activities are performed, in case they are more restrictive.

In this respect, ENEL reserves the right to carry out any verification and monitoring activity aimed at checking compliance with the above mentioned obligations by the Contractor and any subcontractors and to terminate the Contract with immediate effect if it ascertains that the above-mentioned obligations have been breached.

We would also like to point out that ENEL adheres to the Global Compact, and in compliance with the tenth Global Compact principle, it intends to pursue its commitment to the fight against corruption in all its forms. Therefore, ENEL prohibits any promises, offers, or requests of illegal payments, in cash or other benefits, with the objective of gaining an advantage in its relationships with stakeholders, and this prohibition is extended to all its employees. The Contractor declares that it takes note of the commitments made by ENEL and is obliged not to make any promises, offers or requests of illegal payments in executing this contract in the interests of ENEL and/or for the benefit of its employees.

If these obligations are breached, ENEL reserves the right to terminate the contract, and to require the Contractor to pay compensation for damages.

## **27.2. Conflict of Interest.**

27.2.1. While executing the Contract, the Contractor is obliged to exclusively consider ENEL interests, 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 duration of the Contract, the Contractor undertakes to behave appropriately to avoid conflicts of interest. If any situation which might generate a conflict of interest arises - without prejudice to ENEL's right to terminate the Contract - the Contractor agrees to promptly inform ENEL in writing and to comply with the reasonable instructions of the latter, which shall be given after consultation and the assessment of the needs specified by the Contractor.

## **27.3. Company Health & Safety Clause**

27.3.1 For ENEL, the protection of health and safety and physical and psychological integrity of persons, is not only a legal obligation but a moral responsibility, towards its employees and its contractors.

The goal of ENEL is to achieve a working environment with "Zero Accidents". In ENEL, no work can be done compromising safety. For this reason, any risk situation or unsafe behavior will determine the suspension of work and the restoration of safety conditions.

-ENEL is strongly and constantly engaged in promoting and consolidating a culture of health and safety, promoting a greater focus and awareness of the risks and encouraging responsible behavior on the part of those who work with us and for us.

The principles of health and safety policy of ENEL can be found at the addresses:  
[http://www.acquisti.enel.it/acquisti/doc/doc\\_allegati/1650744-2\\_ALLEGATO-1.pdf](http://www.acquisti.enel.it/acquisti/doc/doc_allegati/1650744-2_ALLEGATO-1.pdf)

[http://www.acquisti.enel.it/acquisti/doc/doc\\_allegati/1658085-1\\_ALLEGATO-1.pdf](http://www.acquisti.enel.it/acquisti/doc/doc_allegati/1658085-1_ALLEGATO-1.pdf)

Contractors, in the performance of business activities, are expected to behave in line with the principles contained therein .

## **28. APPLICABLE LAW**

28.1. Unless otherwise provided for in the Contract, the latter is regulated by the legislation in force in the country in which the contractual activities are carried out.

## **29. JURISDICTION**

29.1. Unless they are settled following the procedures in clause 5 –“Interpretation and hierarchy” – any disputes that may arise between the Parties concerning the interpretation or execution of the Contract shall be under the jurisdiction of the court of law defined in the Contract.