



## General Contract Condition

E - 8.2, valid from 12/09/2022

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### 1 SCOPE.

1.1 These Terms and Conditions of Contract (hereafter referred to as "General Conditions") regulate the contractual relationship between companies belonging to 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.

1.2 ENEL pursues a sustainable business model and places environmental, social and economic sustainability, together with innovation, at the center of its corporate culture, by implementing a development system based on the creation of value that is shared with all its internal and external stakeholders. ENEL pursues the achievement of the UN Sustainable Development Goals (SDGs), it has been a "Participant" member of the UN Global Compact since 2004 and, in 2020, it was confirmed as one of its LEAD companies, thanks to its adherence to the 10 founding principles on human rights, labor standards, environmental protection, and the fight against corruption.

ENEL is committed to boost social, economic and environmental sustainability, also through the contractual relationships with its suppliers.

The Contractor declares to know ENEL's principles on sustainable development, available at the following link <https://www.enel.com/company/our-commitment/sdg-ONU>, and to share the same purposes.

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

1.4 The Agreement (as defined below) refers to the Web page on which these General Conditions may be consulted, and copy in an electronic/hard copy format will be sent to those who do not have access to the Webpage and have requested.

1.5 Any exceptions to these General Conditions proposed by the Contractor shall be valid only if made in writing and accepted by ENEL, and shall only apply to the Contract it is related and will not be applied neither to any pending contract nor to any other contract that will be signed with the same Contractor.

### 2 DEFINITIONS.

2.1 The following definitions, among others, apply to this document:

- **Affiliate:** in relation to any person, any other person, who: (a) directly or indirectly controls, or is controlled by, or is under common control with, such person; or (b) directly or indirectly beneficially owns or holds fifty percent (50%) or more of any class of voting stock or other equity interests of such person; or (c) has fifty percent (50%) or more of any class of voting stock or other equity interests that is directly or indirectly beneficially owned or held by such person, or (d) either holds a general partnership interest in such person or such person holds a general partnership interest in the other person. For purposes of this definition, the word "controls" means possession, directly or indirectly of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities or otherwise.
- **Completion Term:** period by which the Contractor commits to complete the Scope of Contract, as set forth in the Agreement.
- **Contract:** the set of all contractual documents as specified below, that regulate, in writing, the obligations of the Parties and the acquisition of materials or equipment and/or the performance of a given works or the provision of a given service:
  1. **Agreement:** the document that includes the name and identifying data of the Parties, specifies the scope and the duration of the Contract that provides the economic, administrative and regulatory terms and that lists and refers to all of contractual documents that form the Contract.
  2. **Particular Conditions:** a document that provides the specific terms applicable to a given Contract;
  3. **Technical-Economic documents:**
    - **Technical Specifications:** the document that contains the technical requirements related to the Contract;
    - **Consideration or Price List:** the document that provides the economic consideration to be paid for the specific services rendered by the Contractor, which may be grouped per category;
    - **Any additional documents:** other documents related to a specific Contract (e.g. description of the works and interventions; graphic and descriptive design print-outs; time schedule, etc.).
  4. **Health, Safety and Environmental terms, and Health, Safety and Environmental Essential terms** (hereinafter jointly "HSE Terms"): the documents that govern the Parties obligations in connection with health, safety and environment matters of the Contract. The HSE Terms are available on the ENEL Global Procurement Web page.
  5. **General Conditions:** this document.
- **Contractor:** any individual or legal entity (even grouped) that executes with ENEL a contract for works, services and/or supplies.
- **Duration:** period of validity of the Contract set forth in the Agreement.



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- **Economic guarantee:** a financial guarantee at first demand that the Contractor delivers to ENEL for guaranteeing the exact fulfilment of all contractual obligations and the payment of damages caused by the breach of Contract for the amount and the period established under clause 19.
- **Electronic signature:** any digital signing system which, where applicable and in accordance with Law, allows the verification of the identity of the signatories to the same extent of a certified handwritten signature, and which guarantees the source, authenticity, legal validity and integrity of a given electronic document or a set of electronic documents.
- **ENEL Group:** means Enel S.p.A. and its Affiliates.
- **ENEL's Global Procurement Portal:** ENEL Portal which Contractors can access in order to operate with ENEL on-line.
- **Execution Date:** date on which the Contract enters in full force. Unless otherwise provided for in the Agreement, such date corresponds to the date of signature by both Parties.
- **Final Acceptance:** acceptance by ENEL of the completion of Scope of Contract, which takes place after eventual defects or deficiencies identified during commercial operations have been remedied.
- **Final Acceptance Date:** date when the Warranty Period ends upon Final Acceptance.
- **Final Acceptance Document:** document (e.g. a report) confirming the final receipt and acceptance of purchased materials or equipment, the works or services and the expiration of the Warranty Period.
- **Governmental Authority:** any and all supranational, foreign, national, federal, state, county, city, municipal, local or regional authorities, departments, bodies, commissions, corporations, branches, directorates, agencies, ministries, courts, tribunals, judicial authorities, legislative bodies, administrative bodies, regulatory bodies, autonomous or quasi-autonomous entities or taxing authorities or any department, municipality or other political subdivision thereof. **Law:** all legislation, statutes, ordinances, codes, rules, orders, decrees, regulations, judgments, injunctions, permits, licences, authorizations of any legally constituted Governmental Authority, as the same may be amended, modified or repealed, applicable to the Contract and in force in [COUNTRY].
- **Provisional Acceptance:** conditional acceptance by ENEL of the delivery of Scope of Contract, which need to be verified or confirmed under operational conditions within an agreed period. Such acceptance arises from the last of the following conditions having occurred or having been declared by ENEL: (a) completion of the Scope of Contract, (b) no defects exist, (d) all defects have been remedied; (e) the activities under the Scope of Contract have been realized and accepted for commercial use, if applicable, and (f) the Contractor has delivered all required documents to ENEL.
- **Provisional Acceptance Date:** date when the Warranty Period starts based on the Provisional Acceptance.
- **Provisional Acceptance Document:** document (e.g. a report) which records:
  - 1) the successful outcome of inspection and testing activities with regard to particular equipment or material received by ENEL; this document also records any necessary modifications or corrections of deficiencies that are found during the inspection and testing; or
  - 2) the successful outcome of a work progress examination, the exact performance or completed correction of the service, and compliance with technical standards and contractual clauses relating to the various phases of activities under the Contract.
- **Scope of Contract:** materials, equipment, works and services defined in the Agreement and/or in the Technical Specifications, which ENEL shall acquire from the Contractor under the Contract.
- **Subcontract:** contract with which the Contractor entrusts the performance of part of the Scope of Contract to Subcontractors.
- **Subcontractor:** Person having a direct contract with the Contractor for performing portions of the Scope of Contract related to the provision of works and services, and its employees and representatives.
- **Subsupplier:** Person – including its employees and representatives - supplying to the Contractor, either directly or indirectly, materials and/or equipment (there included part thereof) required for the performance of the Scope of Contract.
- **Taxes:** any taxes, duties, levies, contributions or any other charge in general, as determined in accordance with Law and levied by the relevant Governmental Authority, applicable to the Contract at any time during its performance.
- **Third Party:** any Person other than a Party.
- **Warranty Period:** period of time for the duration of which the Contractor has to ensure the proper functioning of the products/works, or that the products/works are flawless and fit for their use.

### 3 LANGUAGE.

3.1 The original version of these General Conditions is in English. The original version of the remaining contractual documents shall be that indicated in the Agreement or in each of the contractual documents. In the event of discrepancies between the original version of the present General Conditions, drafted in English and its translations into other languages, the original version in English shall prevail.

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



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### 4 EXECUTION.

4.1 The Contract is executed through each Parties' signing. By signing the Contract, also via an Electronic signature, the Contractor declares its full and unconditional acceptance of the same.

4.2 The Contract shall not be automatically renewed neither tacitly extended. Any additions and/or subsequent additional contractual terms, or deletions of contractual clauses provided in a given Contract, do not have any validity in terms of amendment of General Conditions and are limited to the given Contract.

4.3 In case of agreements executed by ENEL with the Contractor for the benefit of two or more companies belonging to the ENEL Group, the Contract shall be considered as executed by and between the given companies of the ENEL Group that will actually receive the services, works or supplies 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 among the contractual documents of the Contract, the priority and precedence shall be determined according to the following order:

1. **Agreement;**
2. **Particular Conditions** (if any);
3. **Technical-Economic documents** (Technical Specifications, Consideration List or Price List, any additional documents);
4. **HSE Terms;**
5. **General Conditions.**

5.2 In any case, should a conflict arise between the contractual documents and mandatory provisions of Law, the mandatory provisions of Law shall prevail.

5.3 Without prejudice to clause "Governing law", should any doubts and/or conflicts arise on the interpretation of a Contract, it shall be amicably resolved by the Parties, in accordance with the scope and purpose of the Contract and in compliance with the same.

5.4 It shall not be held that a Party has waived any right, power or claim provided in the Contract unless such waiver is explicitly declared in writing to the other Party. The waiver of a right, power or claim shall not imply a waiver of any future right, power and claim even if the latter are of the same nature of the former.

5.5 In the event of any provision of the Contract being held invalid, such invalidity shall not affect the remaining provisions of the Contract, which may be applied without the invalid provision being in force. The Parties, taking into account the scope of the Contract and by a mutual agreement, shall seek to amend the invalid provision in such a way that it complies with its original purpose as much as possible.

### 6 COMMUNICATIONS.

6.1 Any communications between the Parties shall be made in writing, at the location or address and in the manner stated in the Contract. The Parties undertake to promptly report each other any change of location and address. In the absence of such report, communications shall be deemed effective if sent in the agreed manner to the addresses referred to in the Contract.

6.2 The Parties may use electronic procedures for the exchange of documents relating to the Contract. Unless otherwise agreed in the Contract, electronic means of communication may be used, provided that they allow the tracking of any communication.

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

### 7 ECONOMIC 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 for the performance of works or services, and it takes into account the total value of the Contract. It includes everything necessary for the full performance of the contractual services, and everything that has to be provided or performed by the Contractor, including all costs or charges saved what is due for services and items that have been explicitly excluded and the taxes imposed by Law.

7.1.2 All prices shall be listed in the Contract in the manner provided for therein.

#### 7.2 Modification of Prices.

The prices are fixed and invariable. A price change may occur if provided in the Contract and/or required by Law.

#### 7.3 Invoicing.

7.3.1 Before issuing an invoice, the Contractor shall require explicit ENEL's authorization which shall not be unreasonably denied or delayed. Invoices shall be considered valid only if referred to Scope of Contract duly carried out in accordance with Contract requirements. Invoices shall contain all information required by the Contract and by the Law, including among the other the Contract number and any supportive documentation demonstrating the completion of each milestone or completion of the Scope of Contract to ENEL's satisfaction.



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7.3.2 With reference to clause 4.3, in case the Scope of Contractis performed by an Affiliate or an associated company or a permanent establishment of the Contractor in the Country where ENEL Group companies are established, invoices shall be issued by such Affiliate, associated company or permanent establishment.

7.3.3 Unless otherwise provided for in the Agreement, invoices shall be issued in the same Contract currency.

7.3.4 In case the Agreement allows for invoices in multiple currencies, each invoice shall be issued in just one currency.

7.3.5 In case the Agreement allows for invoices in a currency different from the Contract currency, the exchange rate used to convert the amount of the invoice from the Contract currency to the different currency shall be as of the Execution Date.

7.3.6 Invoices shall be delivered to ENEL in electronic format through ENEL systems, which ensure integrity of data and univocal attribution of the document to the issuer.

7.3.7 In case ENEL Global Procurement Portal is not available or the Law does not allow electronic invoicing, invoices shall be delivered to ENEL in hard copy (original) at the address set forth in the Agreement.

7.3.8 ENEL reserves the right to reject any invoices which do not comply with the provisions of this section. In case of rejection, ENEL shall specify the reasons thereof. The original date of receipt of a rejected invoice shall not be considered valid for the payment purposes.

7.3.9 ENEL may dispute, in good faith, the correctness of any invoice or any adjustment to an invoice, rendered under the Contract for any arithmetic or computational error within twelve (12) months of the date such invoice, or such adjustment to an invoice, was issued. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required with notice of the objection given to Contractor. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment.

### 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.

7.4.2 To this end, the Contractor undertakes to communicate to ENEL all necessary bank data. The Contractor has the obligation to promptly report to ENEL any changes to its fiscal and general data (such as: VAT number, address, company name, etc.) and any change to its ownership/corporate structure. Failure to communicate the above information may result in the suspension of payments of invoices that contain non-updated data.

7.4.3 Exceptionally, ENEL may accept other legitimate and valid means of payment, in accordance with Law.

7.4.4 The payment of the invoiced amount(s) shall not imply that ENEL has acknowledged that the Contract has been properly performed by the Contractor or that ENEL has waived its rights and claims against the Contractor, as any payment is made without prejudice to any future right or claim.

7.4.5 ENEL may, if allowed by the applicable law and if provided in the Contract, withhold or suspend payments due to the Contractor, even if they are due and payable.

7.4.6 In case of a delayed payment by ENEL, if such a delay is imputable to ENEL, default interest shall be payable to the Contractor in accordance with the provisions of the Contract and Law.

### 7.5 Payments Deferment.

7.5.1 Without prejudice to clause 7.4"Payment Conditions", ENEL reserves the right to propose a deferment of the payment to the Contractor. The Contractor has the right to accept or refuse the above-mentioned deferment proposal.

7.5.2 In the event of the Parties agreeing to defer the payment's terms:

- Regardless of the provisions in the General Conditions, the new terms and conditions of payment agreed between the Parties and indicated in the Contract shall prevail;
- ENEL will pay the Contractor a deferral charge in an amount calculated on the basis of a market reference rate (e.g. US Libor, Euribor) recorded on the day of issue of the relevant, deferred invoice plus a spread for the days between the due date originally stated in the General Conditions and the agreed deferred due date.

7.5.3 Deferral charges, determined as above, will be paid by ENEL at the same time and in top of the amount due pursuant to the deferred invoice. It is understood that in the event of a delayed payment also in respect of the agreed deferred due date, ENEL shall pay default interests, as stated in the General Conditions.

## 8 TAXES.

8.1 While paying Contractors for goods/works/services received, ENEL shall apply a withholding in accordance with tax and welfare contributions legislation (with fiscal effect) applicable in the Contractor's Country of residence and/or pursuant to any other Law applicable to the Contract.

8.2 The Parties mutually undertake to fulfil all obligations, to deal with all the paperwork and to deliver all documents necessary for the proper payment of taxes, including withholdings and other legal obligations applicable to the Contractor, in compliance with the procedures set forth by



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Law. Similarly, the Parties undertake to cooperate in order to obtain exemptions or other tax benefits applicable to the Contract. If, due to a lack of diligence or any other cause imputable 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 from the amount due to the Contractor.

8.3 Should treaty between the Contractor's Country of residence and the Country of residence of the relevant ENEL Group company be in force in relation to the avoidance of double taxation, and the Contractor claims the application of the provisions of such a treaty, the Contractor must provide ENEL with its certificate of tax residency (or any other declaration/certificate necessary for the application of provision against double taxation) for the purposes of classification of the nature of the income under the treaty against the double taxation, the Contractor shall take into account the interpretation in force in the Country in which the ENEL Group company is located. This certificate is, generally, valid for one year, unless the legislation of the Country in which the ENEL Group company is located establishes a shorter period. In any case, when upon expiration of the validity of each certificate, the Contractor shall submit another valid certificate.

8.4 If ENEL is required to make deductions from payments due to the Contractor, upon request from the latter, ENEL shall issue a certificate referred the deductions applied and more specifically to the amounts paid and to the amounts withheld.

8.5 If materials or equipment are sent from abroad, the taxes shall be paid as follows:

- a) The Contractor shall pay all taxes and charges applicable to goods in the Countries of origination of those goods and those applicable in the Countries through which said goods have transited until final delivery, plus all the taxes charged in the Country of destination which are payable as a consequence of the economic benefits obtained from selling them.
- b) The Contractor shall also 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.

8.6 Taxes on national materials or equipment shall be paid either by ENEL or by the Contractor, according to the provisions of Law.

## 9 PERFORMANCE.

### 9.1 Introduction.

9.1.1 ENEL reserves the right to monitor Contractor's performance of all obligations under the Contract, in accordance with the terms and conditions set forth therein.

9.1.2 ENEL undertakes to provide, upon request of the Contractor, all necessary information for the performance of the Contract activities. If data provided by ENEL result to be insufficient or incomplete, the Contractor undertakes to point out any missing information for ENEL to promptly integrate.

9.1.3 The Contractor shall appoint and maintain, throughout the Duration of Contract, one or more representatives fully empowered to discuss with ENEL technical and economic matters, with particular reference to safety and occupational health, work-related social obligations and respect for the environment.

9.1.4 ENEL reserves the right, during the performance of the Contract, upon previous motivation and discussion with the Contractor, to request the replacement of its representative(s). In such a case, the Contractor shall be obliged to appoint different representatives within ten (10) working days from the request, unless otherwise provided for in the Contract.

9.1.5 Without prejudice to its right to terminate the Contract according to clause 16.3, if as a result of performances monitoring, ENEL verifies that the Contractor has operated in breach of its obligations under the Contract, even due to material errors or inaccuracies, then the Contractor shall remedy at its own expenses such deficiencies. Neither contractual milestones nor the Duration of Contract will be postponed/extended while the Contractor remedies its deficiencies.

### 9.2 Inspections and Tests.

9.2.1 Anytime throughout the Duration of the Contract and subject to reasonable advance notice, the Contractor shall give access to personnel of ENEL and/or of Third Parties discretionally designated by ENEL for that purpose (with the exception of Contractor's competitors), to its workshops and warehouses and shall cause its Subcontractors to do the same, in order to verify the performance of the Scope of Contract, including manufacturing and testing phases as well as progress of process cycle.

9.2.2 In carrying out the aforesaid inspections/tests, ENEL and/or Third Parties' personnel shall comply with the relevant facility policies and the Contractor is authorized to restrict ENEL's access to its intellectual property and/or confidential information, expressly classified as such in the Contract, provided that Contractor shall always grant Enel access to all the information needed to properly perform the inspections/checks/controls.

9.2.3 At its own discretion, ENEL has the right to carry out any additional inspections/ tests to those provided for in the Contract. If the results of inspections/tests are successful, the costs thereof shall be borne by ENEL; if the results are unsuccessful, the costs of these inspections/tests shall be borne by the Contractor.

9.2.4 In alternative to the physical access to workshops and warehouses, upon ENEL's request, the Contractor and its Subcontractors shall allow and facilitate the performance of remote inspections/tests. The connection system (e.g. video conferencing, smart glasses, webcam, etc.) shall be made available by the Contractor or its Subcontractors and enable the video streaming of inspections/tests, documentation revision and interaction among local and remote participants.





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9.2.5 Without prejudice to ENEL's right to inspect, the Contractor shall carry out, at its own expenses, all inspections/tests set forth in the Contract and/or envisaged as mandatory in accordance with the Law and technical standards. The Contractor shall communicate in writing to ENEL the date on which these inspections/tests will be carried out, with a minimum fifteen (15) business days advance notice in order for ENEL and/or Third Parties to attend. Regardless the presence of ENEL and/or Third Parties personnel, the Contractor shall communicate to ENEL the results of the aforesaid inspections/tests and record such results in the relevant certificates or protocols.

9.2.6 Component type certificates shall be submitted to ENEL before the start of manufacturing. In case type certificates are not ready before the start of manufacturing, the Contractor shall submit to ENEL a detailed schedule of activities aimed to obtain the relevant certification, provided that in any case, the final document shall be submitted to ENEL no later than the component delivery. ENEL reserves the right to attend any step of certification process.

9.2.7 Component type certificate shall comply with Technical Specification; in case of deviation, type certificate shall be updated accordingly.

9.2.8 In case preventive inspections/tests are provided for in the Contract for acceptance of all or parts of Scope of Contract, the Contractor shall not begin any manufacturing, construction or assembly phases, or ship materials, before ten (10) calendar days from the completion of inspections/tests and the notification of their results by ENEL to the Contractor, unless ENEL formally denies its permission.

9.2.9 Successful results of any tests/inspections do not automatically imply the completion by the Contractor of the Scope of Contract nor its approval by ENEL, and do not make the Contractor harmless as to its liability under the Contract.

9.2.10 Failure by ENEL to perform any required or previewed inspections/tests shall not constitute any limitation to the Contractor's liabilities under the Contract, even if Contractor's breach is ascertained at a later stage throughout the Duration of the Contract. According to clause 9.1.5, if as result of tests/inspections ENEL requires the replacement or restoration of certain defective equipment or works, such replacement or restoration shall be at the sole Contractor's expenses and no cost arising therefrom shall be borne by ENEL. The defective equipment or works shall be clearly identified and the Contractor shall not be allowed to use or deliver them in the following performance of the contractual activities, unless the ascertained defects have been properly settled and such use or delivery has been authorized by ENEL.

9.2.11 The duration of inspections/tests may be invoked by the Contractor as a reason or justification for deferring the Delivery Date set forth in the Contract only to the extent ENEL is the sole responsible for the delay in performing the same and such delay is not motivated according to the Contract provisions.

### 9.3 Delivery and Acceptance.

#### 9.3.1 Introduction.

9.3.1.1 The Contractor shall deliver whole or part of the Scope of Contract in accordance with the schedule specified in the Contract. If a delivery date is not specified, the Completion Term shall run from the Execution Date, unless otherwise provided for in the Contract.

9.3.1.2 The delivery date or the Completion Term shall not be postponed nor extended, unless for reasons attributable to ENEL or as a consequence of Force Majeure Event according to clause 17 (Force Majeure).

9.3.1.3 The advance of the delivery date or the reduction of Completion Term shall be admitted only upon explicit consent by ENEL. In such a case, the aforementioned authorisation shall not automatically determine an earlier payment from ENEL of whole or part of the Price.

9.3.1.4 Without prejudice to clause 9.3.2, the Contractor shall timely communicate to ENEL the actual date of delivery of whole or part of the Scope of Contract and request the Provisional Acceptance. The Contractor shall alternatively notify any circumstances which have caused or may cause a delay to the delivery deadlines or terms set forth in the Contract. In case of expected delay, the Contractor shall indicate the expected new date of delivery, to be confirmed later on with specific communication to ENEL.

9.3.1.5 Following Contractor's request, ENEL shall inform the Contractor of the Provisional Acceptance Date, which shall take place within thirty (30) calendar days from the request. On Provisional Acceptance Date ENEL shall meet the Contractor Representative in order to examine the compliance of delivery with Contract requirements ("Provisional Acceptance Meeting").

9.3.1.6 The Contractor undertakes to implement, at its own expenses, any reasonable mean and to spend its best effort to recover any delay on the Delivery Date or Completion Term, if and to the extent such delay is not attributable to ENEL.

9.3.1.7 Under no circumstances, even in case a dispute resolution is pending, the Contractor is allowed to voluntarily suspend or slow down the delivery of the Scope of Contract. In case of breach to such obligation, ENEL reserves the right to terminate the Contract, without prejudice to its full right to compensation for any damages it has eventually suffered.

9.3.1.8 Upon expiration of the Warranty Period, the Contractor shall notify ENEL of said expiration and request the Final Acceptance. Following this request, ENEL shall inform the Contractor of the Final Acceptance Date, which shall take place within thirty (30) calendar days from the request. On Final Acceptance Date ENEL shall meet the Contractor Representatives in order to examine the performance of delivery under commercial operations ("Final Acceptance Meeting").



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### 9.3.2 Materials and Equipment.

9.3.2.1 The delivery of materials and equipment shall take place at the location specified in the Contract and in accordance with Incoterms set forth in the Contract.

9.3.2.2 The Contractor shall be responsible of managing the custom process or, if agreed upon in the Contract, of providing ENEL with the documentation necessary to proceed with the custom clearance of materials and equipment under the Scope of Contract.

9.3.2.3 Transport to destination and unloading shall take place under the Contractor's full responsibility. Provisions of clause 20 (INSURANCE) shall be applied in order to insure proper coverage of materials and equipment value and third-party risk. If the type of material requires it, the Contractor shall obtain from the competent authorities any transit permits, licenses, authorisations or police protection in order to transport the materials; the Contractor shall bear all costs related to any work this may entail, such as: transit deviations, bridge buttresses, signs, etc..

9.3.2.4 In case of delay in the transportation process (e.g. shipment), the Contractor shall be responsible for all costs of storage and insurance arising therefrom up to the maximum number of days set forth in the Contract. Should the delay be further prolonged, the Parties shall mutually agree how to compensate the Contractor of the additional costs of storage and insurance eventually incurred.

9.3.2.5 All delivered materials and equipment shall be properly identified for their correct and easy acceptance at destination. The Contractor shall accompany those materials and equipment with a receipt document indicating the information specified in the Contract.

9.3.2.6 The receipt document shall specify the positive outcomes of inspections and tests, or alternatively highlight the remedy actions undertaken to correct the defects eventually identified.

### 9.3.3 Works and Services.

9.3.3.1 During Provisional Acceptance Meeting, ENEL shall start drafting a Provisional Acceptance Document in which reporting the information on the delivery and the eventual intention to carry out specific tests to assess the good condition of the delivery.

9.3.3.2 The absence of Contractor Representatives shall be considered equivalent to the full acceptance of the contents of the Provisional Acceptance Document.

9.3.3.3 The tests may be carried out on the same date of the Provisional Acceptance Meeting or later on; in this last case a new Provisional Acceptance Meeting shall be called by ENEL. Once completed, the outcomes of such tests shall be included in the Provisional Acceptance Document.

9.3.3.4 Provisional Acceptance is intended to be completed when the outcomes of the tests are satisfactory to ENEL.

9.3.3.5 If the outcomes of the tests are not satisfactory, ENEL may point out in the Provisional Acceptance Document the defects encountered and establish a mandatory term for the Contractor to remedy such defects. Once this deadline has elapsed, additional checks shall be carried out, and the results thereof reported in the Provisional Acceptance Document. In case of satisfactory outcomes, the Provisional Acceptance is intended to be completed, if not, ENEL has the right to terminate the Contract in accordance to clause 16 (SUSPENSION, WITHDRAWAL AND TERMINATION).

9.3.3.6 The aforesaid deadline shall not be considered as an extension to the Completion Term and therefore, the Contractor shall be held liable for penalties and/or compensation for damages.

9.3.3.7 If the Contractor disagrees on certain technical or financial aspects pointed out by ENEL during the Provisional Acceptance Meeting, it shall ensure they are reported in the Provisional Acceptance Document, specifying the reasons for this disagreement. Any disagreements shall be settled according to clause 31 (JURISDICTION).

9.3.3.8 During Final Acceptance Meeting, ENEL shall draft a Final Acceptance Document in which attesting the full compliance of the delivery with Contract requirements after check during commercial operations. The absence of Contractor Representatives shall be considered equivalent to the full acceptance of the contents of the Final Acceptance Document.

9.3.3.9 If the Contractor disagrees on certain technical or financial aspects pointed out by ENEL during the Final Acceptance Meeting, it shall ensure they are reported in the Final Acceptance Document, specifying the reasons for this disagreement. Any disagreements shall be settled according to clause 31 (JURISDICTION).

### 9.4 Changes to contractual terms.

The activities covered by the 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.

9.5.2 Unless otherwise provided 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 upon receipt at the location and under the agreed conditions and/or at ENEL warehouses, offices and/or plants. It is agreed that, unless otherwise provided the unloading shall be carried out under the Contractor's responsibility and at its expense.





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9.5.3 Notwithstanding the above the Contractor authorises ENEL to take possession of the materials and equipment, in whole or in part, as soon as they become part of works or are in placed an installation owned by ENEL, and to use them 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 an insurance in place with adequate coverage for the materials and equipment, even if they are already in the possession of and used by ENEL.

### 9.5.4 Works and Services.

9.5.4.1 The outcome of the contractual works and/or services shall be owned by ENEL upon execution of the Provisional Acceptance Document.

9.5.4.2 Without prejudice to the rights of 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 of all 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 performance.

9.5.4.3 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 existing on the site. In this case, the Contractor may continue to carry out the works or the services and shall continue to be liable for installation risks until the Final Acceptance Document is completed.

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

### 9.6 Quality.

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

### 9.7 Bonus.

9.7.1 ENEL reserves the right to request, at any time, the Contractor to anticipate the delivery of whole or part of the Scope of Contract, by sending a specific written request. In exchange of such anticipation ENEL may be ready to recognize to the Contractor an economic bonus ("Bonus"). The Contractor will communicate in writing its eventual acceptance of the new deadline requested by ENEL.

9.7.2 It is understood that ENEL's request to anticipate the delivery shall not imply an automatic recognition of the Bonus, even though specifically accepted by the Contractor. The recognition of the Bonus, to the extent indicated in the Contract, remains subject to Contractor's achievement of the new delivery date/Completion Term and to the full compliance with all its legal and contractual obligations, among the others as far as labour, health and safety are concerned. In no case the Bonus shall be recognized to the Contractor if ENEL has applied penalties in accordance with the Contract.

### 9.8 Records and Audit.

9.8.1 The Contractor shall maintain books and accounts with respect to the Scope of Contract in accordance with generally accepted accounting principles and practices consistently applied. In addition, the Contractor shall maintain a system of internal accounting controls appropriate for its operation. During normal business hours and upon forty-eight (48) hour notice, the Contractor shall grant ENEL access to Contractor's records, books, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, and any other data relating to the Scope of Contract.

9.8.2 The Contractor shall make available to ENEL for inspection, audit or reproduction designated in-progress work product as soon as reasonably possible after written request.

9.8.3 The Contractor shall retain records, including books and accounts, relevant to the Scope of Contract for a period of five (5) years after Final Acceptance should ENEL require records for its use.

9.8.4 Until Final Acceptance or earlier termination of the Contract, the Contractor shall provide documents, reports and information in connection with the Contract in addition to that specifically required in the Contract that may be reasonably requested by ENEL from time to time, provided such additional information involve no material additional cost to Provider.

## 10 SUBCONTRACTING.

10.1 Subcontracting is allowed only upon ENEL explicit authorization and, in compliance with the Law. The Agreement will define the activities for which subcontracting is allowed.

10.2 With regard to works, services and supplies, the Contractor can subcontract up to the percentage of the total amount of the Contract indicated therein. In the absence of such an indication, the Contractor can subcontract up to the percentage of 49% of the total amount of the Contract.



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10.3 The Contractor shall timely provide ENEL with a list of potential Subcontractors and the planning of activation thereof; such list and the relevant planning of activation may be updated from time to time. The Contractor may not enter into any Subcontract with any person not included in such list and not approved by Company ENEL in writing. Request of approval shall be sent to ENEL at least thirty (30) calendar days before Subcontractor is expected to start performing its portion of Scope of Contract. Request of approval shall contain details concerning: (i) Subcontractor company information, (ii) start/end date of Subcontractor performance and (iii) portion of Scope of Contract to subcontract (type, volume, Countries). In order to be approved by ENEL, the Contractor shall require and shall cause any Subcontractor to be regularly registered on ENEL Global Procurement Portal.

10.4 A self-employed worker is deemed as a Subcontractor.

10.5 Taking into account the Law, the subcontracting is regulated as follows:

- while bidding for the Contract, the competitors have indicated, also in case of variations, the works/part of works or the services or supplies/part of services or supplies that are object of the subcontracting;
- the subcontracting agreement is filed with to ENEL before the effective start of;
- upon filing of subcontracting agreement to ENEL, the main Contractor has to transmit to ENEL the certification proving that the Subcontractor meets all the requirements for the performance of the subcontracted activities along with a declaration that states the compliance with general requirements stipulated by the Law;
- only one round of subcontracting is permitted; therefore subcontracted activities may not be executed or performed using any further level of subcontracting, unless required by Law.

10.6 The Contractor pays the safety costs related to the activities entrusted in subcontracting, to the Subcontractor without any reduction. ENEL checks the effective application of these provisions by means of a reference contact appointed for Contractor management and supervision.

10.7 The Contractor must act in compliance with the rules and with regulations on salaries that are established in the "collective work contracts" in force in the specific Country; if applicable in compliance with local regulations, the Contractor is jointly liable with the Subcontractors for the compliance with those rules and regulation and -as indicative and not exhaustive- with all its safety, salary, contributions and insurance obligations provided to the employees involved in the performance of the subcontracted activities.

10.8 In any case, the Contractor remains completely and exclusively liable towards ENEL for the due performance of the Contract. Any recourse to of Subcontractors neither exclude nor limit the obligations undertaken by the Contractor, who shall remain liable regarding ENEL for the performance of the Contract, as well as for the payment of compensation for damages to third parties.

### 11 ASSIGNMENT OF THE CONTRACT AND ASSIGNMENT OF RIGHTS AND CREDITS.

11.1 The Contractor must perform the contractual activities on its own. The assignment to Contract to a third party is allowed only upon ENEL explicit authorization and in compliance with the Law.

11.2 Unless otherwise agreed in the Contract, the Contractor may not assign its rights and obligations under the Contract, in whole in in part, including any receivable or payables arising therefrom, without ENEL's prior written consent.

11.3 The Contractor undertakes to promptly notify ENEL of the initiation of procedures for its dissolution, transformation, merger, demerger, increase or reduction of capital or, in any case, of other extraordinary transactions, including the sale and/or purchasing of majority shareholdings and/or of company branches, as well as significant changes in its governing bodies. Without prejudice to compliance with confidentiality obligations of the Contractor, the above-mentioned notification shall be made with a reasonable advance notice or, in any case, not later than five (5) business days from the events mentioned above.

11.4 Without prejudice to the Law, Enel can assign the Contract and/or the rights or credit claims arising out of the Contract to any third party and undertakes to communicate the occurred assignment to the Contractor.

### 12 THE CONTRACTOR'S OBLIGATIONS.

12.1 The Contractor shall provide the Scope of Contract in accordance with the Contract, Prudent Industry Practices, and Law. The Contractor shall carry out strict quality controls and shall only appoint skilled personnel to perform the Scope of Contract.

12.2 The Contractor shall cooperate with ENEL and ENEL's other third party, and use commercially reasonable efforts to schedule, coordinate, and perform the Scope of Contract so as not to delay or adversely impact its timely performance and completion. The Contractor shall cooperate with any such third party to the same extent as the Contractor is obligated to cooperate with ENEL hereunder.

12.3 Furthermore, the Contractor is fully responsible for:

- a) carrying out inspections, testing and checks required by the Contract and/or regulations applicable to the Contract, as well as for all costs arising therefrom;
- b) managing and obtaining visas, authorisations and licenses necessary for the performance of the Contract, except those that are under the responsibility of ENEL by provision of Law;
- c) organising its personnel, employed in various capacities in the performance of contractual activities, provided that at all times the Contractor's responsibility is clearly identified and separated from that of ENEL;



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- d) the appointment of a person in the Contractor's own organisation to act as ENEL'S referring individual during the performance of the Contract;
- e) the labour required to perform the Contract with all its associated costs.

12.4 In case of foreign Contractors, and before the start of the works, the Contractor must ensure that "key people" (such as foreman, supervisor, site manager etc) are able to understand and communicate in the official language of the relevant Country or in that established in the Contract (both in writing and orally).

### 13 THE CONTRACTOR'S RESPONSIBILITIES.

13.1 The Contractor, under its sole responsibility, shall comply with the Law and regulations required by the Governmental 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 for its contractual responsibilities towards its contractors and Subcontractors.

13.3 If the Contractor is represented by of a group of two or more entities, each of them is jointly and severally obliged to comply with all provisions of the Contract and for the performance of the Contract in accordance with Law.

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 it has to immediately inform ENEL of any conduct that may give rise to a conflict of interest.

13.5 The Contractor agrees to indemnify and hold ENEL harmless from any liability and prejudice arising out any claim or legal proceedings of any kind which are directly 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 possibly have to pay both for expenses and costs of any kind 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 of the Contractor.

### 14 THE CONTRACTOR'S WARRANTIES.

14.1 The Contractor shall warrant:

- a) the suitability, exclusive ownership and/or legitimate availability of all materials and equipment under the Scope of Contract and that such materials and equipment are all free and clear from any liens, claims, security interests or other encumbrances;
- b) that all materials and equipment:
  - i. comply with the relevant legal requirements and the Technical Specifications, as well as with other provisions set forth in the Contract;
  - ii. are free from visible or hidden defects;
  - iii. fit for the intended purpose which is specified in the Contract;
  - iv. are new or, only to the extent explicitly provided in the Contract, refurbished;
- c) that the services and works (if any) comply with all legal requirements and the Technical Specifications, as well as with other provisions set forth in the Contract and are performed in a competent and diligent manner, suitable for their intended purpose.

14.2 Unless differently stated in the Contract, Warranty Period shall last two (2) years following Provisional Acceptance Date. If, during the performance of the Scope of Contract and for the Warranty Period, the results of the performance of Contract fails to meet Prudent Industry Practices or fails to conform to the requirements of the Contract, the Contractor shall, without additional compensation from ENEL, correct or revise any defects in the Scope of Contract.

14.3 At the conclusion of the Warranty Period, the Contractor shall take commercially reasonable efforts to assign to ENEL any remaining manufacturer's warranties on any materials and equipment.

14.4 The warranty shall not cover defects or failures that are caused by (i) misuse or incorrect use by ENEL, except in cases where the misuse or incorrect use derives from the application of the incorrect or confusing content of manuals or instructions provided by the Contractor, (ii) normal wear and tear including that due to environment or operation or use or (iii) modification of the equipment not in accordance with the Contract or the Contractor's instructions or recommendations.

14.5 The warranty applies to defects in design, construction and hidden defects and to anything that is specified in the Contract. Pursuant to the warranty the Contractor is obliged to carry out, as soon as possible and at its own expense, any repairs or replacements of a defective material or re-performance of a defective service or work that may be necessary, including the removal, deinstallation, mobilization/demobilization and transportation of defective parts. In particular, the Contractor undertakes to:

- a) replace (or, to the extent provided for in the Contract, repair), as soon as possible in order to minimize the impact on ENEL business and in any case, within the timeframe set forth in the Contract (or, in the absence of a specific deadline in the Contract, correction of the defects shall not exceed the timeframe originally agreed for delivery of the equipment or material or for the performance of the



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defective service or work resulted as defective), all defective materials and equipment, services or works that do not comply with the warranties established in Section 14.1 hereof. The Contractor shall obtain ENEL's approval, which cannot be unreasonably withheld or denied, prior to implementing any remedy action. To the extent option to repair is set forth in the Contract and the material is not repairable, in accordance with Contractor's reasonable opinion, such defective materials and equipment shall remain in storage at ENEL's facilities until they are replaced, at ENEL's sole discretion, without prejudice to ENEL's right to use the rejected materials until they are replaced.

- b) replace all supplied materials and equipment in the event of any serial defects, thereby justifying the solution adopted to prevent those defects being produced in the remaining materials or equipment that need to be supplied. A serial 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 it is not specified, when the percentage exceeds 10% of the total quantity of the same materials or equipment to be supplied under the Contract;
- c) return the equipment/sites made available by ENEL in the same condition in which they were made available;
- d) indemnify ENEL from any claim made by third parties.

14.6 The above-mentioned obligations, and all expenses for various reasons arising from the execution of the warranty (including but not limited to transport, installation, deinstallation, storage), shall be paid exclusively by the Contractor, without ENEL being liable for any charges or costs.

14.7 Without prejudice to clauses 14.5 and 14.6, let. a), if the Contractor fails to comply with the obligations referred to in this clause, ENEL shall be entitled to adopt – upon previous communication to the Contractor – any appropriate measure independently, or by recurring to third parties' assistance, 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. In particular, if Contractor fails to implement remedy actions within the aforementioned timeframes, ENEL may apply a penalty for the delay according to the Contract.

14.8 In the above cases, the Warranty Period is suspended from the date of ENEL's communication to the Contractor, and it shall accordingly be extended until completion of all repairs, replacements or new assembly activities, or works that must be carried out under the warranty.

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

14.10 When the Warranty Period has satisfactorily expired and any anomaly, defect or deficiency found or produced during this period has been remedied, the Warranty Guarantee provided by the Contractor may be released.

14.11 The expiration of the Warranty Period does not release the Contractor from liability for defects or for hidden defects or from any other liability pursuant to Law or under the Contract.

### 15 PENALTIES.

15.1 Without prejudice to ENEL's right to terminate the Contract in accordance with Section 16 "SUSPENSION, WITHDRAWAL AND TERMINATION", the failures of the Contractor to meet the delivery dates set forth in the Contract, both partial and final, or any other breach of Contractor's obligations under the Contract, may result in the application of a penalty by ENEL, as set forth in the Agreement. The application of penalties does not exclude nor limit ENEL's right to compensation for any further damages ENEL has suffered.

15.2 If the total amount of penalties applied by ENEL exceeds the threshold specified in the Agreement, ENEL reserves the right to terminate the Contract any time throughout the Duration of the Contract.

15.3 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 performance of the activities carried out to remedy said defects, ENEL may apply the penalties provided for in the Contract.

15.4 The application of penalties shall not exonerate the Contractor from its obligations and liabilities under Section 14 "THE CONTRACTOR'S WARRANTIES".

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 Law.

15.6 Failure to apply any 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 performance of the Contract, ENEL shall send a written communication to the Contractor, stating the reasons thereof and providing an estimate of the duration of the aforesaid suspension.

16.1.2 In compliance with the provisions of HSE Terms, any risk situation or unsafe behavior of the Contractor shall determine the suspension of the performance of the Contract and the restoration of proper Health, Safety and Environmental conditions.



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16.1.3 The suspension shall be effective as of the date of notification by ENEL. The Contractor shall, from such date, cease the performance of the Contract and store and properly maintain materials, equipment, works and services under the Scope of Contract, regardless of their stage of completion, without prejudice to all the obligations that derive from Law and / or are established in the Contract.

16.1.4 If suspension is motivated by Contractor's default, then Contractor shall bear all costs and expenses incurred by ENEL because of the suspension.

16.1.5 In all other cases, except for Force Majeure Events under clause 17, direct documented cost incurred by Contractor as effect of a suspension (including storage costs) shall be payable by ENEL upon submission of Contractor's invoice.

16.1.6 If suspension lasts for more than one hundred eighty (180) calendar days, then Contractor upon thirty (30) calendar days prior written notice to ENEL, may, at its discretion, terminate the Contract. In this case, the effects of Section 16.3.2 shall apply in the benefit of Contractor.

16.1.7 The resumption of activities will have to be communicated in advance from ENEL by means of a written notice to the Contractor, and it shall take place no later than the day set out therein. The remaining term for the completion of the suspended part of performance of the Contract will begin to run from that date. The Contractor shall have the right to receive payment, as defined in the Contract, for the activities/project already carried out. Payment of activities/projects that are, upon notification, in advanced stages of implementation and not provided for in the Contract, shall be negotiated between the Parties.

### 16.2 Withdrawal.

16.2.1 ENEL may withdraw from the Contract at any time, no matter what stage of the work, activities and projects is reached. The withdrawal shall be communicated in writing with acknowledgment of receipt and will be effective from the date ENEL will communicate which activities are to be completed and which are to be stopped immediately. The activities duly carried out by the Contractor prior to the cancellation date will be paid by ENEL in accordance with the contractual prices. ENEL shall reimburse the Contractor, upon review of the related satisfactory evidence provided by the Contractor that have been interrupted and for those that have not been performed. To this end ENEL shall reimburse the lower amount between (i) the one equal to the expenses incurred by the Contractor in relation to those activities, for orders that have become irrevocable and (ii) the one equal to the actual economic prejudice suffered by the Contractor.

16.2.2 The Contractor may withdraw from the performance of the Contract in accordance with the provisions of the law applicable to the Contract.

### 16.3 Termination.

16.3.1 ENEL may terminate the Contract in the cases contemplated by Law and / or in all cases stipulated in the Contract and / or in the following cases, where there is a cause that impedes or significantly affects the correct performance of the Contract:

- a) the death of the Contractor, in the case of a natural person, or a change in the Contractor's capacity that prevents, or modifies the performance of the Contract substantially.
- b) the dissolution, transformation, reduction of capital or significant changes in the governing bodies of the Contractor, in the event that said changes have a negative impact on the performance of the Contract, or in the event that said changes on the part of the Contractor contravene the provisions from "GLOBAL COMPACT" and "CODE OF ETHICS" clauses.
- c) the reduction of capacity or economic / financial solvency, including insolvency proceedings or bankruptcy or insolvency declarations, or any other type of legal difficulty, or of any other nature that impedes or significantly affects the correct fulfilment of the obligations of the Contractor.
- d) the interruption or unjustified suspension by the Contractor of the performance of the Contract.
- e) the total amount of the penalties eventually applied for delay during the execution of activities reached the maximum specified in the agreement or the delay of contractor is such to not fully satisfy the scope of contract established by ENEL.
- f) the impossibility of the Contractor to obtain certificates on time and the necessary approvals for the correct performance of the Contract in relation to its own products or activities, or any loss thereof while the Contract is in force.
- g) the inability of the Contractor to remedy the breaches of the corresponding technical specifications and / or in case of repetition of errors or defects or breaches in relation to the instructions provided by ENEL.
- h) the inability to perform or the breach by the Contractor and / or its Subcontractors or a third party appointed by the Contractor of the contractual activities or any of the requirements in accordance with the legislation in force.
- i) failure to comply with the obligations related to intellectual property, confidentiality and the processing of personal data, in accordance with the laws applicable to the Contract.
- j) the verification at any time, after the signing of the Contract, of any omission or lack of veracity of any information or statement offered by the Contractor in relation to compliance with legal, economic, financial, technical or contractual conditions.
- k) the incorrect performance of the Contract for reasons attributable to a Subcontractor or to any person named by the Contractor and / or the non-payment of compensation for damages caused to any person.
- l) any other breach by the Contractor that could impede or materially and adversely affect the satisfactory performance of the Contract, or any other reason specified in the Contract as a reason for termination.



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- m) the refusal of the Contractor to execute any activities under the Contract.
- n) the refusal of the Contractor to resume the performance of activities under the Contract that ENEL (for any reason) has ordered to suspend, when ENEL itself has indicated its resumption.
- o) the performance by the Contractor of acts that are harmful to the image of ENEL.
- p) the actions, omissions, behaviors or situations related to the Contractor that may pose a risk to the reputation of ENEL and that lead to the deterioration of the trust of ENEL in the honesty and integrity of the Contractor, and in its reliability for the performance of activities in accordance with the provisions of this Contract.
- q) the loss of even one of the requirements established for the homologation (if they were required), in relation to the conclusion and compliance of the Contract. In the event that the Contractor does not inform ENEL of the situations described above and without prejudice to the latter's right to terminate the Contract, ENEL may suspend payments due to the Contractor to comply with the contractual obligations with third parties arising from the correct and complete performance of the Contract by the Contractor.

16.3.2 In the cases described above, ENEL may terminate the Contract immediately or assign the Contractor a cure period to remedy the contractual breach, without prejudice to ENEL's right to claim compensation for any loss or damage suffered.

16.3.3 In case of termination of the Contract for reasons attributable to the Contractor, ENEL shall have the right to acquire the materials that the Contractor has already manufactured, totally or partially, or delivered, paying the relevant prices, when contemplated in the Contract.

16.3.4 In the event of non-compliance by the Contractor, ENEL may, without prejudice to the right to apply penalties or to take legal action in relation to its right to compensation for damages, carry out the following measures:

- a) to suspend pending payments to the Contractor.
- b) enforce any economic guarantee provided by the Contractor.

### 17 FORCE MAJEURE.

17.1 A "Force Majeure Event", unless otherwise provided for by Law, shall mean the reasonably demonstrated occurrence of any act or event beyond the reasonable control of, and not the result of the fault or negligence of, the Party affected that prevents the affected Party from performing its obligations under the Contract, in full or part, and which such Party is unable to predict, prevent, avoid or overcome with the exercise of the best reasonable effort. The burden of proving a Force Majeure Event shall be on the Party claiming the occurrence of same.

17.2 The Parties may not invoke force majeure in the examples listed below:

- a) meteorological conditions or phenomena that a Contractor with experience in facilities can reasonably predict and whose harmful effects could have been consequently avoided in part or totally by the Contractor;
- b) delays or inability to obtain materials or human resources that have occurred despite being reasonably predictable, or that could have been avoided or remedied in advance;
- c) strikes or labor disputes in relation to the Contractor or its Subcontractors, except in the case of a national strike or strikes of the entire sector or industry;
- d) delays or contractual breaches of any Contractor's Subcontractor, unless such delays or contractual breaches are in turn a consequence of a force majeure event;
- e) the status of the site where the contractual activities are carried out, which is known and accepted by the Contractor;
- f) Contractor's or its Subcontractors technical, economic or financial difficulties or its Subcontractors.

17.3 Neither Party will be responsible for the breach of its obligations if the performance is delayed or cannot be carried out due to a Force Majeure Event. The Party whose performance of the Contract is affected by a Force Majeure Event will notify it in writing to the other Party as soon as possible, and in any case within a maximum period of five (5) calendar days from the day on which the Party would have knowledge of the aforementioned facts. In said notification, the affected Party shall:

1. identify the events and the circumstances in which they occurred;
2. detail the estimated duration of the situation;
3. relate the contractual obligations affected and the measures that it will adopt to reduce, if possible, the negative effects of the facts in the performance of the Contract;
4. attach the documents that prove that the causative events should be considered as a cause of force majeure.

17.4 The Party receiving a notification of a Force Majeure Event, shall either accept or challenge in writing the occurrence of the notified Force Majeure Event, within a maximum period of ten (10) calendar days after receiving the aforementioned notice. The absence of a response from the notified Party shall be understood as acceptance of the Force Majeure Event.

17.5 In case of a Force Majeure Event, the fulfilment of the affected tasks will be suspended during the course of the Force Majeure Event, without claims of compensation of any of the Parties. Contractual obligations not affected by Force Majeure Event must continue to be executed





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according to the terms and contractual terms in force before the occurrence of said cause. If the Force Majeure Event affects the agreed delivery date, then such delivery date shall be extended on a day-for-day basis in accordance with the number of days of delay caused by such Force Majeure Event, unless otherwise agreed by the Parties.

17.6 If due to Force Majeure Event, the performance of the Contract is substantially affected and the Contract is suspended for more than one hundred eighty (180) calendar days or it is impossible to resume the performance thereof, each Party shall have the right to terminate the Contract upon giving the other Party five (5) days written notice, with no compensatory break-fees or penalties due to termination.

### 18 LABOUR LAW OBLIGATIONS.

The Contractor is solely responsible for the organization of the personnel it employs - in various purposes - to execute the Contract, so that its responsibilities are well defined and distinguished from those of ENEL.

### 19 ECONOMIC GUARANTEES.

#### 19.1 Common provisions.

19.1.1 The Contractor shall secure the performance of all contractual obligations and the payment of damages caused by the breach of Contract. ENEL may require the issuance of Performance Guarantee, Advance Payment Guarantee (if applicable) and Warranty Guarantee, which may be delivered either in cash deposits or in the form of a guarantee issued by a financial institution approved by ENEL at the Contractor's choice and complying with the criteria listed below:

- a) being drafted on the basis of the template provided by ENEL;
- b) being unconditional and irrevocable;
- c) issued for the benefit of ENEL;
- d) being payable on first demand only upon submission by ENEL of a written request to the issuer stating that it has the right of repayment of the economic guarantee.

19.1.2 The financial institution issuing the guarantee shall be a bank, an insurance company or a financial intermediary authorized to operate in surety business by relevant authorities, with the creditworthiness defined in the Contract. In case the issuer's creditworthiness deteriorates, the Contractor shall provide within sixty (60) calendar days, upon ENEL's request, the guarantee replacement issued by a financial institution approved by ENEL. In case of failure to provide the guarantee, ENEL may, in accordance with the Law, withhold and suspend payments due to the Contractor.

19.1.3 The existence of a guarantee does not mean that the Contractor's liability under the Contract is limited to the amount or period of validity of such guarantee.

19.1.4 If the Price and Duration increases throughout the Contract Duration by effect of a Change Order, ENEL may request the Contractor to integrate the guarantees to cover such increased Price or Duration.

19.1.5 In case the Contractor fails to comply with the required integration, ENEL reserves the right to terminate the Contract in accordance with clause 16.3 "TERMINATION" or in alternative to withhold and suspend payments to the Contractor until the integration is delivered.

#### 19.2 Performance Guarantee.

19.2.1 If provided for in the Agreement and unless a different percentage is defined therein, the Contractor shall obtain and deliver to ENEL a first demand guarantee for an amount of 10% of the Price, as a guarantee for the exact, on-time and regular performance by the Contractor of its obligations under the Contract, including the obligation to pay any amount due to ENEL, such as Penalties ("Performance Guarantee"). For sake of clarity, the Performance Guarantee shall also cover the warranty obligations of the Contractor before the delivery of the Warranty Guarantee.

19.2.2 The Contractor shall make the Performance Guarantee available before signing the Contract and in any case no later than the Execution Date.

19.2.3 If there is no breaches by the Contractor in fulfilling its obligations under the Contract, the Performance Guarantee shall be returned to the Contractor, within ten (10) Business Days from the date of issuance of the Warranty Guarantee.

#### 19.3 Advance Payment Guarantee.

19.3.1 In case of advance payment by ENEL to the Contractor, the Contractor shall obtain and deliver to ENEL a first demand guarantee for an amount equal to 100% of advance payment ("Advance Payment Guarantee").

19.3.2 The Contractor shall make the Advance Payment Guarantee available before the advance payment is paid by ENEL.

19.3.3 The Advance Payment Guarantee shall be returned to the Contractor after the Contractor has performed such a part of the Scope of Contract having a value, in accordance with Price, equivalent to the advance payment.



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### 19.4 Warranty Guarantee.

19.4.1 If provided for in the Agreement and unless a different percentage is defined therein, the Contractor shall obtain and deliver to ENEL a first demand guarantee for an amount equal to 5% of the Price, as a guarantee for the Contractor's obligations during the Warranty Period ("Warranty Guarantee").

19.4.2 The Contractor shall make the Warranty Guarantee available upon Provisional Acceptance.

19.4.3 The Warranty Guarantee shall be returned to the Contractor within one (1) month from the end of Warranty Period.

### 20 INSURANCE.

20.1 the Contractor assumes all responsibility for injury or damages caused to persons or property by carrying out - including through subcontractors or Third Party agents - the activities specified in 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 performance 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.

20.2 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 related to prevention, reduction and repair, in accordance with the conditions laid down in Applicable legislation.

20.3 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.

20.4 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 performance of the Contract and/or after the Warranty Period.

20.5 The insurance policy shall provide for the total waiver of the insurer against ENEL with no exceptions whatsoever.

20.6 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.

20.7 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.

20.8 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 INTELLECTUAL PROPERTY.

21.1 The Contractor represents and warrants that in carrying out its activities in order to perform the Contract and to design, manufacture, sell, distribute or commercialize any products or services supplied to ENEL the same Contractor has not infringed, is not infringing and will not infringe any third parties intellectual property rights, such as rights regarding trademarks, patentable inventions, copyrightable works, utility models, industrial designs and trade secrets.

21.2 In case for performing the obligation arising from the Contract the Contractor needs to use some object of intellectual property rights covered by a third party's licenses, ENEL reserves the right to ask the Contractor for providing the relevant documentation. Upon ENEL's request, the Contractor shall provide any additional information, clarification, explanation, confirmation, correspondence, manual, and other document or data with respect to any resources protected by intellectual property rights used for performing the Contract.

21.3 The Parties agree that, as for ENEL's products, samples or technical specifications as well as intellectual property information that are delivered by ENEL to the Contractor in order to perform the Contract, the Contractor: (i) may not in any way copy, publish, distribute, reproduce, process, translate, modify, adapt, develop, decompile, dismantle, subject to reverse engineering operations (or, in any case, subject to operations intended to extract the source codes) – in full or in part - any such ENEL products, samples or technical specifications (ii) may not make any derivative works, objects, items, products, samples or technical specifications.; (iii) shall not use such ENEL's products, samples, technical specifications or intellectual property information for any purpose other than due Contractor's performance under the Contract, and (iv) shall ensure that the aforementioned prohibitions are complied with also by the other persons involved and possibly to be involved in the performance



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of the Contract by the Contractor, (v) shall not disclose, and shall cause its employees not disclose it to any third party without ENEL's prior written consent and shall keep it confidential pursuant to clause 22 below.

21.4 The Contractor is responsible for arranging, procuring, getting, obtaining in sufficient time in advance concessions, permits and authorizations required by the holders of patents, models and related trademarks rights, as well as other intellectual property rights. The Contractor shall be responsible for payment of any royalties, compensations, remunerations, charges and/or fees due on this basis.

21.5 The Contractor represents and warrants that there are no contracts, agreements, licenses, permits, restrictions, requirements, patents, certificates, Contractor's obligations or other circumstances that prevent or may prevent ENEL from using, utilizing or in any other way enjoying the intellectual property involved by the performance of this Contract as well as product, service, supply, license, document, object, item to which it is embedded or into which it is included.

21.6 If, as a result of a dispute or of any claim by the owners, right holders, authors, concessionaires of the rights referred to in this clause and/or any other parties, 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. The Contractor shall indemnify ENEL for any other associated costs, including but not limited to transportation costs, costs for testing, certification, custom clearances, receipt of any permits/authorizations or documents, procurement of any replacing or additional materials/items, and other costs and expenses.

21.7 All amounts shall be paid to ENEL within 30 calendar days from receipt of the respective demand from ENEL.

21.8 If legal action is taken against ENEL by a third party for the infringement of any intellectual property rights provided by the Contractor or anyhow related to this Contract the Contractor shall, at ENEL's request, be required to provide coverage (as indicated in clause 19 "ECONOMIC GUARANTEE") in regard to the value of the claims, within ten (10) calendar days. The Contractor shall release ENEL from any liability for infringements of intellectual property rights that may occur and undertakes to do everything necessary to hold ENEL harmless with regard 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.

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

21.10 ENEL shall own all of the documents, drawings, plans, computer programs, data, information, as well as copies, translation, derivative works thereof and the related intellectual property, it provides to the Contractor for the performance of the contractual obligations. 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 "CONFIDENTIALITY" below.

21.11 The intellectual property rights and technology and methodology resulting or deriving from the developments, or works or services, or other activities 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 any contractual items, as well as any right to claim any additional payment or remuneration in this respect.

21.12 The drawings, documents, plans, computer programs as well as copies thereof, and in general any results and related intellectual property rights, generated by the Contractor during the performance of the Contract (the "Foreground IPRs") shall exclusively belong to ENEL, which will also automatically become the owner of any relevant working in progress, from time to time generated during the performance of the Contract. Each Party recognizes and agrees that each Party's Background IPRs shall remain exclusive property of such Party and the other Party shall have no claim in relation to any such right; such Background IPRs mean all present and future intellectual property rights, including but not limited to patent applications, pending patents, database rights, copyrights, trademarks, trade and industrial secrets rights and any applications thereto on a worldwide basis, software designs and models, know-how, pertaining to each Party before the signature of this Contract or successively acquired in parallel projects outside of the scope of this Contract. Before signing the Contract, each Party shall specify in an annex attached to the Contract such Party's Background IPRs which are relevant to the performance of the Contract. Therefore, if the Contractor shall use its Background IPRs for the performance of this Contract, any Foreground IPRs belonging to ENEL shall be limited to the add-ons (the "Add-Ons"), which are the additional parts (generated by the Contractor in performing the Contract on the basis of its Background IPRs) that do not, in any way, include or contain any of its Background IPRs. The Parties shall agree in writing the list of the issues constituting such Add-Ons previously and/or within 30 (thirty) days after the expiry or termination of the Contract. The Parties shall agree in writing the list of the issues constituting such Add-Ons previously and/or within 30 (thirty) days after the expiry or termination of the Contract.

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

21.14 In case of breach by the Contractor of the obligations related to intellectual property referred to in this article, ENEL has the right to terminate the Contract, without prejudice to its right to every action and compensation for any damages it has suffered.

21.15 The use of ENEL's trademarks, logo and/or distinctive signs is strictly forbidden, as well as the commercial exploitation of the fact that is providing services to ENEL, without ENEL's previous and written authorization.

### **22 CONFIDENTIALITY.**

22.1 The term "Confidential Information" refers to economic and financial documents, data and information that regards, but is not limited to, business strategies, information about products and/or production processes (design, study and development), means and costs of production,

sales information, development strategies and customer management, any kind of data about clients, suppliers and their technical or commercial profile, documentation regarding technical and economic offers in public and private tenders, data about tests and/or the functioning of plants, equipment, machines and products, business analysis, market researches, business and marketing plans other statistical data that are relevant for the business, internal organization procedures, ideas of advertising and new trademarks not yet used in the market, prices, features, concepts, prototypes and layouts of new products or services not yet launched on the market, etc. It also applies to technical documents data and information, referring for instance, but not limited to patentable inventions, patents, patent applications, licenses, source code of any kind of software, its principles and the related algorithms; discoveries, algorithms and formulas; new production processes and methods; new methodologies for testing plants, equipment, machines and products, results of activities of Research and Development (R&D). In addition, it applies to any other information

- (i) expressly qualified as “confidential”, “strictly confidential”, “secret” (or in any other similar way) by the disclosing Party or
- (ii) which the receiving Party knew or ought to have known to be confidential by way of its nature or treatment performed by the disclosing Party, considering that said information is not publicly known, not easily accessible by third parties and subject to appropriate measures to preserve its non-public nature.

22.2 Confidential Information includes all information relating to a Party, made available to the other Party, before or during the performance of the Contract, either by the administrators, managers or employees of the disclosing Party, or by the Subcontractors or Affiliates of said Party and its corresponding administrators, managers, employees or Subcontractors (hereinafter, “Representatives of the disclosing Party”). Confidential Information also includes all information regarding the Representatives of the disclosing Party.

22.3 It will not be considered confidential the information that

- (i) the receiving Party can prove to have legitimately known before the beginning of the performance of the Contract;
- (ii) the receiving Party can prove to have received from third parties not subject to (or in breach of) any non-disclosure obligation by law or contract;
- (iii) after the communication to the receiving Party, without any responsibility of said Party, became generally known or readily accessible to persons within the circles that normally deal with the kind of information in question.

22.4 All Confidential Information that any of the Parties makes available (verbally, in writing, in electronic format or in any other way) to the other Party for the purposes of, and/or during the performance of the Contract, as well as any other Confidential Information of which any of the Parties may have knowledge as a result of other contracts signed between the Parties, and/or pre-contractual negotiations thereof, as well as all related documents and specific knowledge (regardless of how they have been compiled, obtained or developed) can be used only for the purpose of executing the Contract and they shall be treated as confidential, according to the provisions of this clause.

22.5 In particular, Confidential Information may not be disclosed to third parties without the prior written and express authorization of the disclosing Party. In addition, without prior written and express authorization from the disclosing Party, the other Party may not use copy, reproduce, translate, modify, adapt, develop, dismantle or separate the Confidential Information provided, perform reverse engineering operations or any operation intended to extract the source codes - wholly or partially - of said Confidential Information.

22.6 Notwithstanding the foregoing, the receiving Party may disclose the Confidential Information to satisfy a legal demand by a competent court of law or governmental body, or competition authority, having jurisdiction over it, provided however that in these circumstances said Party shall notice the other Party (when legally possible) prior to disclose said Confidential Information so that the other Party has the opportunity to defend, limit or protect against such disclosure; and, provided further that (i) it is disclosed only that portion of the Confidential Information which is legally required to be disclosed and (ii) reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed are put in place.

22.7 Each of the Parties:

- (i) must restrict the disclosure of Confidential Information exclusively to the representatives and Affiliates that effectively need to have it due to their degree of involvement in the performance of the Contract;
- (ii) bind its representatives and Affiliates in order to ensure that they fully comply with the obligations contained in this clause;
- (iii) will be held responsible for any action or omission of its representatives and Affiliates that leads to a breach of the obligations to keep the secrecy of the Confidential Information and not to use it for purposes different from executing the Contract.

22.8 The Party receiving the Confidential Information is obliged to manage the related logical and physical data using the best available international techniques and practices, to guarantee the protection of said data from unauthorized access, reproduction, communication or use. Once that the Contract has expired, the Party receiving the Confidential Information shall return all the data, documents and information provided by the other Party or in its possession, for the purpose of carrying out the contractual activities, in addition to destroying all copies and files that it may have, unless it has received written permission to the contrary from the Party that provided the Confidential Information. In this regard, the receiving Party will confirm the destruction of said data to the other Party within a maximum period of fifteen (15) days from the request and shall declare in writing not to be retaining any documents or other objects containing (or related to) Confidential Information.

22.9 Both Parties guarantee that Confidential Information will not be disclosed during the performance of the Contract and for a period of five (5) years after it has expired, except when another term is agreed in the Contract or when it is required by law or by a competent Authority. Notwithstanding the foregoing, in the case of Confidential information qualified as “strictly confidential” by ENEL, the obligations of confidentiality and non-use set forth in this clause shall survive the termination of the Contract for any reason whatsoever unless otherwise provided by the



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disclosing Party, and shall be valid until the receiving Party is able to demonstrate that said Confidential information has become generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question for any cause different from its disclosure by the receiving Party.

22.10 Both Parties will agree in writing regarding the content, the means of communication, the date of publication of the press articles and the news or communications of any kind in relation to the Contract or any matter or information related thereto.

22.11 Both Parties acknowledge and agree that the restoration of the damages may not represent sufficient compensation for the breach of confidentiality and non-use obligations and that the Party that suffers the infraction shall have the right to seek other repairs or to avoid any possible violation or damage of such violation according to the current legislation. In case of breach of the confidentiality and non-use obligations, any of the Parties may also decide to terminate the Contract.

22.12 At any time, if the disclosing Party so requires and it does not affect the performance of the Contract by the other Party, the other Party shall return or destroy or request that its representatives return or destroy all copies of the Confidential Information in its possession or that of its representatives. In addition, the receiving Party will do everything in its power or will require its representatives to do so, to return or destroy any data stored in electronic format and will confirm the destruction of said data to the disclosing Party within a maximum period of fifteen (15) days from the request and declares in writing not to be retaining any documents or other objects containing (or related to) Confidential Information.

22.13 Each Party acknowledges and agrees that Confidential Information is and remains the exclusive property of the Party that discloses it. Nothing in the Contract shall be understood - unless expressly stated in writing - as granting a license or the like in matters of patents, copyrights, inventions, trade secrets, trademarks, discoveries or improvements made, other resources protected by intellectual property rights conceived or acquired, both before and after the performance of the Contract.

22.14 Any Party represents and warrants to the other Party that in performing the Contract it shall not violate any trade secrets rights of third parties.

### 22.15 Cyber Security.

22.15.1 The Contractor can access ENEL's IT system only if authorized by ENEL. The Contractor is responsible for the activities performed on ENEL systems by using its digital identity, which should be anytime safeguarded. In performing such activities, the Contractor shall comply with following rules of conduct:

- a) never reveal nor provide the authentication credentials to anyone;
- b) not insert passwords into e-mail messages or other forms of electronic communication, nor reveal them over the phone to anyone;
- c) never memorize passwords to access ENEL's applications via browser through the "remember password" functionality;
- d) check no one is watching when the Contractor types the credentials to access IT devices or systems, in order to prevent theft of the Contractor's credentials;
- e) never use the same password for the authentication to different systems;
- f) access to information systems shall be limited to software / tools provided specifically for the performance of the necessary activities; the use of network services or connections for purposes not related to the activities that shall be carried out is prohibited;
- g) any transaction developed through ENEL's IT systems shall not violate the Law;
- h) the workstation used (permanent or temporary) shall not connect to internet services other than those provided or authorized by ENEL and shall have the necessary antivirus installed. All necessary measures shall be taken to prevent the spread of viruses, malicious software or any illicit software that may cause interruptions in the service or loss of data;
- i) all email accounts, file storage or communication platforms (including social networks) shall be explicitly provided or authorized by ENEL;
- j) sensitive data shall be stored, transmitted or canceled by appropriate coding software;
- k) it is forbidden to modify the configuration of the system to avoid security checks;
- l) in order to prevent the disclosure of information to unauthorized persons, attention shall be paid to printed documents, removable hard drives, removable storage and video screens.

22.15.2 If at any time during the Duration of Contract, the performance of the Scope of Contract requires or involves the Contractor gaining access to and/or using any application available on Enel's systems and/or Enel's IT infrastructure ("Enel Systems"), this entire Section 22.14.2 applies to the Contractor. Upon the request of Enel at any time and for any reason, the Contractor shall participate in and implement the Enel's dual factor authentication system (the "Multifactor Authentication System"), as a mandatory requirement to access and/or use any Enel Systems. The Contractor undertakes that, for the Contractor to participate in and implement the Multifactor Authentication System, (i) a smartphone and a working SIM card (also personal or for mixed-use) are required; (ii) each smartphone used for the purposes of the Multifactor Authentication System must be associated exclusively with the personal identity of the specific employee, agent, Subcontractor, representative or other personnel of the Contractor who will access and/or use the Enel Systems on behalf of the Contractor; and (iii) the Contractor shall satisfy all of the foregoing requirements at its sole risk, cost and expenses. Enel does not bear any charge (financial or other) for the supply of the smartphone and shall not be responsible or liable to the Contractor or any third party for any damages, claims or losses, direct or indirect, arising out of or



connected with the failure and/or defective functioning or unlawful use of any smartphone that is used for the Multifactor Authentication System by the Contractor's employees, agents, Subcontractors, representatives or other personnel.

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

#### **23.1** Privacy notice regarding personal data processed by parties for the purposes of this contract

23.1.1 For all definitions concerning personal data, reference is made to terms and definitions made in EU Regulation 2016/679 (hereinafter, "GDPR"), as well as to the implementing legislation and any other current legislation in force.

23.1.2 Parties are informed that personal data are reciprocally acquired during the assignment of the Contract and processed for the management and execution of the Contract or to comply with applicable laws. Personal data are collected and processed using automated means and / or in paper forms and will be stored for the entire duration of the Contract and, after its termination, for a period not exceeding the terms envisaged by applicable laws.

23.1.3 With regard to personal data collected by the Data Controller, for the purposes of stipulating, managing and executing the Contract, it is specified that:

- the Data Controller is the Client Company of the ENEL Group<sup>1</sup> in the person of its legal representative pro tempore (hereinafter, "ENEL");
- The data subject is the natural person participating in the awarding procedure, whose personal data are processed for the purposes of stipulation, management and execution of the Contract (hereinafter, the "Data Subject");
- Personal data processed may be transferred to third parties, i.e. to companies subject to management and coordination or connected with ENEL S.p.A., or to other third parties. Third parties may be appointed by the Data Controller as Data Processor;
- Personal data shall be retained only for the time necessary to achieve the purposes related to the execution of the Contract and, in any event, shall be deleted 10 years after the signing of the Contract;
- Data Subject is entitled to exercise the rights envisaged in Articles 15-22 of the GDPR (right to access data, request their rectification, portability or cancellation, request the limitation of processing of data concerning him/her or may oppose processing), where applicable, by contacting the Data Controller;
- Data Subject is entitled to lodge a complaint to the competent Data Protection Authority;
- The Data Controller has appointed the Data Protection Officer ("DPO") pursuant to Article 37 of the GDPR, whose contact details can be found on the Data Controller's website, or upon request.

#### **23.2 System Administrators**

23.2.1 In the event that, in the execution of the Contract, the Supplier's and/or Sub-Suppliers' personnel, who intervene on ENEL's systems and/or personal data, perform functions attributable to the qualification of "System Administrator", intended as a professional responsible for the management and maintenance of an IT system or component, the Supplier undertakes to and ensures that any Sub-Suppliers undertake to:

- formally appoint such persons;
- provide the System Administrators with specific instructions for carrying out their assigned duties and carry out adequate training activities, also with reference to the protection of personal data;
- make available, on ENEL's request, the list of System Administrators appointed by the Supplier and, if necessary, by the Sub-Suppliers;
- in the event that it intervenes on its own systems and electronic archives, adopt suitable systems for the recording of logical access (computer authentication) by its System Administrators and provide ENEL with a copy on request.

#### **23.3 Appointment of the Supplier as Personal Data Processor (where applicable)**

23.3.1 In cases where the Supplier must process personal data on behalf of ENEL, with the signing of the Contract and for its entire duration, ENEL, as Data Controller, appoints the Supplier, who accepts, Data Processor for the processing of personal data, pursuant to and for the purposes of Article 28 of the GDPR.

23.3.2 The Supplier undertakes to carry out personal data processing operations in compliance with the obligations imposed by the GDPR and the instructions thereafter issued by ENEL, which will monitor thorough compliance with the GDPR obligations and the above-mentioned instructions.

#### **23.3.3 Duties and instructions**

23.3.3.1 Whereas the Supplier, in relation to its declared experience, capacity and reliability, has provided a suitable guarantee of full compliance with the applicable data processing regulations and the GDPR, its duties and responsibilities are defined as follows:

- a) it must only process personal data according to ENEL instructions, as documented in **Annex GDPR 1** specifying type of data processed and the categories of Data Subjects;

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<sup>1</sup> Company of the ENEL group that establishes the Contract or the company in the name and on behalf of which this is established



- b) must have appointed the employees or collaborators who have the task of carrying out any operation, even for mere consultation, relating to the processing of personal data of which ENEL is the Data Controller ("Authorized Persons"). In this regard, it must ensure that Authorized Persons are committed to confidentiality or have an adequate legal obligation of confidentiality. Furthermore, it must ensure that such Authorized Persons are adequately trained on the principles relating to the protection of personal data;
- c) must take all the security measures referred to in art. 32 of the GDPR, as well as any other preventive measure recommended by experience, suitable for avoiding data processing that is not permitted or does not comply with the purposes of the Contract. Moreover, must have to check periodically the suitability of these measures to ensure that they are adequate for the risk associated with the processing of data;
- d) must implement any other security measures that ENEL deems necessary to adopt, with the aim to prevent the violation of personal data;
- e) will provide all the information necessary for ENEL to guarantee and answer to Data Subjects' request of exercising their rights on personal data;
- f) must provide the necessary support to ENEL in ensuring compliance with the obligations referred to in articles 32 to 36 of the GDPR, taking into account the nature of the processing and the information available to the Data Processor;
- g) upon termination of the Contract, the Supplier must return and delete, by giving notice, all the personal data it has come into possession due to the execution of the activities entrusted, with the exception of personal data whose retention is necessary, by way of example, for purposes related to: (i) legal obligations; (ii) exercise or defence of legal claims;
- h) ENEL also reserves the right to request the cancellation / return of the data processed even before the termination of the Contract by communicating it in writing to the Supplier;
- i) ENEL reserves the right to carry out audits and inspections, including through a third party appointed by ENEL;
- j) must promptly notify to ENEL any violation or alleged violation of personal data, within 48 hours of becoming aware of the event and in any case without undue delay;
- k) without prejudice to the provisions of Article 30, paragraph 5 of the GDPR, must keep a Record of processing activities carried out on behalf of ENEL and provide a copy upon ENEL's request.

23.3.3.2 The Parties undertake to transfer personal data to a third country or international organisation outside the European Union exclusively under the requirements and conditions set forth in Articles 45, 46, 47 and 49 of the GDPR, after proper assessment of the specific circumstances of the transfer carried out by ENEL (DTIA). Should ENEL consider it appropriate as a result of such assessment, the Supplier undertakes to sign the Standard Contractual Clauses, defined by the European Commission decision in force at the time of signing the Contract.

23.3.3.3 It is strictly forbidden for the Supplier to process personal data for purposes other than the execution of the Contract. It is also strictly forbidden, also through an adequate organisation of the work of its own collaborators, to carry out massive downloads, copies, visualisations and/or screenshots, photos, videos of personal data, also through the possible use of "RPA - Robotic Process Automation" (or "automata"), unless it is necessary for the execution of the Contract or it was previously authorised by ENEL.

#### **23.3.4 Compensation and Liability**

23.3.4.1 Pursuant to Article 82 of the GDPR, the Supplier will be liable for damages caused by the processing if it has failed to comply with the duties and obligations aforementioned or has acted in a different or contrary way to ENEL's instructions.

23.3.4.2 In accordance with art. 28 paragraph 4 of the GDPR, the Supplier is fully liable for the damage caused by the non-fulfillment or the incorrect fulfillment of the obligations set out in this clause, also on behalf of any of its Sub Processor.

23.3.4.3 [\*].3.4.3. In the event of further damage suffered by ENEL as a result of the Supplier's behavior or one of its Sub- Processor, ENEL reserves the right to request further compensation that will be proportionate to the damages suffered.

#### **23.3.5 Duration**

The aforementioned appointment as Data Processor will be automatically revoked at the end of the contractual relationship or at the time of its termination for any reason, without prejudice to what is indicated in the previous art. 23.3.1, lett. h.

#### **23.3.6 Sub Processors**

23.3.6.1 If, for specific processing activities, the Supplier intends to make use of suppliers external to its organization for the execution of the Contract, those must be appointed by the Supplier as sub-processors (hereinafter "Sub-processor" or "Sub-processors"). Sub-Processors must comply with the same obligations that this clause imposes on the Supplier.

23.3.6.2 At the time of signing the Contract, the Sub-Processors communicated by the Supplier are considered authorized (**Annex GDPR 2**). In the event that the Supplier, for proven and reasonable reasons, intends to modify this list, it must request, before entrusting the assignment to new Sub-Processors, an authorization from ENEL as per the attached standard (**Annex GDPR 3**). The same Annex GDPR 3 must be used to communicate to ENEL the updated list of Sub-Processors, also in the event of removal from the list of one of them.

23.3.6.3 The Supplier declares that the Sub-Processors will process personal data in countries that are in the European Union or, if outside Europe, exclusively under the requirements and conditions set forth in Articles 45, 46, 47 and 49 of the GDPR, after proper assessment of the specific circumstances of the transfer (DTIA). Should the Supplier consider it appropriate as a result of such assessment, the Supplier undertakes



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that the Sub-Processors have signed the Standard Contractual Clauses, defined by the European Commission decision in force at the time of signing the Contract (**Annex GDPR 2**).

23.3.6.4 The Supplier guarantees that the aforementioned appointment will be revoked upon expiry of the contractual relationship between ENEL and the Supplier or at the time of termination for any cause thereof, without prejudice to the provisions of the previous art. 23.3.1, lett. h.

### **24 SUPPLIER PERFORMANCE MANAGEMENT.**

24.1 ENEL monitors and assesses the performance of Contractors through a dedicated supplier performance management process ("SPM"). The main topics evaluated during the assessment are the following:

- a) quality of activities;
- b) compliance with schedule;
- c) compliance with health, safety and environmental rules;
- d) respect of human rights;
- e) cooperation and innovative solutions proposed during the performance of the Contract.

24.2 On the basis of the indexes listed above, ENEL will assign a score to the Contractor. In case of a positive score, the Contractor may have access to the incentive actions indicated in the "Regulation incentive actions" available at the following webpage: <https://globalprocurement.enel.com/become-a-supplier/supplier-performance-management>. In case of application by ENEL of the remedies set forth in the Contract for breaches of contractual obligations, ENEL will assign to the Contractor a negative score.

### **25 VALUE ENGINEERING AND GAIN SHARING<sup>2</sup>.**

25.1 "Value Engineering" means the systematic application of recognized techniques to identify functions, products, services, designs, techniques, alternatives, or performance improvements that have the effect of maintaining or improving the quality and/or value of the work or the project's overall life-cycle cost and other applicable factors while reducing the Price without sacrificing safety, quality, and environmental compliance of the Scope of Contract. Value Engineering is a result of such practices or designs being or not a deviation from the Technical Specifications, thus resulting in a deviation and/or modification to the Contract. Value Engineering shall not include standard optimization taken during the design process that ENEL and Contractor would normally perform under Prudent Industry Practices.

25.2 Both ENEL and the Contractor may submit Value Engineering proposals. If the Contractor submits Value Engineering proposals, these shall be aimed at reducing the Price through direct and quantifiable adjustments to the Scope of Contract.

25.3 Proposals from the Contractor to ENEL shall be reviewed and approved by ENEL. Proposals from ENEL to the Contractor shall be reviewed and approved by the Contractor.

25.4 Value Engineering proposals shall include:

- a) proposed changes to the Scope of Contract (detailed description, attribution of responsibilities among the Parties, etc.);
- b) the anticipated savings and/or improvements in the Scope of Contract (financial or otherwise) that will be achieved by either Party;
- c) estimated costs to be incurred by either Party;
- d) any other impact on the provisions of the Contract.

ENEL, shall make commercially and technically reasonable efforts to review and respond to any such Value Engineering proposals within fifteen (15) days' of receipt. If a Value Engineering proposal is approved, the proposing Party shall timely elaborate an ad hoc implementation plan.

No Value Engineering proposal shall be implemented unless a formal acceptance in writing has been issued by ENEL.

25.5 The monetary value of Value Engineering proposals shall be referred to as the "Gain Sharing". The Contractor shall submit a proposal of Gain Sharing distribution between ENEL and the Contractor. Should the proposal be approved, then the Contractor may be entitled to receive such portion of the Gain Sharing as agreed upon by the Parties.

25.6 Upon approval of a Value Engineering proposal, the Contractor shall submit a Change Order request in accordance with the provisions of clause 9.4.

### **26 GOVERNANCE.**

#### **26.1 Contract Governance Structure.**

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<sup>2</sup> Not applicable in case Gain Sharing is prohibited according to Applicable Law.



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26.1.1 Where provided for in the Contract, the Parties may set up a committee (so-called "Review Group") to supervise the progress of the performance of the Contract object. The Review Group is made up of an equal number of representatives of the Parties. Each Party may periodically change its representatives in the Review Group in its sole discretion, notifying the other Party of the change.

26.1.2 Additional representatives of both Parties, with appropriate technical skills, experience and knowledge, or external consultants, may from time to time - by mutual agreement of the Parties - be invited to attend the meetings of the audit team, without prejudice to the obligation for all Third Parties to sign and comply with confidentiality obligations.

26.1.3 The audit team is chaired by a Representative of ENEL.

### 26.2 Decision process.

All decisions of the Review Team must be unanimous. If the Review Group fails, after making good faith efforts, to reach an agreement, this matter must be referred to the representatives of ENEL and the Contractor indicated for this purpose in the Contract. These representatives will meet promptly and negotiate in good faith to resolve this issue.

### 26.3 Responsibility.

26.3.1 The responsibilities of the Review Group include:

- a) to encourage and facilitate ongoing cooperation and communication between the Parties;
- b) supervise and coordinate the transfer of information;
- c) periodically evaluate the performance of the Contract;
- d) to discuss in good faith all potential improvements that can be adopted during the performance phase.

26.3.2 Unless otherwise provided in the Contract, the audit team meets at least once a year at ENEL or other places agreed by the Parties. Alternatively, the Review team may meet by teleconference, videoconferencing or other similar communication equipment.

26.3.3 The Chairman of the Review Group is responsible for sending the agenda and reasonably early in advance of all meetings and preparation of the final minutes of each meeting.

26.3.4 Any expenses for attending meetings are at the expense of each Party.

## 27 KPI (KEY PERFORMANCE INDICATOR).

27.1 The Contractor must perform the Contract satisfying the levels of service, where expressly provided for in the Contract.

27.2 The Parties monitor and verify the achievement of service levels in the manner and within the terms set forth in the previous "GOVERNANCE" clause.

## 28 GLOBAL COMPACT.

28.1 Each Party acknowledges the content of the so-called "Ten Principles" of United Nations Global Compact, and declares to manage its business activities and operations in order to meet such fundamental responsibilities in the areas of human rights, labour, environment and anti-corruption.

28.2 In particular, the Contractor undertakes to fully comply with the principles of the Global Compact and with the Law and ensures that its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain comply with the following principles of the Global Compact:

### A. HUMAN RIGHTS.

1. One: Any business must support and respect the protection of internationally recognised human rights in conducting their business activities.
2. Two: Any business must ensure that they do not take part in human rights violations.

### B. WORK.

3. Three: Any business must support freedom of affiliation and the effective recognition of the right to collective bargaining.
4. Four: Any business must support the elimination of all forms of forced labour carried out under duress.
5. Five: Any business must support the elimination of child labour.
6. Six: Any business must support the elimination of discriminatory practices in employment and education.

### C. ENVIRONMENT.

7. Seven: Any business must conduct their affairs in a preventive manner to avoid potential damage to the environment.



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- 8. Eight: Any business must support initiatives to promote greater environmental responsibility.
- 9. Nine: Any business must encourage the development and dissemination of technologies that respect the environment.

### D. CORRUPTION.

- 10. Ten: Any business must work against corruption in all its forms, including extortion and bribery.

28.3 The Contractor undertakes to inform ENEL of any situation, to the best of its knowledge, after due inquiry, also referred to its Subcontractors, Subsuppliers, third parties engaged by the Contractor and its whole supply chain, which may result in failure to comply with those principles, as well as the plan to remedy said situations.

28.4 Throughout the Duration of the Contract, the Contractor agrees to allow ENEL to verify the degree of compliance with the requirements of this clause through inspections, audits and/or requests for documentation. In such cases, the Contractor has the obligation to grant access to ENEL to its premises and to provide promptly the requested documentation, and employ its best efforts to cause its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain to do the same.

28.5 ENEL may terminate the Contract for reasons attributable to the Contractor, in cases in which it is justifiably and sufficiently aware that the Contractor and/or any of its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and operators belonging to its whole supply chain have violated any of the above-mentioned principles, and the Contractor shall indemnify and hold Enel harmless for any related damage, loss, cost or expense.

## **29 CODE OF ETHICS.**

### **29.1 General details.**

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

29.1.2 The Contractor acknowledges Enel Code of Ethics' commitments, and, when conducting its own business and managing its relationships with third parties, declares to refer to equivalent principles, as well as ensures that its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain do the same.

29.1.3 The Contractor shall comply with the principles under the International Labour Organization (ILO) Conventions and the legal obligations on the prevention of child labor and the protection of women; equal treatment, the prohibition of discrimination, abuse and harassment; freedom to join a union, the freedom of association and representation, forced labor, environmental safety and protection, health and hygiene conditions, as well as ensure that its Subcontractors, Subsuppliers, third parties engaged by the Contractor and its whole supply chain comply with the same.

29.1.4 The Contractor furthermore shall comply with the Law on remuneration, contributions, insurances, tax with reference to all the workers involved in the performance of the Contract, as well as ensure that its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain comply with the same. In case of conflict among the Law and the ILO Conventions, the most restrictive rules shall prevail.

29.1.5 Each Party undertakes to prevent any forms of corruption. Therefore, ENEL prohibits and the Contractor undertakes not to make use of any kind of promise, offer or request for unlawful payment, in cash or other utility, for the purpose of furthering its relationships with its stakeholders, and this prohibition is extended to all its employees, directors and officers, as well as ensure that its Subcontractors, Subsuppliers, third parties engaged by the Contractor and its whole supply chain comply with the same.

29.1.6 ENEL reserves the right to carry out any control and monitoring activity, through inspections, audits and/or requests for documentation, geared to verifying whether the above-mentioned duties have been fulfilled, both on the part of the Contractor and also on that of any of its Subcontractors, Subsuppliers, third parties engaged by the Contractor and operators belonging to its whole supply chain. In such cases, the Contractor has the obligation to grant access to ENEL to its premises and to provide promptly the requested documentation, as well employ its best efforts to cause its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain to do the same.

29.1.7 In case of breach of one of aforementioned obligations, ENEL reserves the right to terminate the Contract and the Contractor shall indemnify and hold Enel harmless for any related damage, loss, cost or expense.

### **29.2 Conflict of interest.**

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

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



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### 29.3 Health and Safety.

29.3.1 In ENEL, no work can be done compromising Health & Safety and/or environment. For this reason, as established in the Stop Work Policy, any risk situation or unsafe behavior will determine the suspension of work and the restoration of Health, Safety and/or environmental conditions.

29.3.2 ENEL is strongly and constantly engaged in promoting and consolidating a culture of health, safety and environment protection. Such commitment is further detailed in the "Declaration of Commitment to Health and Safety", "Stop Work Policy" and "Environmental Policy" that can be found at the following addresses:

<http://globalprocurement.enel.com> , in the section "Other Useful Documents" and

<https://globalprocurement.enel.com/documents/health-and-safety-documents> and

<https://corporate.enel.it/en/company/policy-environmental-enel> .

29.3.3 The Contractor acknowledges the commitment of ENEL in promoting and consolidating a culture of health, safety and environment protection, and undertakes to comply with the same principles and with the provisions of the HSE Terms, when applicable, as well as ensure that its Subcontractors, Subsuppliers, third parties engaged by the Contractor and its whole supply chain comply with the same.

### 29.4 International sanctions and export control decisions.

29.4.1 Each Party represents and warrants to the other Party that at the Execution Date neither it nor, to the best of its knowledge, after due inquiry, any of its officers, members of its governing body, shareholders owning at least a 5% interest in the Party's company or in any company that the Party owns on at least a 50% basis or otherwise controls, or is under common control by the ultimate parent company, are (i) subject to Sanctions, or (ii) engaged in any activity or have previously been engaged in any activity that could create exposure to Sanctions. Whereby "Sanctions" means all applicable economic or financial sanctions or trade embargoes imposed or enforced on the basis of law, regulations, executive order, restrictive measures or other related rules imposed or publicly notified by: (i) the United Nations; (ii) the European Union; (iii) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury; (iv) Her Majesty's Treasury of the United Kingdom.

29.4.2 Each Party shall fully comply with all legal requirements regarding Sanctions in connection with its performance of the Contract.

29.4.3 Each Party undertakes to maintain in effect and enforce policies and procedures designed to prevent the application of any Sanctions and to promptly communicate in writing to the other Party the opening of any proceeding that may lead to the imposition of a Sanction and, in any case, the application of any Sanctions throughout the Duration of the Contract.

29.4.4 The Contractor moreover represents that, to the best of its knowledge, after due inquiry, its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain are not subject to any Sanctions and it shall promptly communicate in writing, pursuant to clause 6 "COMMUNICATIONS" of these General Conditions, to Enel any circumstance in its knowledge concerning the application of any Sanctions, throughout the Duration of the Contract, against its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain.

29.4.5 Enel may terminate the Contract, upon a prior written notice of 7 calendar days, in case Contractor or any of its Subcontractors, Subsuppliers, third parties engaged by the Contractor and operators belonging to its whole supply chain are subject to a Sanction during the term of the Contract, or if Contractor provides unfaithful representations under this clause. Only in the latter case, the Contractor shall indemnify and hold Enel harmless for any related damage, loss, cost or expense.

29.4.6 In said termination cases the Parties may negotiate in good faith in order to mitigate as much as possible any loss or damage in connection with or arising from the Sanctions, within the termination notice period. Failing such agreement, within 7 calendar days as from the notice of termination, the Contract shall be automatically terminated, subject to any other remedy it might have under the Law or under the Contract.

## 30 GOVERNING LAW.

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.

## 31 JURISDICTION.

Unless they are settled following the procedures in clause "Interpretation and hierarchy", any disputes that may arise between the Parties concerning the interpretation or performance of the Contract shall be subject to the jurisdiction of the court of law defined in the Contract.



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**Annex GDPR**





Annex 1 GDPR

**Description of the processing of personal data**

With reference to art. [insert reference to art. of the Contract] of GCC [select the reference] to the order letter no. [insert reference to the number of the order letter] and in particular to the appointment of the company [insert name of the company that is appointed Responsible] as Data Processor, with this Annex it is intended to specify that the aforementioned processing will involve the following types of data and categories of data subjects.

**A. Categories of Personal Data**

- Biographical data<sup>3</sup>
- Particular Categories of Personal Data<sup>4</sup>
- Judicial data
- economic and financial Personal Data<sup>5</sup>
- Data relating to Contracts with Customers<sup>6</sup>
- Contact Data or Access Data <sup>7</sup>
- Profiling Data
- Data relating to identification / recognition documents<sup>8</sup>
- Geolocation data
- Statistical data
- Categories of personal data (free text) \_\_\_\_\_

**B. Categories of Data Subjects**

- Business Partner
- Supplier
- Client, Prospect
- External Subject
- Underage
- Employees
- Executives Employees
- Shareholders
- Executives Employees of other companies
- Other Categories (free text) \_\_\_\_\_

<sup>3</sup> For example: name, surname, sex, date of birth, place of birth, social security number, other ....

<sup>4</sup> For example: political views, religion, racial origin, health, sexual orientation, other

<sup>5</sup> For example: bank account number, credit card, other ...

<sup>6</sup> For example: POD- PDR-

<sup>7</sup> For example: postal or e-mail address, mobile landline number

<sup>8</sup> For example: identity card, passport, driving license, CNS, other ...



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Annex 2 GDPR

List of Sub-Processors

<b>COMPANY</b>	<b>COUNTRY AND ADDRESS OF THE REGISTERED OFFICE</b>	<b>PRODUCT OR SERVICES PROVIDED</b>	<b>CATEGORIES OF DATA SUBJECTS AND PERSONAL DATA PROCESSED</b>	<b>ADEQUATE GUARANTEES AND EXCEPTIONS FOR THE INTERNATIONAL TRANSFER OF PERSONAL DATA</b>

Date .....

Signature of the Processor.....



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### SELF DECLARATION

(to be filled only in cases where the adequate guarantee for the transfer consists of Standard Contractual Clauses)

Dear  
ENEL

The undersigned (surname) (name).....

born in .....(.....) on.....

resident..... (.....) (street/square) ..... n. ....

As legal representative of the Company .....

with headquarter in .....(.....) (street/square) ..... n. ....

Tax Code .....VAT.....

in relation to Contract no. ....

as Data Processor, aware of the criminal sanctions referred to in Article 76 of the Presidential Decree 28.12.2000 n.445, in case of false declarations and formation or use of false documents, on its own responsibility

### DECLARES

• **With regard to contracts entered into as of 27 September 2021:**

- a) to have carried out a prior Data Transfer Impact Assessment ("DTIA") in relation to the transfer of personal data under the Contract and to have taken all the necessary supplementary security measures, where appropriate;
- b) to have duly signed the Standard Contractual Clauses with the Sub-Processors it may use to perform the activities under the Contract;
- c) to update and re-evaluate the DTIA at regular times, verifying whether there have been any changes in the specific circumstances of the transfer and/or regulatory changes in the legislation of the Country of destination of the transferred data that could affect the level of security of the transfer;
- d) to make available a copy of the signed Standard Contractual Clauses and of the DTIA carried out, upon simple request by ENEL.

• **With regard to contracts entered into before 27 September 2021:**

- a) to carry out a prior DTIA in relation to the transfer of personal data under the Contract and to take all the necessary supplementary security measures, where appropriate, by 27 December 2022;
- b) to sign the Standard Contractual Clauses with the Sub-Processors it may use to perform the activities under the Contract, by 27 December 2022;
- c) to update and re-evaluate the DTIA at regular times, verifying whether there have been any changes in the specific circumstances of the transfer and/or regulatory changes in the legislation of the country of destination of the transferred data that could affect the level of security of the transfer;
- d) to make available a copy of the signed Standard Contractual Clauses and of the DTIA carried out, upon simple request by ENEL.

Date .....

Signature .....



**General Contract Condition**

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Annex 3 GDPR

RE. CONTRACT N. \_\_\_\_\_

**REQUEST FOR AUTHORISATION OF APPOINTMENT OF SUB-PROCESSOR(S) PURSUANT TO ARTICLE 28 OF EU REGULATION 2016/679 (HEREINAFTER REFERRED TO AS "GDPR")**

The Company [*insert the name of the company appointed as Processor*], in its capacity as Processor appointed by [*insert the name of the Controller company*], Controller

**WHEREAS:**

- for the performance of specific processing activities related to the execution of the above-mentioned Contract, it needs to engage subjects external to its organization;
- for these purposes, the Company/Companies [*insert name of the company/companies appointed as Sub-Processor/s*] has/have been identified;
- pursuant to Article 28 of the GDPR, such Company/Companies must be appointed as Processor/s.

**REQUESTS**

to [*insert the name of the Controller company*], in its capacity of Controller, the authorization to appoint the Company/Companies [*insert name of the company/companies appointed as Sub-Processor/s*] as Sub-Processor/s and

**DECLARES**

- that such appointment shall contain the same instructions given by the Controller for the performance of specific processing activities related to the performance of the Contract;
- declares that, together with this Annex, it will provide the Controller with the duly updated list of Sub-Processors, by filling in the section "*Communication of amendments to the list of Sub-Processors*" of this Annex;

[Date] \_\_\_\_\_,

The Processor

\_\_\_\_\_

For authorization

The Controller

\_\_\_\_\_



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**COMMUNICATION OF AMENDMENTS TO THE LIST OF SUB-PROCESSORS**

**(to be filled in when there is a need to update the list of Sub-Processors set out in Annex 2 GDPR, notifying the addition of new Sub- Processors or the deletion of some of those previously indicated)**

The Supplier hereby gives notice that it no longer makes use of the following Sub-Processors:  
[\*]

Below is the updated list of Sub-Processors.

COMPANY	COUNTRY AND ADDRESS OF THE REGISTERED OFFICE	PRODUCT OR SERVICES PROVIDED	CATEGORIES OF DATA SUBJECTS AND PERSONAL DATA PROCESSED	ADEQUATE GUARANTEES AND EXCEPTIONS FOR THE INTERNATIONAL TRANSFER OF PERSONAL DATA

Date .....

Signature of the Processor .....



**General Contract Condition**

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**SELF DECLARATION**

**(to be filled only in cases where the adequate guarantee for the transfer consists of Standard Contractual Clauses)**

Dear  
ENEL

The undersigned (surname) (name).....

born in .....(.....) on.....

resident..... (.....) (street/square) ..... n. ....

As legal representative of the Company .....

with headquarter in .....(.....) (street/square) ..... n. ....

Tax Code .....VAT.....

in relation to Contract no. ....

as Data Processor, aware of the criminal sanctions referred to in Article 76 of the Presidential Decree 28.12.2000 n.445, in case of false declarations and formation or use of false documents, on its own responsibility

**DECLARES**

**In relation to the Sub-Processors listed above**

**• With regard to contracts entered into as of 27 September 2021:**

- e) to have carried out a prior Data Transfer Impact Assessment ("DTIA") in relation to the transfer of personal data under the Contract and to have taken all the necessary supplementary security measures, where appropriate;
- f) to have duly signed the Standard Contractual Clauses with the Sub-Processors it may use to perform the activities under the Contract;
- g) to update and re-evaluate the DTIA at regular times, verifying whether there have been any changes in the specific circumstances of the transfer and/or regulatory changes in the legislation of the Country of destination of the transferred data that could affect the level of security of the transfer;
- h) to make available a copy of the signed Standard Contractual Clauses and of the DTIA carried out, upon simple request by ENEL.

**• With regard to contracts entered into before 27 September 2021:**

- e) to carry out a prior DTIA in relation to the transfer of personal data under the Contract and to take all the necessary supplementary security measures, where appropriate, by 27 December 2022;
- f) to sign the Standard Contractual Clauses with the Sub-Processors it may use to perform the activities under the Contract, by 27 December 2022;
- g) to update and re-evaluate the DTIA at regular times, verifying whether there have been any changes in the specific circumstances of the transfer and/or regulatory changes in the legislation of the country of destination of the transferred data that could affect the level of security of the transfer;
- h) to make available a copy of the signed Standard Contractual Clauses and of the DTIA carried out, upon simple request by ENEL.

Date .....

Signature of the Processor .....