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## 1 SCOPE

1.1 These General Contract Conditions Italy (hereinafter "General Conditions Italy" or "GC") regulate the contractual relationship among one or more Italian companies part of ENEL Group (hereinafter "ENEL") and its Contractors (hereinafter collectively referred to as the "Parties") for the acquisition of materials, equipment, works and services, in accordance with the order of precedence set forth in art. 5 of the GC for the documents which, together with these GC, form the Contract.

1.2 ENEL pursues a sustainable business model and strives to place environmental, social and economic sustainability, together with innovation, at the center of its corporate culture, by implementing a sustainable development system based on the creation of value that is shared with all its internal and external stakeholders. ENEL is committed to pursuing the achievement of the UN Sustainable Development Goals (SDGs). ENEL has been a "Participant" member of the UN Global Compact since 2004 and, in 2020, was confirmed as one of its LEAD companies, thanks to ENEL Group's 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 acknowledges that ENEL's principles on sustainable development are available at the following link <https://www.enel.com/company/our-commitment/sdg-onu>, and declares to share the same purposes.

1.3 Any waiver and/or amendment of these GC or other documents part of the Contract, shall be approved in writing. Such amendments and/or waivers shall be effective and applicable only for the relevant Contract in relation to which those have been agreed, excluding any other existing or future contracts between the Parties.

## 2 DEFINITIONS.

The following definitions, among others, shall apply to this Contract:

- **Affiliate** means any legal entity that directly or indirectly controls, or is controlled by, or is under control, even common control, with another legal entity of Enel Group. The term "Control" means, the direct or indirect power or even joint of any legal entity to cause the direction of the management and/or policies of such entity, regardless of the share of capital, owned also by contract or otherwise.
- **Completion Term:** period by which the Contractor undertakes to complete the Scope of Contract.
- **Contract:** set of documents, as specified below in art. 5.1.
- **Contractor:** any natural or legal person (even grouped) entering into a Contract for the performance of works, services and/or supplies.
- **Duration:** period of validity of the Contract set forth in the Order Letter.
- **Economic Guarantee:** a first demand guarantee provided by the Contractor in accordance with the amounts and the terms set out in art. 19 of GC.
- **Economic Onerous Event**: an extraordinary and unforeseeable change of circumstance or an event (not qualifying as a Force Majeure) which has occurred following the Contract Execution Date, which materially changes the original economic or financial contractual equilibrium, and that presents cumulatively the following conditions:
  - a) is beyond the risk of the Contract assumed by the Parties, by making it economically much more onerous for the affected Party to perform the Contract and resulting in the unjust enrichment of the non-affected Party;
  - b) relates to commodities or costs which are subject to significant oscillations or fluctuations that are beyond a Party's control and that, furthermore, the said Party could not have reasonably prevented, avoided or overcome including by adopting measures to protect from said variation (i.e. contracts, warranties, hedging, and other similar types arrangements);
  - c) the Party has not accepted, either express or implied, the risk of occurrence of said circumstance under the Contract, as well as of all obligations arising out of such risk.
- **Electronic Signature** means signature whether digital or encrypted of the Parties intended to authenticate this writing and having the same force and effect as manual signatures and which certifies any communication among the Parties and the source and integrity of electronic documents.
- **ENEL Global Procurement Portal:** ENEL Portal accessible by Contractors to operate with ENEL on-line.
- **ENEL Group:** Enel S.p.A. and its Affiliates, in accordance with art. 2359 of Italian Civil Code (hereinafter "cc").
- **Execution Date:** date starting from which the Contract becomes fully effective. Unless otherwise provided for by the Contract, such date matches with the date of signature.
- **Final Acceptance:** ENEL's acceptance of all works completed in compliance with the Contract, which occurs after defects or deficiencies identified during commercial operations have been remedied, if any.
- **Final Acceptance Certificate:** means a certificate executed and delivered by Contractor to ENEL attesting that the Scope of Contract has been completed in accordance with the terms of the Contract and that the Warranty Period has ended.
- **Final Acceptance Date:** date when the Warranty Period ends contextually to the Final Acceptance.
- **Investee company of Enel Group or Investee:** the company in which a company of the Enel Group, during the duration of the Contract, reduces its participation in the share capital, directly or indirectly, to a share lower than 50.01 % and which is not under Control (as defined under the definition of Affiliate) by a company of Enel Group
- **Law:** all laws, statutes, ordinances, codes, rules, orders, decrees, regulations, injunctions, permits, licenses, authorizations of any legally established Governmental Authority, as the same may be amended, supplemented or repealed, applicable to the Contract and in force in Italy.

- **Provisional Acceptance:** ENEL's conditional acceptance of the delivery of the Scope of Contract, which shall be verified or confirmed under operational conditions within an agreed period. Such acceptance occurs upon fulfillment of the last of the following circumstances: (a) completion of the Scope of Contract, (b) no defects exist, (c) all defects have been remedied, (d) the activities under the Scope of Contract successfully passed the Tests, and (e) the Contractor has delivered all required documents to ENEL.
- **Provisional Acceptance Certificate:** document attesting:
  - 1) the inspections' and Tests' positive outcome on materials and equipment received by ENEL; this document shall record modifications or corrections of deficiencies detected during the inspections and/or Tests, if any, or
  - 2) the works progress examination's positive outcome, as well as the accurate performance or complete correction of the contractual service and the compliance with technical standards and contractual clauses relating to the different phases of the activities under the Contract.
- **Provisional Acceptance Date:** date starting from which the Warranty Period starts in accordance with the Provisional Acceptance.
- **Scope of Contract:** all materials, equipment, works and services, as defined in the Contract and/or in the Technical Specifications, ENEL is entitled to receive from the Contractor under the Contract.
- **Subcontractor:** Person - including its employees and representatives - having a direct contract with the Contractor for the performance of part of the Scope of Contract relating to the provision of works and services.
- **Subsupplier:** Person - including its employees and representatives - who supplies to the Contractor, either directly or indirectly, materials and/or equipment (or part thereof) required for the performance of the Scope of Contract
- **Taxes:** any taxes, duties or in general any other charge determined and levied by the competent authority/applicable local laws regulating a specific Contract, in accordance with the applicable regulations.
- **Warranty Period:** period of time during which the Contractor shall ensure the proper functioning of goods/works, or that they are flawless and fit for their intended use.
- **Value Engineering:** the systematic application of recognized techniques to identify functions, products, services, designs, alternative techniques 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, while reducing the price without affecting the safety, quality, and environmental compliance of the Contract. Value Engineering is the result of such practices or designs being or not a deviation from the Technical Specifications, thus resulting in a deviation from and/or modification to the Contract. Value Engineering shall not include the optimization of the standard design process normally applied by ENEL and the Contractor during the performance of the Contract.

## 3 LANGUAGE.

3.1 The language of these GC is English.

## 4 EXECUTION.

4.1 The Contract shall be executed through each Party's signing, also via Electronic Signature.

4.2 Automatic renewal or tacit extension shall not apply to the Contract.

## 5 INTERPRETATION AND HIERARCHY.

5.1 The Contract entered into between the Parties is composed of the following contractual documents, considered as a whole:

1. Order Letter (Lettera d'Ordine);
2. Particular Conditions (if any);
3. HSE Terms;
4. General Conditions Italy;
5. Technical-economic documents (Technical Specifications, Consideration or Price List, any additional document).

5.2 The prevalence of the contractual documents is determined according to the order specified in art. 5.1 of the GC, unless otherwise provided for in the Contract. Therefore, in the case of conflicts among the provisions of the contractual documents, interpretative and applicative priority shall follow the order above, without prejudice to the provisions of arts. 1362 et seq. of cc.

5.3 Any waiver of a right or remedy under the Contract shall not ground similar waiver of future rights or remedies, even if of the same nature as the waived ones.

5.4 Notwithstanding the provisions of arts. 1418 et seq. of cc, invalidity of one or more contractual provisions shall not determine invalidity of the whole Contract. The Parties undertake to replace the invalid provision with another one which pursues as much as possible the original purpose agreed by the Parties.

5.5 The Contract shall be governed by the applicable Law. For contracts falling within the scope of Italian Legislative Decree No. 36/2023, as amended (hereinafter also referred to as the "Public Procurement Code"), they shall be also regulated by the provisions of the Public Procurement Code, even if not expressly recalled.

5.6 The provisions of these GC shall be automatically replaced, amended or repealed if their contents are in conflict with new Laws.

5.7 The provision of these GC may be derogated by means of the Order Letter.

## 6 COMMUNICATIONS.

6.1 The Parties shall communicate in writing and in accordance with the terms set forth in the Order Letter (hereinafter "Communication").

## 7 ECONOMIC CONDITIONS.

### 7.1 Price.

7.1.1 The contractual price is the consideration agreed for the performance of all the obligations under the Contract and considers the total value of the Contract (hereinafter the "Price"). The Price of the Contract includes all the items required for the correct performance of the contractual activities, including anything required for the purchase of materials and/or equipment, and/or supplies and/or services performed by the Contractor, except for the items explicitly excluded and the taxes imposed by the Law. The Price shall be fixed and invariable throughout the term of the Contract, as an exception to art. 1664 of cc, and in compliance with the provisions of art. 7.2 of the GC. In the event of unforeseeable circumstances, art. 1664, paragraph 2, of cc shall apply.

7.1.2 By signing this Contract, the Contractor acknowledges:

- to be fully aware of the nature of the contractual works and services, as well as of the nature of the sites, of the local conditions and of any other relevant element, and that these were duly taken into account in relation to any situation and risk which may affect the performance of the work/services and the pricing;
- that, accordingly, no reservation may be made in relation to the non-profitability of the single prices, for any reason whatsoever.

7.1.3 If the Contractor, without ENEL's written request or approval, performs services/works/interventions or uses materials and equipment exceeding the quantity and the quality agreed, the Contractor shall not be entitled to additional consideration, but only to the payment of the consideration agreed.

## **7.2 Modification of Price**

7.2.1 Each Party may request to review the contractual Prices only (i) if provided for by the Contract and (ii) after the first year from the beginning of the activities, including any suspension ordered by ENEL, and excluding any delay attributable to the Contractor.

7.2.2 The agreement on the modification of Price includes the acknowledgment by the Parties of their rights and obligations also in relation to the change (increase or decrease) of costs.

7.2.3 For contracts falling within the scope of the Public Procurement Code, the periodical review of prices shall comply with the applicable laws and regulations on public procurement contracts.

## **7.3 Payment authorization**

7.3.1 With reference to contracts for services and/or works, the Contractor, before issuing each invoice, shall request and obtain the invoicing authorization from the ENEL Unit managing the Contract. ENEL shall grant the authorization after having successfully verified that the services comply with the contractual requirements, as well as after having carried out the inspections provided for by the Law or the Contract. ENEL shall pay each invoice by bank transfer, with fixed value date for the payee, on the third last working day of the month in which the 60-days EOM term after invoice receipt date expires, provided that the invoice received by ENEL specifies the details of the invoicing authorization (payment authorization).

7.3.2 With reference to supply contracts, invoices shall be paid by bank transfer with fixed value date for the payee, on the third last working day of the month in which the 60-days EOM term – that runs from ENEL's acceptance date or the date of completion of inspections (authorization date) provided by the Law or by the Contract, to verify the compliance of the goods with the contractual provisions - expires, provided that the invoices received by ENEL specify the details of the invoicing authorization (payment authorization or purchase order number).

7.3.3 In the absence of the payment authorization, available on the Portal, invoices shall alternatively always include:

- the purchase order number;
- the Unit where the service or supply has been performed (PUC: Procurement Unit Code).

7.3.4 If invoices do not include the above-mentioned details (invoicing authorization, purchase order number or Enel Unit code), they cannot be accepted nor considered for the calculation of the date of receipt (for e-invoices not sent through the Enel Portal, please see the details of **Invoicing Annex**, available at the following link <https://globalprocurement.enel.com/it/documenti/search-documents-all?keyword=General%20Contract%20Condition%20Italia%20%E2%80%93%20Ed.%208%20%E2%80%93%20Italy%20-%20ENG%20-%20Invoicing%20Annex> , for the identification of the fields to be filled with the invoicing authorization, purchase order number or Enel Unit code).

7.3.5 If the Contract is part of public investment projects or programs, ENEL shall provide the Contractor with the Unique Project Identifier (CUP) and/or the Tender Identification Code (CIG), if available which the Contractor shall include in the invoice..

## **7.4 Payments**

7.4.1 ENEL, unless differently provided in the Order Letter, pays with a fixed currency for the beneficiary, on the third to last working day of the month in which the 60-day end-of-month deadline expires from the date of receipt of the invoices.

7.4.2 In the case of late payments, if such delay is attributable to ENEL, the Contractor shall be entitled to apply interests for late payment, according to the legal interest rates of the relevant semester published in the Official Journal of the Italian Republic, by the Ministry of Economy and Finance . Late payment interests run, with no need to issue a prior formal notice of default, from the day after the expiry of the payment date set out in the Contract.

7.4.3 Enel may withhold installments of payment on account or set them off against accrued penalties when the inspections carried out during the performance of works identify a breach by the Contractor of one or more of its obligations.

7.4.4 For contracts falling within the scope of the Public Procurement Code, if the Contractor's or Subcontractor's DURC (Unified Tax Compliance Certificate) shows any breach of the social security obligations towards one or more workers employed in the performance of the Contract, Enel shall withhold from the payment certificate the amount corresponding to such breach, directly making the payment to the social security and insurance agencies, including the special construction workers fund. However, the net progressive amount of the works shall be subject to a withholding of 0.5 %; withholdings may be released only upon final settlement, after approval by Enel of the Tests or inspection compliance certificate, provided that the DURC does not report any breach of the social security contributions.

## **7.5 Advance payments**

7.5.1 Enel may pay in advance part of the contractual Price in accordance with the provisions of the applicable contractual or public regulations. Advance payments shall be subject to the issuing of the guarantee referred to in art. 19 of these GC.

## **7.6 Invoicing**

7.6.1 Invoice will be valid and acceptable by Enel (i) if completed with all the information required by the Contract and the Law, including the Group VAT number, fiscal code of each Enel group company and (ii) issued after having received the invoicing authorization from ENEL. Invoices can be submitted through Enel's electronic systems of ENEL (the Procurement Portal where ENEL operates as an intermediary for the E-Invoice Interchange System) or through the Interchange System (SDI Sistema di Interscambio) of the Revenue Agency. Invoicing Annex specifies the technical details required for the proper management of e-invoicing for Enel. If the invoice is issued in a way other than those provided (e.g., paper form), the invoice shall not be considered as issued, as set out by the applicable law provisions.

7.6.2 Non-resident Contractors, may send invoices only in TIFF/PDF format, using the relevant channel available on the WEB EDI Portal

7.6.3 If no electronic system is available and/or the Law does not allow electronic invoicing and the submission of digital invoices, in accordance with the contractual provisions and after receiving ENEL's invoicing authorization), the Contractor shall issue the relevant invoice and send the original copy to the invoicing address specified in the Contract.

## **7.7 Tax System**

### **7.7.1 Introduction.**

7.7.1.1 The Italian companies of Enel Group, included in the VAT Group to which the single group VAT number is associated is available on ENEL's Global Procurement portal, at the following link: "<https://globalprocurement.enel.com/it/documenti/gruppo-iva>", area single and autonomous VAT taxable entity with a single VAT number for all the member companies. Therefore, starting from January 1st, 2021, for these companies the VAT Split Payment System does not apply.

7.7.1.2 ENEL operates free of charge as an intermediary for the SDI undertaking to submit exclusively, the invoices received from its suppliers/contractors (documents and information that ENEL is already entitled to receive as customer), excluding those issued by the suppliers/contractors to subjects other than ENEL. However, the submission of the invoices to the SDI does not automatically imply the recognition of the credit, which is subject to confirmation by ENEL as customer.

7.7.1.3 Even if the Contract provides that the payment may be made with different currencies, each invoice shall be issued in a single currency.

7.7.1.4 Except if the Temporary Association of Companies or the Consortium have their own VAT number, each company of the Association or of the Consortium shall invoice the relevant amount for the services performed, also in order to fulfill the financial traceability obligations. Any invoices sent by each principal company to ENEL shall be accompanied by the approval of the agent company.

7.7.1.5 Notwithstanding the applicable laws on public procurement, it is understood that, in the case of subcontract or piecework contract, where ENEL has not declared that ENEL shall directly pay the Subcontractor or the pieceworker the amount due for the services or works performed, ENEL shall suspend the payment to the Contractor, if the Contractor has not submitted, within the terms set out by law, a copy of the receipted invoices relating to the amounts paid by the Contractor to the Subcontractor or pieceworker, specifying the relevant guarantee withholding applied.

7.7.1.6 However, ENEL reserves the right to refuse to execute the payments if the Contractor does not properly perform the contractual obligations and/or fails to meet the statutory requirements, with particular reference to the relevant Bodies, the manpower employed and any third party, or fails to fulfill the obligations set out in art. 7.11 of these GC.

7.7.1.7 The Contractor may not grant any order for collection to third parties nor any form of payment authorization.

### **7.8 Payment conditions.**

7.8.1 The payment of the invoiced amount(s) shall not imply that ENEL has acknowledged the proper performance of the Contract by the Contractor or that ENEL has waived its rights or claims against the Contractor.

7.8.2 ENEL may withhold and suspend payments due to the Contractor, even if they are due and payable, in the following cases:

- The situation specified in art. 19.1.2 of GC;
- The Contractor fails to inform ENEL of the occurrence of the situations specified in art. 16.3 of the GC to fulfill the contractual obligations towards third parties arising from the proper and full performance of the Contract by the Contractor.

### **7.9 Payment's deferment.**

7.9.1 The Parties may agree to defer the payment terms and Enel undertakes to pay to the Contractor a deferral charge to be added in the invoice, calculated based on the reference market interest rate (e.g., US Libor, Euribor) recorded on the day of issue of the relevant invoice, plus a spread for the period between the original due date set out in the GC and the agreed deferred due date.

### **7.10 Economic evaluation in the case of contractual amendments.**

7.10.1 During the performance of the Contract, ENEL may request amendments to the services or works agreed. The new services or works shall be performed in accordance with the terms and conditions agreed, in a proper manner and, in any case, in compliance with the Contract and the Law, including the laws on occupational health and safety.

7.10.2 Such services or works shall be paid based on the prices specified in the Contract and should the Parties fail to reach an agreement, the Contractor shall perform the new works or services based on the new prices set out by Enel and the Contractor may raise objections in accordance with art. 9.7 of the GC.

### **7.11 Traceability of financial flows.<sup>1</sup>**

7.11.1 The Contractor undertakes all the obligations provided for by art. 3 of Law no. 136 of August 13th, 2010 (Traceability of financial flows), as amended by Law Decree no. 187 of November 12th, 2010, converted by Law no. 217 of December 17th, 2010.

7.11.2 In particular, to ensure the traceability of financial flows aimed at preventing criminal infiltrations, the Contractors, the sub-suppliers and the subcontractors of the supply chain of the companies, as well as the entities granting public financing, including European funds, involved at any title in public works, services or supplies, shall use one or more bank or postal current accounts, with banks or with the company "Poste

<sup>1</sup> This clause shall only apply to contracts assigned pursuant to the applicable regulations on public procurements.



Italiane Spa", dedicated to the Contract, including on a non-exclusive basis - notwithstanding the provisions of paragraph 5 of the above mentioned art. 3.

7.11.3 Furthermore, any financial operation relating to public works, services or supplies and, thus, connected with the Contract, as well as with the management of such financing shall be registered on the dedicated current accounts and, except as otherwise provided for by paragraph 3 of the above-mentioned art. 3, they shall only be made by bank or post transfer or with other collection or payment methods suitable to enable full traceability of transactions.

7.11.4 The Contractor shall notify to the relevant ENEL's administrative units the details of the dedicated current account within seven days from the opening or, as regards existing accounts, from their first use for financial operations relating to the Contract, as well as, within the same term, the information and the tax code of the persons delegated to make transactions on such account.

7.11.5 Likewise and with the same procedures, the subsupplier or subcontractor shall notify, through the Contractor, to the Contract manager the data specified above.

7.11.6 If the Contractor, the subsupplier or the subcontractor become aware of any breach by their relevant counterpart of the financial traceability obligations, they shall notify such circumstance to ENEL and the Prefecture, Territorial Government Office.

7.11.7 Furthermore, the Contractor undertakes to include in the contracts with its subcontractors or subsuppliers a similar provision by which they assume all financial flows traceability obligations laid down by the abovementioned art. 3 of Law no. 136 of August 13<sup>th</sup>, 2010.

7.11.8 If, in addition to the CIG, also the issue of the CUP is required, ENEL shall notify such code to the Contractor, and such code shall be included by the Contractor in any relevant transaction, in accordance with art. 7.2.3 of GC.

## **7.12 Renegotiation**

7.12.1 If extraordinary and unforeseeable circumstances arise that may cause an economic onerous event, the affected Party, which has not voluntarily accepted the relevant risk, is entitled to discuss in good faith the contractual conditions in order to restore the original balance of the Contract subject of the tender, without altering its economic substance.

## **8 TAXES.**

8.1 The Parties mutually undertake to handle any administrative formality and deliver any document required to settle the direct and indirect payment of taxes, in compliance with the Law. Likewise, the Parties undertake to cooperate in order to obtain any exemptions or other tax benefits applicable to the Contract.

8.2 Should any treaty between the Contractor's country of residence and Italy be in force for the avoidance of double taxation, the Parties undertake to collaborate in order to apply it correctly.

8.3 If the materials or equipment come from abroad, taxes shall be paid as follows:

- a) The Contractor shall pay all taxes and charges applicable to goods in the country of origin, as well as 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 resulting from their sale.
- b) The Contractor shall also pay import duties and taxes, or their 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.

8.4 Registration duty, stamp duty as well as any fee and other tax charges applicable to the scope of the Contract shall be borne by the Contractor.

## **8.5 Fiscal and Technical representation in Non-EU Countries.**

### **8.5.1 Fiscal representation.**

8.5.1.1 Customs and fiscal operations, such as those for transporting the goods into the EU, shall be under the responsibility of the Contractor. To this end, Contractors whose registered office is not located in one of the Member States of the European Union shall appoint, for the purposes of performing the customs and tax operations, a fiscal representative resident in Italy, which shall be subject to the provisions of Presidential Decree no. 633 of October 26<sup>th</sup>, 1972, as amended.

8.5.1.2 The appointment of the fiscal representative shall be formalized by a public deed or a notarized private agreement or, alternatively, a letter registered in the specific register at the competent VAT Office or Revenue Agency, and this shall be notified to ENEL within one month from the execution date of the Contract and, however, at least one (1) month before the beginning of the deliveries, and shall be valid for the entire duration of these deliveries.

8.5.1.3 After the appointment, the personal details of the tax representative, shall be specified in the invoice.

### **8.5.2 Technical representation.**

8.5.2.1 Where provided for by the Contract, the Contractors residing in one of the Member States of the European Union shall appoint a Technical Representative, in charge of handling post-sale activities, domiciled within the territory of the EU. If applicable, the name of the technical representative shall be notified to ENEL within one month from the execution date of the Contract and, however, at least one (1) month before the start of deliveries, and such appointment shall be valid throughout the term of the warranty of the product supplied.

## **9 PERFORMANCE.**

### **9.1 Introduction.**

9.1.1 The Order Letter sets out the terms for the performance of the Contract which shall be executed in compliance with the instructions and directives provided by the Enel's Unit managing the Contract for the purposes of starting the performance of the Contract.

9.1.2 The Contractor, before starting the activities, shall appoint one or more representatives for the duration of the Contract, who shall be liable for the technical and administrative management of the contractual activities. The Contractor's representatives, throughout the duration of the Contract, shall meet the relevant legal requirements, be duly provided with the necessary proxies, have adequate technical skills and full knowledge of all the contractual clauses and be authorized to discuss technical and economic matters, with particular reference to safety and occupational health, social security obligations and respect for the environment; otherwise, the Contractor shall immediately replace them, without charging any expense to ENEL.

9.1.3 During the performance of the Contract, ENEL reserves the right to ask for replacement of such representative(s) for justified reasons. In such a case, the Contractor undertakes to appoint, within ten (10) working days, a new representative matching the requirements specified above.

9.1.4 For the contracts falling within the scope of the Public Procurement Code, the management of the contractual performance, including the coordination, management and technical accounting control activities carried out by the Works Manager, shall comply with current legislation on public procurement, also using digital information management methods and tools, if provided for.

9.1.5 If, as a result of these verifications and inspections, ENEL challenges the proper performance of the Contract, the Contractor undertakes to remedy, at its own expenses, the deficiencies discovered within the terms originally set out in the Contract.

## **9.2 Inspections, tests and/or verifications.**

9.2.1 ENEL and/or third parties authorized by ENEL, in compliance with confidentiality obligations and upon notice to the Contractors, may physically or remotely (through a connection system made available by the Contractor or Subcontractors) access the Contractor's and/or Subcontractor's facilities and warehouses, to verify the manufacturing and the Test procedures, to understand the production cycles and to monitor the performance of works or services or check the materials used by the Contractor.. Such accesses and observations shall not interfere with and/or limit the autonomy of the Contractor or of the Subcontractor in the performance of the contractual activities and it may not be invoked as a justification for deferring the delivery date set forth in the Contract.

9.2.2 Pursuant to art. 1665 of cc, ENEL, at its own discretion, may carry out tests or inspections or checks, including for individual batches, additional to those set forth by the Contract. If the results of such checks are successful, the additional costs shall be borne by ENEL; if the results are unsuccessful, the costs of these checks shall be borne by the Contractor.

9.2.3 As an exception to art. 1667 of cc, if Enel does not carry out the inspections or Tests (where provided for by the Contract), or if Enel approves them, the Contractor shall not be relieved from its obligation to provide the guarantee against deficiencies and defects.

9.2.4 If the results of the inspections, Tests and checks point out any breach of the contractual provisions, ENEL shall request the replacement or restoration of the equipment or works, at the Contractor's sole expenses. Should ENEL request the replacement of defective materials, such defective materials shall be identified and the Contractor may not use them in any way whatsoever in connection with the performance of the Contract, without ENEL's prior approval.

## **9.3 Test under the Contractor's responsibility.**

9.3.1 The Contractor shall (i) carry out, at its own expenses, all the agreed tests and inspections and/or provided by the Law and (ii) notify in writing to ENEL (i) the date of performance of such checks, and (ii) the results of the inspections and checks carried out and recorded in the relevant reports or certificates, including if they have been carried out in the presence of ENEL's inspectors or representatives.

9.3.2 ENEL reserves the right to attend any stage of the certification procedure.

9.3.3 The Contractor may not start the manufacturing, construction or assembly process, nor ship materials, before the inspections and Tests, if any, have been successfully completed, or before ENEL provides its express consent in writing.

## **9.4 Delivery and Acceptance.**

9.4.1 Deliveries, including partial and the acceptance, also provisional, shall be made within the Completion Term.

9.4.2 The Parties may agree on a delivery, even partial, and/or an acceptance, even provisional, anticipated or postponed with respect to the Completion Term.

9.4.3 ENEL has the right, subject to prior written notice to the Contractor provided well in advance, to defer the contractual delivery dates or the Completion Term. The Contractor may invoice the supply together with the availability of the materials, upon agreement with ENEL, regarding the methods necessary to carry out the acceptance, definitive and/or provisional.

9.4.4 Contractor may anticipate the contractual delivery terms, or the Completion Date only with ENEL's express consent.

9.4.5 In case of Provisional Acceptance, upon expiry of the Warranty Period, the Contractor may request the Final Acceptance from ENEL to be provided within thirty (30) days from the relevant request.

## **9.5 Materials and equipment.**

9.5.1 Delivery and Acceptance of materials and equipment are regulated by Incoterms.

9.5.2 Materials and equipment shall be delivered at the place specified in the Contract. Except as otherwise set out in the Contract, transport to destination, including any customs clearance activities, and unloading shall be made under the Contractor's responsibility and in accordance with the provisions of art. 20 of the GC.

9.5.3 The signature of receipt documents, transport or shipping documents shall not entail the acceptance of the amounts or quality of the materials received.

9.5.4 In the event of deferment or delay in the transport and unloading activities, the Contractor shall bear all the storage and insurance costs arising therefrom until the maximum period specified in the Contract, after which the Parties shall agree the terms under which the Contractor shall compensate the additional costs incurred.

9.5.5 All materials and equipment shall be properly marked, accompanied by suitable information and labels in order to facilitate their acceptance at destination, as well as accompanied by a dispatch note specifying the information set out in the Contract.

9.5.6 After receiving the materials or equipment, ENEL shall issue the Provisional Acceptance Certificate or, if no final Tests and/or inspections have been carried out, ENEL shall approve the dispatch note referred to in art. 9.5.5. of the GC.

## **9.6 Works and/or Services.**

9.6.1 During the provisional acceptance meeting, ENEL drafts the Provisional Acceptance Certificate, specifying the information on delivery, and ENEL reserves the right to carry out further specific inspections as per art. 9.2.2. to examine the deliveries.

9.6.2 If the specific inspections referred to in art. 9.6.1 are unsuccessful, ENEL may terminate the Contract or request to the Contractor to remedy the defects identified within a final term, after which the specific inspections shall be repeated. If the results of such final inspections are

successful, ENEL shall issue the Provisional Acceptance Certificate; if the results of the additional inspections are unsuccessful, ENEL shall specify in the Provisional Acceptance Certificate any defects identified and ENEL may choose, at its discretion, to terminate the Contract or to grant the Contractor a new term to remedy the defects.

9.6.3 The terms specified above, granted to the Contractor to remedy the defects identified, shall not be construed as an extension of the Contract duration and, therefore, the Contractor shall pay any applicable penalty and/or compensation for the damages suffered.

9.6.4 Upon Final Acceptance, ENEL shall examine the works and/or services in the presence of the Contractor, including by carrying out the required Tests, and, if the results are successful, ENEL shall issue the Final Acceptance Certificate signed by both Parties, certifying the proper fulfillment of the contractual obligations by the Contractor.

#### **9.7 Changes to contractual terms**

9.7.1 For the contracts falling within the scope of the Public Procurement Code, the Contract may be amended during its term, without any new award procedure, if provided and consistently with the conditions set forth therein, as well as in application of the regulations provided for by ENEL, provided that the structure of the contract and/or the underlying economic transaction can be considered unchanged. If the Contract amendment entail an increase or decrease in the works up to twenty percent of the Contract amount, Enel shall be entitled to order the performance at the same prices and under the same terms and conditions set out in the Contract by sending the Contractor a deed of submission specifying the elements of the modification (object, payment, execution times, etc.). In this case, the Contractor may not enforce the right to terminate the Contract and therefore, will be required to countersign the deed of submission for acceptance, without prejudice to its right to have its reasoned dissent entered in the deed itself. In exceptional cases in which there are objective and insurmountable delays in the conclusion of the procedure for re-assignment of the same works under the Contract and if the interruption of services could lead to dangerous situations or in cases where the interruption of the services referred to in the tender would cause serious damage to the public interest, Enel may extend the Contract with the Contractor for the time strictly necessary for the conclusion of the procedure at the same prices, terms and conditions.

9.7.2 Notwithstanding the provisions of art. 1.2 and 7.10 of the GC, the Contractor undertakes to implement the amendments requested by ENEL under the same conditions, up to the percentages specified in the Contract.

9.7.3 Before exceeding the percentages set forth in the Contract, the Contractor shall be entitled to request new contractual conditions applicable only to the portion of contractual activities exceeding the percentage specified in the Contract.

9.7.4 Should the Parties fail to reach an agreement on the new conditions for the performance of the contractual activities exceeding the tolerance percentages specified in the Contract, the performance of the Contract shall be considered as completed upon achievement of such percentage.

9.7.5 The Contractor failing to submit the request referred to in art. 9.7.3. of the GC, shall perform the contractual activities exceeding the percentages specified in the Contract under the conditions originally agreed.

#### **9.8 Changes in lump sum prices.**

9.8.1 Changes in the executive project relating to activities remunerated on a lump sum basis, shall entail a corresponding adjustment of the lump sum price, to be agreed from time to time in accordance with art. 7.10. of the GC and by analogy with the prices set out in the Contract.

#### **9.9 Services on completion.**

9.9.1 During the execution of the Contract, ENEL may request the Contractor, with an adequate advance notice, to perform minor contractual activities ("Services on completion"), which shall be paid upon final completion and in accordance with the prices set out in the Contract.

9.9.2 Minor supplies of materials, required only for the purposes of the Services on completion, shall be paid on the basis of the market prices applicable at the supply date, verified by ENEL and documented by the Contractor's invoice, applying the increase set forth in the Contract, including, as a lump sum amount, a consideration for general expenses.

9.9.3 For Services on completion, the Contractor undertakes to promptly make available to ENEL its resources and to provide, under its own responsibility, what necessary for the proper performance of such Services.

9.9.4 The performance of Services on completion shall not entitle the Contractor to a deferment of the contractual terms, nor to special consideration for shortage of staff or for non-use of site installations, provisional works and materials or for any interference.

9.9.5 The amount of the Price for the Services on completion may not exceed the overall amount specified in the Contract.

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

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

9.10.1.1 ENEL shall acquire full ownership of the materials, packed in accordance with the provisions of the Contract, unloaded under the Contractor's responsibility and at its expenses, upon their collection at the site and under the terms agreed in the Contract and in accordance with the provisions of art. 9.4.1. of the GC.

9.10.1.2 ENEL shall be entitled to use the materials and equipment in its development processes, as well as their outcomes. However, the Contractor, which shall maintain the title until transfer of ownership to ENEL, undertakes to obtain an adequate insurance policy to cover the risks related to the use of materials and equipment in ENEL's possession.

##### **9.11 Works.**

9.11.1 Upon signature of the Provisional Acceptance Certificate referred to in art. 9.5. of the GC, ENEL shall acquire the ownership of the works performed under the Contract.

9.11.2 Notwithstanding the rights of the State or third parties, ENEL reserves the ownership of all discoveries made during excavations and demolitions carried out on its own land, as well as of all usable mineral substances. In such a case, the Contractor shall be entitled to a consideration for the additional activities and/or costs arising therefrom and, if required, to an extension of the contractual terms.

9.11.3 Notwithstanding the provisions of arts. 9.11.1. and 9.11.2 of GC, ENEL reserves the right, at any time, to require the Contractor, which shall be bound to comply with such request, unless there is a justified reason to the contrary, to transfer the ownership of the works, installations, materials and equipment existing on the worksite. In this case, the Contractor may continue to carry out its activities and shall maintain its liability for installation risks until the Final Acceptance Certificate is completed.



9.11.4 Until the transfer of ownership to ENEL is formalized, the Contractor shall maintain an insurance policy with adequate coverage, even if the materials, as well as any other results of the contractual works, are already in the possession of ENEL.

#### **9.12 Quality.**

9.12.1 During the performance of the Contract, the Contractor undertakes to ensure that the quality of the goods, services and works is fully consistent with the purpose agreed between the Parties upon execution of the Contract, as well as to ensure fulfillment of the quality requirements specified in the technical documentation forming part of the Contract, and compliance with commercially acceptable quality control standards during the manufacturing of goods or the performance of works or services, including production standards established by local public authorities and in accordance with the good manufacturing practices.

#### **9.13 Working materials and tools.**

9.13.1 The materials, monitoring and/or measurement tools and equipment owned by ENEL and entrusted at any title and for any purpose to the Contractor, shall be delivered within the terms and under the conditions set out by ENEL in the Contract, and the Contractor undertakes to store them in accordance with the specific prescriptions and return them to ENEL within the terms specified in the Contract.

9.13.2 The materials, monitoring and/or measurement tools and equipment supplied and/or in any case used by the Contractor shall be suitable for the performance of the services or works under the Contract, free from any defects, meet the contractual requirements and their origin shall be documented, upon request.

9.13.3 ENEL reserves the right to carry out inspections and to refuse, by a specific notification, the materials and equipment used by the Contractor that are unsuitable for the performance of the Contract.

9.13.4 The Contractor shall replace the materials and equipment specified above at its expenses and under its responsibility within the term set out by ENEL in the Provisional Acceptance notification. ENEL's refusal of the materials and equipment shall not entitle the Contractor to a suspension or extension of the terms for the completion of the contractual services or works.

9.13.5 The Contractor, for all the materials and equipment of the Contractor;

- provided by ENEL, from the date of their receipt;
- existing and disassembled, and to be returned to ENEL or reused within the framework of the performance of the services or works;

undertakes, at its expense and under its responsibility until commissioning, or until their return to ENEL in accordance with the conditions and terms and at the sites specified by ENEL, to:

- perform all the loading and unloading, transport, movement and site installation activities, as well as the subsequent on-site activities;
- keep them in warehouses and store them in suitable sites in order to ensure their accurate identification and preservation.

9.13.6 Notwithstanding the provisions of art. 9.9 of GC, from the delivery date of the works and until Provisional Acceptance by ENEL, the Contractor undertakes to safeguard the sites, equipment, materials and works in progress, including during any period of suspension of works, relieving ENEL from any liability in relation thereto, including for damages to third parties.

9.13.7 Any costs for repairing materials and equipment damaged during the operations carried out by the Contractor, shall be borne by the Contractor. Any missing or irreparably damaged equipment and materials shall be charged to the Contractor at market prices, increased by the percentage set out in the Contract, if any.

#### **9.14 Joint assessments.**

9.14.1 The Contractor shall be entitled to raise objections against ENEL's assessments resulting from the checks and inspections referred to in art. 9.2 and 9.3, within ten days from their receipt, otherwise the Contractor shall not be entitled to express any reservations. ENEL shall notify its further assessments on the objections raised by the Contractor within thirty days from their receipt.

9.14.2 ENEL reserves the right to request, and the Contractor undertakes to accept, the performance of joint assessments on any situation or event occurred during the performance of the Contract. After completion of the joint assessment, the Parties shall sign the relevant assessment report.

9.14.3 The Contractor shall promptly point out any irregularity in the performance of activities which are not under its responsibility, but that may however affect its operations.

#### **9.15 Reservations.**

9.15.1 All the reservations the Contractor wishes to express, at any title, shall be made by signing, subject to verification, the accounting document (accounting record or report), below the update related to the period when the event originating the reservation occurs, as well as, limited to contracts falling within the scope of the Public Procurement Code, at the time of signing the test certificate through precise clarification of the disputes regarding the related operations. Reservations not expressly confirmed in the final account are considered waived. Reservations must be specifically formulated and state precisely the reasons on which they are based. In particular, the reservations must contain, under penalty of inadmissibility:

- a) the precise quantification of the sums that the executor believes are due to him. The quantification of the reserve is made on a definitive basis, without the possibility of subsequent additions or increases with respect to the amount recorded, unless the reserve itself is justified with reference to ongoing events;
- b) an indication of the service orders, issued by the works manager or by the execution manager, which have affected the methods of execution of the contract;
- c) disputes relating to the technical accuracy of the construction methods envisaged by the special tender specifications or by the executive project;
- d) disputes relating to discrepancies with the contract of the provisions and instructions relating to the technical and economic aspects of the management of the contract;
- e) disputes relating to the provisions and instructions of the works manager or the execution manager which could lead to the contractor's liability or which could lead to defects or non-conformities in the execution of the contract.

9.15.2 If the Contractor has submitted its observations, the Contractor shall, under penalty of invalidation, record any relevant reservations at the foot of the update of the accounting document relating to the period during which ENEL notified its final decisions.

9.15.3 The Contractor shall immediately explain its reservations informing ENEL, of the reasons determining such reservations and the detailed specifications of any compensation the Contractor intends to claim.

9.15.4 If the Contractor has not signed the record, or if the Contractor has signed the report with reservations but has not then explained such reservations as specified above, the contents of the record shall be considered as assessed and accepted and the Contractor shall no longer be entitled to raise these reservations and the requests related thereto, at any time and in any way.

9.15.5 Upon signature of the last update of the accounting document or the final account, which must take place within 30 days of Enel's invitation, the Contractor shall withdraw the pending reservations made during the performance of the Contract, that the Contractor intends to maintain. New reservations, other than those relating to the last update, shall not be accepted.

9.15.6 If the Contractor signs the last update of the accounting document or the final account without making reference to the reservations specified above, all the previous situations concerning the contractual services shall be considered as finally accepted by the Contractor and no other reservation may be expressed. Likewise, if the Contractor does not express reservations on the last provisional report, this shall be considered as finally accepted. If the Contractor does not sign the latest update of the accounting document or the final account within the indicated term, or if he signs it without confirming the questions already formulated in the accounting record, the latest update of the accounting document or the final account is understood to be definitively accepted.

9.15.7 Except in the cases where ENEL deems it necessary to anticipate their review, the reservations submitted as specified above shall be examined after the Contractor has signed the report confirming their final acceptance. The relevant decisions shall be notified to the Contractor within twelve months from the signature of such report.

9.15.8 Settlement of reservations shall be recorded in a specific document signed by both Parties.

#### **9.16 Performance of works with personnel at ENEL's premises**

9.16.1 Except as otherwise agreed, when the Contract has to be performed in sites under ENEL's legal availability, the Contractor may only use the areas or spaces where the activities under the Contract shall be carried out.

9.16.2 If the Contract provides for the presence at ENEL's premises of workers involved in the execution of the activities under the Contract, the Contractor shall carry out a technical inspection at the locations where such workers shall be employed.

9.16.3 ENEL shall provide the Contractor with the documents concerning the risks assessment and the preventive measures applying to the relevant premises and the Contractor shall cooperate with ENEL to implement the provisions of the regulations on prevention, protection and occupational safety.

9.16.4 ENEL reserves the right to issue further provisions that shall be complied with by the Contractor and its Subcontractors, if any.

#### **9.17 Site organization and management – where applicable**

##### **9.17.1 Knowledge of environmental conditions.**

9.17.1.1 After the inspection set forth by the HSE Terms and for the purposes of confirming its knowledge of the environmental conditions under which the contractual services shall be performed, the Contractor expressly declares:

- To be fully aware of the services under the Contract, of the nature of the locations, of the local conditions and of any other element required, and that they were duly taken into account in relation to any situation and risk which may affect the performance of the Contract and the definition of prices;
- To be aware of the position of accesses and of the characteristics of the area where the activities, works and interventions shall be performed, as well as of all environmental conditions, with particular reference to the specific risks and the relevant safety measures, and acknowledges that ENEL has provided all the required information in relation thereto;
- To be aware of places where the sites shall be installed and where the activities, works and interventions shall be performed, as well as of the health conditions of the area, the weather conditions, the water system, the water and materials procurement resources, the access routes, the transit requirements, the distance of the worksites from residential areas, the availability of means of transport, the availability and the actual cost of labor, regardless of the official rates, the location and the conditions of places suitable for quarrying and dumping purposes, and that, furthermore, the Contractor has taken into account the restrictions to which the Contractor may be subject for the simultaneous performance of other works for ENEL, as well as any other costs, if any.

##### **9.17.2 Special obligations.**

9.17.2.1 The Contractor shall not receive any compensation for costs arising, including within the work sites and areas, from the normal use and operation of goods, installation and services belonging to ENEL or to third parties, and from rights of way in favor of ENEL or of third parties, with particular reference to the presence and maintenance of buildings, structures, roads, waterways, ducts, or the presence of plants, networks and equipment under construction and/or in operation including where their presence should be verified during progress of works..

##### **9.17.3 Discipline at work sites and areas**

9.17.3.1 The Contractor shall maintain discipline, cleanliness and good order at the work sites and areas, and shall ensure that its personnel, as well as the personnel of any Subcontractor, complies with all the legal provisions and ENEL's instructions, implementing any measures required. The access to work sites and areas shall be strictly forbidden to personnel not involved in the works; upon Contractor's reasoned request, any exceptions shall require ENEL's prior approval, by explicit written declaration, and the Contractor shall comply with the instructions provided in relation thereto. Upon completion of works, all areas used - including accesses - shall be left cleared and tidy by the Contractor.

##### **9.17.4 Placing of worksites.**

9.17.4.1 Placement of the worksites shall be approved in advance by ENEL, without this approval implying any liability for ENEL.

9.17.4.2 If during the performance of the activities, ENEL requests the relocation of any Contractor's site plants and/or provisional works, the Contractor shall meet such requests without delay and shall be entitled to be reimbursed for any costs incurred and documented, unless the relocation is due to causes attributable to the Contractor.

**9.17.5 Access to work sites and areas.**

9.17.5.1 Contractor agrees to bear any charge and/or encumbrance for the creation of accesses to the worksites and the work areas, as well as the planning, installation, building, adjustment and proper maintenance of the site plants and provisional works required for the performance of activities, works and interventions.

9.17.5.2 ENEL, or any authorized third party, shall be entitled to use free of charge the accesses, including if they have been built and/or arranged at the Contractor's expenses.

9.17.5.3 The Contractor shall provide, under its own responsibility and at its own expenses, whatever is required to ensure and maintain the possibility to transit through and safety of the roads and areas, both public and private, used for the performance of the activities, works and interventions, complying with all rules and requirements set out by the competent Authorities or by the owners, with particular regard to load limitations, preservation and efficiency of such roads and areas, bearing all the relevant costs.

9.17.5.4 The Contractor shall not be entitled to any compensation if, during the performance of the activities, works and interventions, the Contractor has to modify or replace, in qualitative and/or quantitative terms, the site plants and provisional works compared to its initial expectations.

**9.17.6 Worksite signs.**

9.17.6.1 The Contractor, as well as any Subcontractors, shall signpost the sites using site signs that comply with the layouts recommended by ENEL. These shall be procured by the Contractor under its own responsibility and at its own expenses.

**9.17.7 Transport, warehousing and storage.**

9.17.7.1 The Contractor shall carry out transportation within the worksite, including loading and unloading, storage and warehousing of all the materials, equipment and machineries required for the performance of the contractual works, including if they have been directly supplied by ENEL for this purpose. Therefore, the Contractor shall arrange, maintain and use the necessary free spaces, depots and warehouses in such a way as to ensure perfect preservation of the materials and equipment, separated in the different types, and shall be also responsible for any costs due to movements and transportation of the aforesaid materials, equipment and machinery if deemed required and appropriate during the performance of works.

9.17.7.2 The Contractor shall carry out all the movements required by ENEL. The Contractor shall be liable for any loss, deterioration or decrease in the quantity and quality of the materials, equipment and machinery provided by ENEL, arising from causes attributable to the Contractor, even if only for negligence.

**9.17.8 Closure of worksites.**

9.17.8.1 In the period between the works' completion date and the Provisional Acceptance Date, the Contractor undertakes to progressively close the worksite, according to a schedule agreed with ENEL, by arranging the demolition of the provisional works, the removal of waste materials for disposal, leaving the areas used cleared and free in order to prevent personal injuries and damage to property.

**9.18 Bonus**

9.18.1 ENEL shall be entitled to request to the Contractor, in accordance with the terms set out in art. 6 of the GC and at any time, to anticipate the delivery, in full or in part, of the Scope of Contract.

9.18.2 In the relevant request, ENEL may recognize to the Contractor an economic bonus ("Bonus"), that will be paid if the new Delivery Date/Completion Term are met and if all the legal and contractual obligations, including labor, health and safety obligations, are fulfilled. No economic bonus shall be recognized to the Contractor if ENEL has applied any penalty under the Contract.

9.18.3 The Contractor shall notify in writing its acceptance or refusal of the new date or term requested by ENEL.

**9.19 Records and audits.**

9.19.1 The Contractor shall complete the accounting document (accounting record or report) relating to the Scope of Contract in accordance with the generally accepted accounting principles and standards. Furthermore, the Contractor shall keep an internal auditing system suitable to its operations. During normal working hours and upon a forty-eight (48) hours' prior notice, the Contractor shall grant ENEL access to the records, books, instructions, drawings, receipts, subcontracts, purchase orders, vouchers and any other information connected with the Contractor in accordance with the applicable regulations on personal data protection.

9.19.2 The Contractor shall keep the records, including the books and accounts, related to the Scope of Contract for five (5) years after the Final Acceptance, so as to make them available if ENEL requires them for its purposes.

**10 SUBCONTRACTING.**

10.1 The Contract shall specify the maximum amount or percentage that may be subcontracted; in the absence of such indication, the contractual activities may be subcontracted up to 49%. As regards contracts falling within the scope of the Public Procurement Code, subcontracting shall be expressly regulated by the Public Procurement Code. The Contractor may subcontract the activities only after has received ENEL's authorization, which shall be granted only after ENEL has verified the fulfillment of the integrity, technical, organizational, regarding environmental protection, economic and financial requirements set out for the performance of the Contract, as well as of the safety standards. If provided for by the Contract, the authorization to subcontracting, at ENEL's discretion, shall also be subject to the prior verification of fulfillment of the environmental protection requirements. In the event of amendments to the scope of subcontracting, as well as to its amount or the requirements for the performance of the subcontracted activity, the Contractor shall require an additional authorization from the Contract manager.

10.2 Self-employment shall not be considered as subcontracting; although the contract holder shall nevertheless fulfill the necessary integrity, technical, organizational, economic and financial requirements.

10.3 The Contractor shall promptly provide ENEL with the list of the potential Subcontractors and the schedule of their activation which may be subject to periodical review. The Contractor may not enter into any subcontract if Subcontractors are not included in such list or not authorized. ENEL shall receive the authorization request at least twenty (20) calendar days before the start of the subcontracted activity. The authorization request shall include: (i) corporate data of the Subcontractor, (ii) commencement/end date of the subcontracted activity and (iii) portion of the Scope of Contract to be subcontracted (type, volume, countries). For the purposes of obtaining the authorization, the Contractor shall ensure that each Subcontractor is registered with ENEL's Portal before the authorization.

10.4 The following provisions shall apply to subcontracts:

- while bidding for the Contract, the bidders shall specify, including in the case of any variations, the works or the services, supplies or parts of the latter to be subcontracted;
- the subcontract shall be submitted to ENEL before it becomes effective, together with a certification attesting that the Subcontractor meets all the requirements for the performance of the subcontracted activities, as well as a statement attesting Subcontractor's compliance with the general obligations set out by the Law;
- only one level of subcontracting is permitted; therefore, subcontracted activities may not be performed using any further level of subcontracting.

10.5 The Contractor shall pay to Subcontractors the safety costs pursuant to Legislative Decree 81/2008 (if set forth by the applicable Law) related to the subcontracted activities, without any reduction. ENEL shall verify the application of these provisions by means of its representatives in charge of the management and supervision of the Contractor.

10.6 The Contractor shall comply with the laws and regulations on salary set out in the applicable "collective labor agreements" and shall be jointly and severally liable with the Subcontractors for the compliance with these laws and regulations, including, without limitation, all the safety, salary, contributions and insurance obligations related to the employees involved in the performance of the subcontracted activities.

10.7 The Contractor and the Subcontractor shall be jointly and severally liable towards ENEL for the works or services under the scope of subcontract.

10.8 In relation to the subcontracting, the Contractor shall provide:

- Proof of proper registration with Enel's Portal, or proof of qualification if required in the Contract;
- Subcontractor's self-certification confirming that there is no reason for being excluded from tenders according to the requirements available at the following link <https://globalprocurement.enel.com/it/diventa-fornitore/cause-di-esclusione>;
- DURC (single insurance contribution payment certificate);
- Self-certification confirming the regular fulfillment of the requirements on occupational hygiene and safety of its employees;
- Subcontractor's statement, pursuant to art. 47 of Presidential Decree n. 445/2000, confirming that the Subcontractor has adequate and skilled workforce to safely perform the subcontracted activities, that all the safety training activities on the risks of the Subcontractor for the execution of the subcontracted activities have been carried out, or self-declaration of commitment to carry out training activities for its workers, with particular reference to the specific risks posed by the environment where the Subcontractor will work and to any other risk due to interferences before the commencement of the subcontracted activities;

For contracts regulated by Legislative Decree 36/2023 as amended, the Contractor shall also provide:

- certified copy of the subcontract executed by the parties;
- the Contractor's declaration on the existence of forms of control or association with the Subcontractor, if any, according to art. 2359 of cc, as well as a similar declaration issued by each member company in the case of a temporary association of companies or consortium;
- Subcontractor's self-declaration (e.g., the so-called ESPD, European Single Procurement Document), confirming that there is no reason for being excluded from public tenders according to the applicable regulations, as well as a self-declaration on the fulfillment of the requirements;
- statement(s) issued by the Subcontractor if its corporate form falls within those specified by Decree of the President of the Council of Ministers No. 187 of May 11<sup>th</sup>, 1991;
- Subcontractor's certificate of registration with the Chamber of Commerce for activities related to those subcontracted; for foreign Subcontractors, the applicable law provisions shall apply;
- Subcontractor's self-certification confirming the regular fulfillment of the legal and contractual labor requirements in relation to its employees, specifying:
  - INAIL (National Institute for Insurance against Labor Accidents) Company Code and Office;
  - INPS (National Institute for Social Security) Company ID and Office;
  - Company ID, Office and Type, if any, of Special Construction Workers' Fund;
  - Collective Labor Agreement applied;

As per the contracts following within the scope of Legislative Decree 31 May 2021 no. 77, converted with Law 29 July 2021, no. 108, the Contractor shall also provide:

- declaration on beneficial ownership for private entities, made by the Contractor and Subcontractors pursuant to art. 22 par. 2 lett. d) Reg. (EU) 2021/241.

10.9 The Contractor shall keep all the documents specified above, as well as any other documents related to the Subcontractor, throughout the term of the Contract and for at least 6 months after its expiry, in order to allow ENEL to carry out inspections in accordance with the provisions of art. 1667 of cc. In any case, the subcontract shall be filed, as a certified copy, with ENEL's Unit managing the Contract, at least 20 days before the actual commencement date of the subcontracted activities. Furthermore, the Contractor shall notify to Enel's Unit managing the Contract, for all the subcontracts entered into for the performance of the Contract, the name of the Subcontractor, the Contract amount, the subcontracted activities, at least 20 days before the actual commencement date of the subcontracted activities.

10.10 As regards contracts falling within the scope of the Public Procurement Code, if the subcontracted activities correspond to the key activities of the scope of Contract, or if such activities relate to the works concerning the prevailing categories and are included in the Contractor's corporate purpose, the Contractor undertakes to include within its subcontracts the obligation, for the Subcontractors, to ensure the same quality and performance standards required to the Contractor under the Contract, as well as to apply to the Subcontractor's workers safety compensation and contract conditions consistent with those that would have been applied by the Contractor, including the application of the same national collective labor agreements. The Contractor specifically undertakes, pursuant to art. 1381 of cc, to ensure the proper fulfillment of such obligations



by its Subcontractors. Furthermore, the Contractor undertakes to authorize ENEL to verify the fulfillment of the obligations specified above and, accordingly, undertakes to provide, upon ENEL's request, all the documents required to certify the performance by the Subcontractor of such obligations, as well as to notify ENEL of any claim made by the Subcontractor's workers.

10.11 Notwithstanding the provisions of art. 7 of the GC, the Contractor shall pay the Subcontractor for the activities performed and shall submit to ENEL's Unit managing the Contract, within 20 days from the date of each payment made to the Subcontractor, a copy of the receipted invoices related to the payments made to the Subcontractor.

10.12 In the event of a failure by the Contractor to perform the obligations set out in art. 10.9 of the GC, ENEL shall suspend payment of the invoices due based on the accounting progress reports, and the Contractor shall not be entitled to claim any indemnification, damage compensation, interests or any other amount from ENEL.

10.13 Should ENEL, during the performance of the subcontracted activities, determine that a Subcontractor fails to meet or no longer meets one of the conditions provided for by the applicable legislation in force and/or by the Contract, ENEL may withdraw the authorization or suspend the relevant activities until the cause of suspension will cease, as the case may be. In the case of suspension, ENEL will notify the Contractor to remedy the identified irregularities within 30 days from receipt of such notification, otherwise the subcontracting authorization will be withdrawn.

10.14 The Contractor shall promptly replace any Subcontractor failing to fulfill the eligibility requirements set out in Legislative Decree 36/2023, as amended.

10.15 Following withdrawal of authorization, the Contractor shall immediately terminate the subcontract and shall directly perform the subcontracted activities, without any additional charge to ENEL and without prejudice to ENEL's right to compensation for damages.

10.16 All contracts between Subcontractors and Contractors shall incorporate all the provisions set out in the Contract, including the specific indication of the safety costs, which shall be paid in full and shall be not subject to discounts.

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

11.1 Any credit arising from the Contract may only be assigned to Banks and Financial Intermediaries enrolled in the relevant Registers as per Legislative Decree no. 385 of September 1st, 1993 (hereinafter the "Assignee"), subject to ENEL's prior consent.

11.2 The Contractor (assignor) and/or the Assignee shall notify in writing to ENEL the assignment of the credit arising from the Contract, specifying the new bank details for payments; such notification shall only be signed electronically and sent by certified e-mail (PEC) to the relevant ENEL company, within 30 days before the term for the payment of the invoice related to the assigned credit. If the notification is sent by the Assignee, the Assignee shall also attach the assignment agreement duly accepted by the Contractor by Electronic Signature.

11.3 For the purposes of the Contract, "assignment of credits" shall mean the assignment of all the credits arising from the Contract to a single Assignee. If the Contractor intends to assign single credits arising from the Contract to more than one Assignee, the Contractor shall previously inform ENEL thereof, in accordance with art. 11.2 of the GC.

11.4 ENEL may refuse the payment of the assigned invoice if the Assignee does not fulfill the requirements set out in art. 11.1 of the GC and/or the notifications referred to in arts. 11.2 and 11.3 of the GC have not been provided properly. The foregoing shall not prejudice ENEL's right, in its capacity as assigned debtor, to raise against the Assignee any exception that ENEL would have been entitled to raise against the assignor.

11.5 The Contractor undertakes to properly notify to ENEL the commencement of any procedure for its dissolution, transformation, merger, demerger, capital increase or reduction, or any other extraordinary operations, including the sale and/or purchase of majority interests and/or business units, as well as any material changes in its administrative bodies. The Contractor's successor in title may take over the Contract, subject to Enel's receipt of the notification relating to the corporate transaction within 5 days from completion, and to the fulfillment by the successor in title of the integrity, technical, organizational, economic and financial requirements necessary for the performance of the Contract.

11.6 Enel may assign the Contract and/or the rights and/or credits arising therefrom to its Affiliates, lenders, investors, notifying such assignment to the Contractor.

11.7 Without prejudice to the above provision under art. 11.6, as per the agreement not subject to the Public Procurement Code - without prejudice to possession of the performance of the Contract - any Party may assign the Contract upon written consent of the other Party which shall not be unreasonably withheld.

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

12.1 The Contractor undertakes, for the entire duration of the Contract, to fulfill the obligations undertaken under the terms, conditions and requirements specified in the documents forming integral part of the Contract, and undertakes to ensure that all the activities are carried out with the best professional diligence, the best available techniques, in a proper manner and using qualified and skilled personnel for the performance of the activities under the Contract.

12.2 The Contractor, in relation with the nature of the Contract, undertakes to perform all the occupational health and safety and environmental obligations arising from the Law, the HSE Terms and the instructions given by the Unit managing the Contract.

12.3 The Contractor shall cooperate and collaborate with ENEL and other third parties appointed by ENEL, including any other contractor engaged by Enel, any lender and consultants of the latter as well as the personnel of public authorities which may be engaged for the performance of the work not included in the Contract, using all commercially reasonable efforts to schedule, coordinate and perform the Scope of Contract so as not to delay or adversely affect its timely performance and completion.

12.4 The Contractor shall be fully liable for all the requirements related to the performance of the Contract, including:

- performance of the inspections, Tests and checks required by the Contract and/or the regulations applicable to the Contract, as well as for all costs arising therefrom, also in accordance with art. 9.2 of the GC;
- The organization of the personnel employed by the Contractor in the performance of the Contract, provided that at all times the Contractor's responsibilities shall be clearly identified and separated from those of ENEL;
- The appointment of a person in the Contractor's own organization to act as a contact person to ENEL during the performance of the Contract, in accordance with art. 9.1.2 of the GC;
- The procurement of the labor required to perform the Contract with all its associated costs.



12.5 In the case of foreign Contractors, and before the start of the works, the Contractor shall ensure that "key personnel" (such as the foreman, supervisor, site manager, etc.) is able to understand and communicate in the language specified in the Contract (both orally and in writing).

12.6 Furthermore, the Contractor undertakes to:

- perform the contractual services or works without interfering with or hindering or interrupting the performance of the working activity of ENEL and/or of third parties, immediately notifying ENEL of any event which interferes, or may interfere, in any way whatsoever with the performance of the Contract;
- implement, in the performance of the contractual activities, any measure and action to prevent damages to property and personal injuries, as well as carry out, under its own responsibility and at its own expenses, any activity required to repair the damages suffered by ENEL and/or third parties, including damages caused by its employees or by other workers employed in the performance of the Contract (e.g., Subcontractors);
- directly handle the acquisition of any permit and authorization required for the performance of the contractual activities, except for those expressly assigned by the Law to ENEL, in relation to which, however, the Contractor shall provide proper support and/or documentation, if required;
- immediately notify to ENEL and the Contract Manager the performance of surveys, inspections, accesses, reports or any other operation by the Criminal Police or other supervisory agencies or authorities for violations, either actual or threatened, of the environmental regulations by the Contractor, its Subcontractors or subsidiaries in the performance of activities carried out on ENEL's plants or at any title on behalf of ENEL;
- ensure the accuracy and/or promptly notify ENEL of any change occurred to the statements made for the purposes of the registration with ENEL's qualification system and of the awarding of the Contract. Furthermore, the Contractor acknowledges that ENEL may at any time verify that the statements made are accurate and up-to-date, and the Contractor undertakes to deliver any additional document requested by ENEL; otherwise, ENEL shall be entitled to reject the application/suspend/exclude the Contractor from ENEL's qualification system.

## 12.7 Legality protocols and anti-mafia legislation.

12.7.1 The Contract and any possible subcontract shall be performed in compliance with all the obligations set out by anti-mafia laws, as well as with all the applicable legality protocols stipulated by ENEL.

12.7.2 The Contractor undertakes to incorporate in the subcontracts similar clauses applicable to Subcontractors, according to which any violation of the legality protocols provisions may result in the termination of the subcontract. In particular, the Contractor and the Subcontractors, if any, undertake to:

- a) promptly report to the Law Enforcement Agencies and advise the competent authorities on any attempt of criminal extortion, offer for protection, intimidation or conditioning, in any form whatsoever (including, without limitation, bribes, influences for the hiring of personnel or the awarding of subcontracts to specific companies, illegal recruitment - so-called "caporalato" - damages, theft of personal or site properties) against them or their family members or their fiduciaries and/or representatives, and against the members of their corporate structure or their families;
- b) refrain from employing personnel convicted by final judgments, or subject to plea-bargaining judgments pursuant to art. 444 of the Italian Code of Criminal Procedure, for criminal association, including mafia-type criminal association, corruption, fraud, money laundering, usury, receipt of stolen goods and use of goods resulting from crimes;
- c) refrain from paying to any person or entity, for any reason whatsoever, amounts intended to illegitimately facilitate and/or make less onerous the performance and/or management of this Contract with respect to the obligations assumed therein, or to perform actions in any way aimed at the same purposes;
- d) represent and warrant that no mediation or similar services by third parties for its execution were used and that no amounts and/or other consideration for mediation or similar services aimed at facilitating the formalization of the Contract have been or shall be paid to any person or entity, either directly or by means of third parties;

## 13 THE CONTRACTOR'S RESPONSIBILITIES.

13.1 The Contractor undertakes to comply with the Law and the Contract and shall be responsible for the performance of all the legal and tax obligations, as well as the contractual obligations towards Subcontractors.

13.2 If the Contractor is formed by two or more entities, each of them shall be jointly and severally liable for the fulfillment of all the contractual and legal obligations.

13.3 The Contractor undertakes to indemnify and hold ENEL and/or its Affiliates, including its directors, employees, consultants, agents, harmless from any liability, request, and/or damage (also in relation to materials, equipment, works and services) arising from any claim or legal proceedings of any kind which are directly related to the Contract, due to acts or omissions by the Contractor or its employees, representatives or Subcontractors, including any request raised by Contractors and/or subcontractors' employees resulting from failure to fulfill contractual, insurance and social security obligations, or deriving from breach of the representations and warranties contained in these General Conditions, as well as breach regarding intellectual property, confidentiality, protection of personal data and the obligations referred to in the articles 28 and 29 (including unfaithful statements pursuant to the aforementioned clauses by the Contractor, Subcontractors, Sub-Suppliers, Third Parties employed by the Contractor and its entire supply chain)..

13.4 The aforementioned indemnification includes any amount that ENEL should have to pay, either for expenses or costs of any kind arising from legal actions or orders to appear in court, without prejudice to its right of defense.

## 14 THE CONTRACTOR'S WARRANTIES.

14.1 The Contractor shall warrant:

- a) the suitability, exclusive ownership and/or legitimate availability, clear from any encumbrances, of the materials and/or equipment;
- b) that all materials and equipment:
  - comply with the legal requirements, the Technical Specifications and the contractual provisions;

- are free from defects and are suitable for their intended use;
- c) that the services and works fulfill all the legal and contractual requirements, comply with the Technical Specifications, are performed with due diligence and skill and are suitable for their intended use.

14.2 The Warranty Period shall last two (2) years starting from the Provisional Acceptance Date. If, during the performance of the Contract and the Warranty Period, ENEL verifies that the activities under the Contract are not properly performed or do not comply with the provisions of the Contract, the Contractor shall remedy thereto, and no further amount shall be charged to ENEL.

14.3 Upon expiry of the Warranty Period, the Contractor undertakes to assign to ENEL the manufacturer's warranties on the materials and equipment.

14.4 The Contractor's warranty shall not cover defects or failures that are caused by (i) the improper use by ENEL, except if such improper use is due to errors or misleading information in the manuals or instructions provided by the Contractor; (ii) the normal wear and tear, including due to environment or operation or use, or (iii) the modification of the equipment not in accordance with the Contract or the Contractor's instructions.

14.5 The Contractor's warranty shall cover, during the Warranty Period, any design, construction, operational defects, as well as hidden defects and other defects specified in the Contract, and the Contractor, in relation to such defects, undertakes, at its own expenses and at no costs for ENEL, to:

- a) replace (or, within the limits set out in the Contract, repair), as soon as possible in order to minimize any impact on Enel's activities and, however, within the terms set out in the Contract (or, if no terms are specified, within the term originally established for the delivery of the defective materials and equipment or for the performance of the defective services or works), all the materials, equipment, services and works that do not comply with the contractual provisions or requirements, as well as those inadequate or of a poor quality. Before carrying out any repair, the Contractor shall request Enel's approval, which shall not be unreasonably delayed or withheld. If the Contract allows repairs but the item may not be repaired, in the Contractor's reasonable opinion, the defective materials and equipment shall be stored (at ENEL's discretion) at ENEL's premises until they are replaced
- b) replace all materials and equipment supplied in the event of any serial defects, thereby justifying the solution adopted to prevent the reoccurrence of such defects in the remaining materials or equipment to be supplied. A serial defect exists when the percentage of defective materials and equipment covered by the Contract exceeds the percentage established in the Contract, or if no percentage is specified, when the percentage exceeds 10% of the total materials and equipment to be supplied under the Contract;
- c) return the equipment/sites made available by ENEL in the same conditions as they were received.

14.6 Failure by the Contractor to comply with the obligations set out in this clause, shall entitle ENEL to implement suitable measures for the performance of the Contract, either directly or by means of third parties, at the Contractor's expense. Furthermore, the Contractor shall indemnify ENEL for any damage or loss suffered, as set out in the Contract. In particular, if the Contractor fails to apply the measures required, including the remedial actions, within the terms specified above, ENEL shall be entitled to apply the penalties for delay in accordance with the provisions of art. 15 of the GC.

14.7 ENEL may decide at any time to correct, repair, repeat the performance, construct or install any defective materials, provided that ENEL notifies the Contractor thereof. ENEL may order, on justified grounds, any temporary adjustment, correction, repair or replacement and the relevant costs shall be borne by the Contractor, until the receipt of new parts or until execution of new construction and installation interventions, as the case may be.

14.8 The Warranty Period shall be suspended on the date when ENEL's decision referred to in art. 14.7 of GC is duly notified to the Contractor and shall be extended accordingly until completion of all the repairs, replacements or new installations, or until completion of the works to be performed under warranty.

14.9 Spare parts shall also be subject to the abovementioned warranty under the same terms and conditions set out herein.

14.10 Upon expiry of the Warranty Period, and after any anomaly, defect or deficiency found during this period has been remedied, the Parties shall execute the Final Acceptance Certificate in accordance with the provisions of art. 9.5.6 of the GC and the Contractor shall provide the Economic Guarantees set out by the Contract, if any.

14.11 The expiry of the Warranty Period or the Final Acceptance of the contractual materials and/or works shall not relieve the Contractor from its liability for visible or hidden defects, or for any other liability provided for by the applicable Law or the Contract.

## **15 PENALTIES.**

15.1 Without prejudice to the provisions of art. 16.3 of the GC, any failure by the Contractor to meet the contractual terms and/or dates, may result in the application of a penalty by ENEL, in accordance with the provisions of the Contract. The application of penalties does not exclude nor limit ENEL's right to compensation for any further damage.

15.2 The application of penalties shall not limit the Contractor's responsibility under art. 13 of the GC and under the Contract.

15.3 The penalties shall be collected in accordance with the terms and conditions set forth by the Contract and the Law.

15.4 Failure to apply one or more penalties shall not be construed as a waiver by ENEL of the application of similar penalties, or of any penalty ENEL may be entitled to in the future for the same reason.

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

### **16.1 Suspension.**

16.1.1 ENEL shall be entitled to suspend the performance of the Contract, in full or in part, by sending a notification to the Contractor specifying the grounds for suspension and its duration, which may be extended in case the relevant cause persist. The Contractor acknowledges that, pursuant to the provisions of the HSE Terms, among the causes of suspension is included any risk situations or unsafe behavior by the Contractor.

16.1.2 Starting from the date of suspension indicated in the notice as per art. 16.1.1, and until resumption of activities, the Contractor shall stop the performance of the activities and properly store and maintain the materials, equipment and works, without prejudice to any other obligation arising from the applicable Law and/or established in the Contract.

16.1.3 The activities/projects completed before the suspension shall be payable to the Contractor. The Parties may agree on the payment of activities/projects that, at the date of the suspension notice, are at an advanced stage of progress.

16.1.4 Enel undertakes to reimburse to the Contractor all the duly documented costs incurred by the Contractor as a result of suspension (including storage costs), unless the suspension is attributable to Contractor's breach or to an Event of Force Majeure pursuant to art. 17 of GC.

16.1.5 If suspension lasts for more than one hundred and eighty (180) days, the Contractor upon thirty (30) days prior written notice to ENEL, may terminate the Contract. In this case, the provisions of art. 16.3.2 shall apply to the benefit of the Contractor.

#### **16.2 Withdrawal.**

16.2.1 ENEL may withdraw from the Contract at any time, including if the performance of the work or service has already been started, by sending a notification to the Contractor, specifying the activities to be completed and the activities to be stopped. ENEL shall pay the Price for all the activities duly carried out by the Contractor prior to the withdrawal date, subject to successful result of the controls, Tests and inspections, if applicable under the Contract. Enel shall reimburse to the Contractor the lower amount between (i) the amount equal to the documented expenses incurred by the Contractor in relation to these activities, for any irrevocable order made and (ii) the amount equal to the actual economic loss suffered by the Contractor.

##### **16.2.2 Withdrawal by the Contractor.**

16.2.2.1 The Contractor shall be entitled to withdraw from the Contract subject to the restrictions and under the terms specified therein.

16.2.2.2 In this event, , Enel shall notify to the Contractor the works, structures and part thereof to be delivered or completed and those to be stopped, also for the purposes of decommissioning the worksites.

##### **16.2.3 Withdrawal for difficulty of performance.**

16.2.3.1 As an exception to par. 2 of art. 1664 of cc, the Parties agree that, should the extraordinary and unpredictable nature of the difficulties and the relevant excessive onerousness of the works be confirmed, the Contractor shall not be entitled to any compensation, unless offered by ENEL, but the Contractor may exercise the right of withdrawal from the Contract.

16.2.3.2 The application shall be sent by certified e-mail or registered letter with acknowledgment of receipt within thirty (30) days from the occurrence of the relevant cause. ENEL reserves the right to assess the aforementioned causes and, if ENEL accepts the withdrawal application, ENEL shall notify to the Contractor the works, structures and part thereof to be delivered or completed and those to be stopped, also for the purposes of decommissioning the worksites within the terms set out by ENEL.

16.2.3.3 In this case of withdrawal, the Contractor shall only be paid, at the contractual prices, the amounts for the works, services and supplies performed until the withdrawal date.

16.2.3.4 The Contractor refuses the proposed compensation, the Contractor shall continue the performance of the works according to the amounts set out by ENEL. Such amounts, which shall not be considered for the purposes referred to in art. 9.7 of GC, are considered for accounting purposes, notwithstanding the Contractor's right to express reservations pursuant to art. 9.15 of GC.

##### **16.2.4 Withdrawal by ENEL for insolvency proceedings of the Contractor**

16.2.4.1 In case of opening of the judicial liquidation for extraordinary administration, compulsory liquidation, pre-bankruptcy composition with creditors or other insolvency proceedings, the Contract shall be terminated pursuant to art. 186 of Legislative Decree No. 14/2019.

16.2.4.2 Without prejudice to the regulations on public contracts, if the receiver or administrator declare, within the term set out by art. 186, their intention to take over the contractual relationship, ENEL shall be entitled to withdraw from the Contract, notifying the receiver or administrator thereof within thirty days after receipt of the request for take over.

16.2.4.3 With a specific notice, ENEL shall set the date for the delivery of works.

16.2.4.4 The delivery of works and transfer of possession of the worksites to ENEL shall begin with a joint assessment report drawn up by the Parties, regarding the state of progress of the works performed and the consistency of the worksites.

16.2.4.5 If the receiver or the administrator do not attend the joint assessments or do not sign the relevant report, ENEL shall be entitled to have the report drawn up by a notary with the assistance of a sworn expert.

16.2.4.6 After the works are delivered, the last progress report shall be drafted, in accordance with the provisions of the Contract.

16.2.4.7 The works, including works not completed but duly carried out, shall be accounted for at the contractual prices, in accordance with the provisions of the Contract on accounting and acceptance of works.

16.2.4.8 The consideration for any use of the worksite plants, as well as for the purchase of materials, shall be agreed by ENEL and the receiver or administrator. No additional compensation shall be due.

#### **16.3 Termination.**

16.3.1 ENEL shall be entitled to terminate the Contract in the cases provided for by the Law and/or the Contract, as well as in the following cases:

- a) death of the Contractor, if the Contractor is a natural person, or a change in Contractor's capacity that prevents or substantially affects the performance of the Contract;
- b) the dissolution, transformation, reduction of capital or any significant changes in the governing bodies of the Contractor, if such changes adversely affect the performance of the Contract or in the event that such changes in the Contractor violate the provisions of art. 27 and 29 of the GC;
- c) the deterioration of the financial capacity/solvency of the Contractor or any constraint of whatever nature substantially affecting the proper performance of the Contract;
- d) the Contractor unreasonably interrupts, suspends or refuses to perform one or more activities under the Contract, or to resume the performance of the Contract in the case of suspension set forth in art. 16.1 of the GC;

- e) the Contractor fails to timely obtain the certificates and authorizations required and/or instrumental for the proper performance of the Contract, and/or to maintain their validity throughout the term of the Contract;
- f) the Contractor fails to remedy any breach of the applicable technical specifications and/or repeated errors or defects in contrast with the instructions provided by ENEL;
- g) the Contractor and/or the Subcontractors and/or other third parties appointed by the Contractor, are unable or fail to carry out the contractual activities or to fulfill any material requirements and obligations set forth by the applicable law;
- h) the Contractor fails to comply with the legal and contractual obligations, including those set forth hereby by the GC on intellectual property, confidentiality and personal data processing;
- i) If the overall amount of the penalties applied exceeds the amount set forth by the Contract or, in the absence, the cap of 10% of the Contract amount;
- j) ENEL ascertains, at any time, during the term of the Contract, any omission or material inaccuracy of any information, and/or statement provided or made by the Contractor in relation to the compliance with the legal, economic, financial, technical or contractual requirements for the admission to ENEL's qualification system and for the awarding of the Contract, including any change occurred,;
- k) the Contractor no longer meets any of the qualification requirements (if applicable);
- l) acts, omissions, behaviors or situations related to the Contractor which may pose a risk to ENEL's reputation and/or image and reduce ENEL's confidence in the Contractor's honesty and integrity as well as its reliability with regard to the performance of the Contract.
- m) Contractor's breach of any of the provisions regarding the following clauses:
  - art. 7.11 regarding traceability of financial flows<sup>2</sup>;
  - art. 8.5.2 regarding Fiscal and Technical representation in Non-EU Countries.
  - art. 9 regarding delivery;
  - art. 10 regarding subcontracting;
  - art. 12.7 regarding Antimafia legislation (including any interdiction and/or attempt of mafia infiltration in the Contractor's company or in its Subcontractors, should emerge);
  - art. 13 regarding liability;
  - art. 18 on labor law obligations;
  - art. 19.1.5 regarding economic guarantee;
- n) Contractor's breach of any provision and /or any principles set forth under articles 28 and 29 also if the breach is committed by any Subcontracts, Subsuppliers, third parties engaged by the contractor and its whole supply chain; in such case of termination, the Parties may negotiate in good faith in order to mitigate, to the extent applicable, any loss or damage related to the Sanctions or arising therefrom, within the notification period for termination. Should the Parties fail to reach an agreement within seven (7) working days from the notification of termination, the Contract shall be automatically terminated, without prejudice to any other remedy available in accordance with the applicable Law or the Contract.
- o) Where it is established, by judgment become final, that the Contractor committed an administrative offense and/or one or more of the crimes referred to in Legislative Decree No. 231/2001.

In the cases listed above under let. a; b; e; f; g; h; k; l; n; as well as in any further case provided by the Contract, the Contract shall be deemed terminated according to art. 1456 cc.

16.3.2 In the cases listed above under let. c; d; j; k; l; m, and in any further case provided by the Contract ENEL, at its discretion and without prejudice to its right to claim for compensation of damage, may either assign the Contractor a specific term to remedy the contractual breach (not less than 15 days as per art. 1454 cc) or terminate the Contract from the date specified in the relevant notice.

16.3.3 In any case, ENEL reserves the right to purchase at the Price under the Contract the materials, either full or partial, already supplied or delivered by the Contractor.

16.3.4 In the event of a breach by the Contractor, ENEL, without prejudice to its right to apply penalties and to request compensation for any further damage, may either enforce the guarantee referred to in art. 19 of the GC or suspend the payments due to the Contractor, in accordance with the provisions of art. 1460 of cc.

### 16.3.5 Termination procedure.

16.3.5.1 In the event of termination of the Contract, ENEL shall send a Communication to the Contractor specifying the date on which the works shall be delivered and ENEL shall repossess the worksites. The Contractor shall immediately deliver the works on an "as-is" basis, whilst ENEL may take over, in full or in part, the worksite equipment, the provisional works and the Contractor's materials. If ENEL does not take over, in full or in part, the worksite equipment, the provisional works and the materials, the Contractor shall remove the remaining items at its expenses.

16.3.5.2 The Parties shall jointly draft an assessment report on the progress of the works carried out and on their proper performance, as well as on the consistency of the worksites upon delivery of works and transfer of possession of worksites to ENEL.

16.3.5.3 After the works are delivered and possession of worksites has been transferred, the last progress report shall be drafted, in accordance with the provisions of the Contract.

16.3.5.4 The consideration for any use of the worksite plants, as well as for the purchase of materials, shall be mutually agreed between the Parties. Should the Parties fail to reach an agreement, the decision shall be taken by ENEL, on a provisional basis and subject to the Contractor's right to express specific reservations.

<sup>2</sup> Applicable only to contracts assigned pursuant to the applicable regulations on public procurements.

16.3.5.5 The Contractor shall remove its machineries, tools and working equipment that ENEL does not intend to use, and the Contractor shall deal with the closure of the worksites, including in several stages, in compliance with the instructions provided for this purpose by ENEL, with a 30 days' prior notice.

16.3.5.6 Any amount received by ENEL in the event of termination shall not prejudice its right to claim for compensation of further damages.

16.3.5.7 For Contracts falling within the scope of the Public Procurement Code, the special discipline envisaged by the applicable publicity legislation applies.

## **17 FORCE MAJEURE.**

17.1 Unless otherwise provided for by the Law, a "Force Majeure Event" shall mean any act or event beyond the reasonable control of the Parties and not resulting from the fault or negligence of the affected Party, preventing such 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 its best reasonable effort. The burden of proving a Force Majeure Event shall be on the Party claiming its occurrence.

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

- a) Climate and/or 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 and/or the economic situation of an affected Party and/or changes in market conditions such as an increase of the commodities;
- g) wear, breakage or failure of equipment used in the performance of services, or defects in the quality of the material or installation of any part of the work or services, except if the breakage is exclusively due to events of Force Majeure;
- h) any action by any governmental authority that a party could have avoided if it had complied with the applicable Law.
- i) public disturbance, boycotts, sabotage, or blockades that have been proven to be caused by or arising out of the Supplier's actions or omissions, including those arising out of any security failure at the site of services or works.
- j) failure by the Supplier or its Subcontractors to obtain any authorizations, except if arising exclusively from a Force Majeure Event.

17.3 None of the Parties shall be liable for the breach of its obligations if the performance is delayed or prevented due to a Force Majeure Event. The Party affected by a Force Majeure Event shall notify in writing the other Party thereof, as soon as possible, and however within five (5) working days from the day when the affected Party becomes aware of the Event. This notice shall:

1. identify the circumstances occurred;
2. specify the estimated duration of the situation;
3. specify the contractual obligations affected, in full or in part, by the Force Majeure Event and the measures implemented to reduce, if possible, the adverse effects of the Event on the performance of the Contract;
4. include as an attachment the documents proving that the events preventing the performance of the Contract should be considered as a Force Majeure Event.

17.4 The other Party shall reply in writing, either accepting or reasonably refusing the cause, within ten (10) calendar days from the receipt of the aforementioned notification. The absence of a response from the notified Party shall be understood as an acceptance of the force majeure invoked.

17.5 In the case of a Force Majeure Event, the performance of the affected obligations shall be suspended throughout its duration, and neither Party shall be entitled to claim for compensation. The contractual obligations not affected by the Force Majeure Event shall be performed in accordance with the contractual terms and conditions in force before the occurrence of such Event.

17.6 If the effects of a Force Majeure Event cannot be mitigated / removed, Parties may agree in good faith possible amendment to the Contract in order to mitigate the effects of the Force Majeure Event.

17.7 If due to a Force Majeure Event, the performance of the Contract is substantially affected and suspended for more than one hundred and eighty (180) calendar days, or if its resumption is proven to be impossible, each Party shall be entitled to terminate the Contract, with a five (5) days prior notice to the other Party, without any compensation applying on the Parties.

## **18 LABOR LAW OBLIGATIONS.**

18.1 The Contractor undertakes towards its employees involved in the activities under the Contract, to:

1. apply contractual and working conditions at least equivalent to those provided by the National Collective Labor Agreement subscribed by the main trade union associations, and by the territorial and/or company supplementing industry agreements, applicable at the time and in the locations where the works are performed;
2. comply with the regulations on salaries - including the portions of the severance indemnity ("TFR") - and to ensure the proper application and payment of the tax withholdings on employee income according to the applicable law, the payment of VAT, as well as to regularly fulfill the insurance and social security contribution obligations, in accordance with the applicable laws and regulations;



3. ensure and verify the fulfillment of the workers' obligation to show their identification card according to the applicable Law. Pursuant to art. 1381 of cc., the Contractor undertakes to ensure that also the self-employed workers and the employees of its Subcontractors fulfill such obligation;
4. use, for the workers involved in the performance of the Contract, types of contracts consistent with the work required and actually performed, in accordance with the applicable laws and regulations;
5. ensure the same economic treatment for the workers re-hired by the successor Contractor, under the same economic and regulatory conditions provided for by the national collective industry agreements entered into by the main trade union associations, or following collective agreements subscribed by the main organizations<sup>3</sup>.

18.2 Pursuant to the applicable regulations on personal data protection with reference to all the workers employed in the performance of the Contract (including any para-subordinate workers and workers under secondment from a company other than the Contractor or the Subcontractor, as well as staff leasing workers), the Contractor shall submit a self-certification attesting regular pay and contributions, in the format indicated in **Annex "Joint and Several Liability"**, available at the following link <https://globalprocurement.enel.com/it/documenti/search-documents-all?keyword=General%20Contract%20Condition%20Italia%20%E2%80%93%20Ed.%208%20%E2%80%93%20Italy%20-%20ENG%20-%20Joint%20and%20several%20liability%20Annex>. The certification must be resubmitted updated on a monthly basis from the signing of the Contract. In any case the Contractor also undertakes to promptly notify Enel of any changes that may occur with respect to the above self-declaration previously provided to ENEL.

18.3 In the case of subcontracts or subsupplies, the Contractor shall provide the same documentation for the personnel of the subcontractor or subsupplier.

18.4 ENEL reserves the right with a 30-days' written notice, to modify the list of the documents specified in the Annex "Joint and Several Liability" and/or to change the method of submission of such information/documents;

18.5 Enel reserve the right to carry out any monitoring activity through inspections, audit and request of documentation aimed at verifying the fulfillment of the above obligation with respect to pay and social security contribution by the contractor and its Subcontractors and Subsuppliers. In this event, the Contractor has the obligation to grant ENEL.

18.6 It is understood that failure to request verification by ENEL cannot in any way constitute limitation of the Contractor's liability in the event of non-fulfillment of its obligations.

18.7 In case of breach of the above obligations, ENEL reserves the right to suspend any payment due to the Contractor (for Contracts subject to the Public Procurement Code) as well as to terminate the Contract and claim damages. As regards Contracts falling within the scope of the Public Procurement Code, for each breach of the obligations referred to in this article, Enel shall grant the Contractor a cure period. After ascertaining the delayed performance, or if the Contractor failed to formally and reasonably challenge the validity of Enel's performance request, Enel shall withhold amounts from any credit due to the Contractor for the performance of Contract and, if the amounts are insufficient to cover the breaches, shall enforce the economic guarantee.

18.8 In the event of subcontracting, the Contractor undertakes to include in the agreements with its Subcontractors the obligations arising from the previous paragraph.

## 18.9 Processing of data.

18.9.1 Notwithstanding the provisions of the clause on personal data processing under art. 23 "Personal data processing", and as a supplement thereto, ENEL informs the Contractor that the processing of personal data of the employees of the Contractors and Subcontractors, if any (including the control of accesses to worksites), is carried out only for the purposes related to the performance of the Contract and to the compliance with the legal provisions against tax evasion, tax avoidance and illegal labor, as well as those for the promotion of occupational safety. Such data, processed by automated means, shall be stored for the period strictly required for the purposes in relation to which they were collected and later processed taking into account the compliance with the limitation terms, without prejudice to the obligations of storage of accounting records referred to in the current and future laws. The Contractor/Subcontractor shall inform the data subjects and obtain, if due and/or requested by the ENEL Group company, the consents required for the processing of personal data for the purposes referred to above.

18.9.2 In the event of subcontracting, the Contractor undertakes to include in the agreements with its Subcontractors the obligations arising from the previous paragraph. The Contractor specifically undertakes, pursuant to art. 1381 of cc, to ensure the proper fulfillment of such obligations by its third-party Subcontractors.

## 19 ECONOMIC GUARANTEE.

### 19.1 Introduction.

19.1.1 The Contractor shall guarantee the performance of all contractual obligations as arising from the breach of the Contract, also by establishing guarantees. ENEL, as a guarantee of all contractual obligation as well as the payment of possible damages may request the establishment of the Performance Guarantee, Advance Payment Guarantee (if applicable) and Warranty Guarantee, issued by a financial institution, an insurance company or an authorized financial intermediary, preferably Italian or Italian branches of foreign institutions approved by ENEL.

19.1.2 The Economic Guarantee shall be signed by electronic signature (in p7m format) pursuant to Legislative Decree No. 82 of March 7th, 2005, and to the applicable technical regulations and in compliance with ISO standards 19.005-1 (PDF/A), using the templates attached to the Contract. In any case, the Economic Guarantee shall be:

- a) unconditional and irrevocable;
- b) payable on first demand.

19.1.3 Should the issuer's creditworthiness deteriorate, the Contractor shall provide within sixty (60) days from ENEL's request, a replacement guarantee under the same conditions as the guarantee originally approved. Otherwise, ENEL may withhold and suspend any payments due to the Contractor.

<sup>3</sup> This provision shall apply to contracts for services, such as cleaning or canteen services, where the company which is awarded the tender replaces another company, re-hiring the personnel previously employed by the former company.

19.1.4 The establishment of the guarantees shall not limit the Contractor's compensation obligation towards ENEL to the amount or the period of validity of the guarantees.

19.1.5 If throughout the term of the Contract, (i) the Price or the Duration of the Contract should increase due to an amendment or (ii) the amount of the economic guarantee may get reduced for the application of penalties, ENEL may request the Contractor to provide an additional or replacement economic guarantee to cover the increase within ten (10) days from ENEL's request. Failure by the Contractor to comply with the required addition or replacement of the guarantees shall entitle ENEL to terminate the Contract pursuant to art. 1456 of cc, or to suspend payments to the Contractor until the due guaranteed amount is reached as well as in case of application of penalties, to set off such amount against the first applicable payment due to the Contractor, if suitable, or to apply further deductions on the following payments up to the percentage due.

## **19.2 Performance Guarantee.**

19.2.1 If provided for by the Contract, and unless the Contract sets out a different percentage, the Contractor shall deliver to ENEL a guarantee for an amount equal to 10 % of the Price, as a guarantee for the accurate, timely and proper performance of the contractual obligations undertaken by the Contractor, including the obligation to pay any amount due to ENEL, such as Penalties, as well as the obligations arising from the Contractor's technical warranty, until replacement with the Warranty Guarantee.

19.2.2 The Contractor shall make available the Performance Guarantee before the signature of the Contract and within the Execution Date.

19.2.3 If the Contractor performs all of its contractual obligations, ENEL shall return the Performance Guarantee within ten (10) working days from the date of delivery of the Warranty Guarantee.

## **19.3 Advance Payment Guarantee.**

19.3.1 If provided for by the Contract, and unless the Contract sets out a different percentage, If ENEL makes advance payments to the Contractor, the Contractor shall deliver to ENEL, within the date of such payment, a guarantee for an amount equal to 100 % of the advance payment made, that shall be returned after completion of the activities covered by the advance payment ("Advance Payment Guarantee").

## **19.4 Warranty Guarantee.**

19.4.1 If provided for by the Contract, and unless the Contract sets out a different percentage, the Contractor shall deliver to ENEL a guarantee for an amount equal to 5 % of the Price, as a guarantee for the Contractor's obligations during the Warranty Period within one (1) month from the expiry of the Warranty Period ("Warranty Guarantee")

# **20 INSURANCE.**

20.1 The Contractor shall assume all liability towards ENEL for injury or damages caused to persons or property in the performance, including by Subcontractors or third parties, of the Contract, and the Contractor undertakes to take out at its expense or declare to already have providing the relevant documentation an adequate insurance policy with a financially stable and renowned insurance company, for the entire duration of the Contract, to cover:

- a) losses or damages to the materials and equipment required for the performance of the Contract during the processing, loading and transportation, up to the date and place of delivery to ENEL, including those supplied by ENEL 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 damages that may be caused by the Contractor or its Subcontractors personnel, to the personnel or properties of ENEL and/or of third parties during the performance of the Contract. Under no circumstances, ENEL shall be liable for events arising from causes attributable to the Contractor;
- c) theft and other damages that could be caused to the material stored at ENEL premises, if the Contract provides for storage at ENEL premises;

20.2 The Contractor undertakes - or declare to already have taken out providing the relevant documentation with a financially stable and renowned insurance company - to take out an insurance for civil liability with adequate limits on compensation according to the risk, to cover claims for damage to property, persons and/or for financial damage that may be caused to ENEL or third parties arising from defects or malfunction of materials or equipment attributable to the Contractor. Furthermore, the Contractor shall be liable for environmental damage or the imminent possibility that it may take place, as well as for the costs related to prevention, reduction and repair, in accordance with the conditions laid down in the applicable legislation.

20.3 In the civil liability insurance policy, ENEL shall be considered as a third party with respect to the Insured, and such policy shall include the applicable claim for compensation made by the INAIL for injuries to the Contractor's personnel. If the Contractor has already an existing insurance policy meeting the requirements laid down in this article, the Contractor shall request to the insurance company an express extension of such policy to the specific Contract executed with ENEL.

20.4 The limits of liability of the insurance policies refer to the damages and/or claims occurred during the term of the Contract, as well as in the subsequent warranty period relating to the works or services thereunder.

20.5 The insurance policies shall provide for the insurer's waiver of the right of redress against ENEL;

20.6 As an additional requirement to the provisions of art. 20.1 above, the Contractor's insurance policy shall not limit its obligations and liabilities arising from the Contract. Therefore, any amount relating to an uninsured damage/injury not covered by such policy (including the deductible/excess) shall be charged to the Contractor.

20.7 Such policies shall include a provision requiring the insurance company to make payments directly to ENEL in the event of damage or theft of assets owned by Enel. The limits of liability of the insurance policy shall cover the damage, provided that the claim for compensation is received within the period of performance of the Contract and/or after the warranty period.

20.8 It is understood that the existence, the validity and the efficacy of the insurance policies referred to in this article are of the essence for ENEL and therefore, should the Contractor be unable to prove, at any time, the existence of an insurance coverage, ENEL shall be entitled to terminate the Contract, without prejudice to the Contractor's obligations to pay any damages suffered by ENEL.

20.9 If at ENEL's discretion the insurances submitted by the Contractor are not sufficient to cover the risks, both in relation to the delivery of materials or equipment, and to the performance of the contractual works or services, the Contractor undertakes to review and amend the insurance coverages according to the requirements of the Contract.

20.10 Similarly, the Contractor undertakes to take out, at its own expenses and with financially stable and renowned insurance companies, any other type of compulsory insurance that may be required by the applicable laws, for the entire duration of the Contract.

20.11 The Contractor shall submit, within 30 days from the signature of the Contract, the insurance certificates ( which shall specify the policy details (insurance company, business of the insured, reference to ENEL Contract, period of validity, regular payment of insurance premiums, maximum coverages, sub-limits, deductibles and excesses, main exclusions, in addition to any extension specifically referred to above) proving both the existence of the insurance coverages specified above and the regular payment of the relevant insurance premiums which shall be effective for the entire duration of the Contract also in case of variation for the activity and the duration.

20.12 Furthermore, the Contractor undertakes to include in the contracts with its Subcontractors a similar provision by which they assume all the obligations laid down in this article.

20.13 **Professional insurance obligation<sup>4</sup>.**

20.13.1 Pursuant to art. 5 of DPR 137/12, the Contractor providing professional services shall take out an adequate insurance for damages caused to ENEL during the exercise of the professional activity, including the safekeeping of documents and valuables received from ENEL.

20.13.2 The Contractor providing professional services shall notify ENEL, upon acceptance of the assignment, of the details of the professional insurance, the relevant limit of liability and any subsequent amendment, by submitting the relevant insurance certificates proving the existence of the insurance coverages (which shall specify: the policy details, insurance company, insured business, reference to ENEL Contract, period of validity, regular payment of the insurance premiums, maximum coverages, deductibles and excesses and the main exclusions).

20.13.3 The professional policy shall be effective at least for a period equal to the assignment. To this end, the Contractor providing professional services shall also submit suitable documents certifying the renewal of any insurance coverage expired, or the insurance certificates proving both the execution of replacement insurance policies and the regular payment of the relevant insurance premiums.

20.14 **"CAR/EAR" insurance.**

20.14.1 When, in connection with the work that ENEL plans to carry out, the presence of multiple Contractors is envisaged within the scope of the same site, even at a later time, ENEL may take out, including on behalf of the different Contractors, an insurance coverage for damages to the work to be carried out that might occur during performance of the work. Therefore, for this purpose ENEL may take out a specific "all risks" policy with a primary insurance company, and the costs of the premium may be borne by each Contractor for the part or portion of its competence, based on the provisions of the Contract.

## **21 INTELLECTUAL PROPERTY**

21.1 Contractor guarantees to ENEL that the execution of the Contract and/or the Scope of Contract do not violate any intellectual property right owned by third parties and that any intellectual property rights owned by third parties - including but not limited to, trademarks, patents, copyrights, utility models, industrial designs, trade secrets, rights relating to source codes also released in open source mode – and used by the Contractor for the correct performance of the Contract are legitimately available to the Contractor.

21.2 The Contractor will make available to ENEL, upon specific reasoned request, information and clarifications relating to any asset protected by intellectual property rights owned by third parties and used by the Contractor for the purpose of performing the Contract.

21.3 If claims or requests, judicial or extrajudicial, proposed by third parties that claim intellectual property rights affecting the performance of the Contract and/or the Scope of Contract, cause the need to make changes to the performance of the Contract and /o the Scope of Contract, the Contractor undertakes to promptly notify ENEL and, at its own expense and with prior written agreement with ENEL, to carry out any activity necessary to ensure that the new products or services have functions and characteristics equivalent to those originally provided by the Scope of Contract.

21.4 The Contractor is prohibited from using trademarks, logos and/or other distinctive signs owned by ENEL, as well as from using the ENEL name, even with reference to the fact that the Contractor is ENEL's counterparty for the purposes of the Contract, unless previously authorized in writing by ENEL.

21.5 The Parties agree that, in relation to all materials and information that ENEL may share with the Contractor for the purpose of executing the Contract (including but not limited to: documents, reports, products, samples, source codes, technical specifications, flow charts, conceptual diagrams, drawings, projects, computer programs in any format, information of any type and relevant copies, regardless of the method are provided with, hereinafter the "ENEL Material"), the Contractor, unless otherwise agreed in writing with ENEL: (i) may not in any way copy, reproduce, process, translate, modify, adapt, develop, decompile, disassemble, reverse engineer – in whole or in part – the ENEL Material; (ii) may not create works, products, articles, samples and/or technical specifications derived from ENEL Material; (iii) will use the ENEL Material solely for the purposes set out in the Contract; (iv) may share the ENEL Material internally only with such personnel who is strictly required to know it for the purpose of the correct performance of the Contract; (v) will keep the ENEL Material confidential pursuant to Article 22 "Confidentiality" of these GC; (vi) will ensure that the aforementioned obligations are previously accepted and respected also by the other natural or legal persons involved by the Contractor, in any capacity, in the performance of the Contract.

21.6 Each Party acknowledges and accepts that the intellectual property rights owned by each Party prior to the signing of the Contract (hereinafter "Background IP") remain the property of that Party and the other Party cannot claim such rights in any way. Before signing the Contract, each Party is obliged to specify in a special attachment, which forms an integral and substantial part of the Contract, its Background IP which will be shared with the other Party for the purpose of performing the Contract.

21.7 All the results and developments created or performed by the Parties during the performance of the Contract will be fully and exclusively owned by ENEL ("ENEL Developments"). Likewise, all intellectual property rights relating to ENEL Developments (hereinafter "Foreground IP") will be fully and exclusively owned by ENEL. The Contractor acknowledges and guarantees that the Foreground IP has been obtained as part of the performance of the Contract and has not been shared with and/or generated by third parties. The Parties, before the final payment of the price envisaged in the Contract, shall produce the Foreground IP Reporting Document to describe and certify the Foreground IP generated in the performance of the Contract.

<sup>4</sup> This clause shall apply to contracts with professionals exercising a "regulated profession", as defined in Chapter I, sect. 1, point a) of Presidential Decree 137/2012. A regulated profession is an activity, or set of activities, which may be exercised only after registration with rolls or registers and subject to the possession of professional qualifications or to the assessment of the specific professional expertise.

21.8 With reference to the Foreground IP, only ENEL can, in accordance with applicable law and according to its unquestionable decision, elect the most appropriate forms of protection and enhancement, provided that the payment of the consideration referred to in the Contract fully remunerates ENEL's ownership of the Foreground IP, as well as any other right connected to it.

21.9 If the inventors of the Foreground IP also include employees or collaborators in any capacity of the Contractor, who under the Contract were entitled to contribute to the performance of the Scope of Contract, the Contractor will be required, at ENEL's request, to obtain from the inventors deeds of acknowledgment of ENEL's property right on the inventions of which they were authors or participants, with express waiver of any and all claims against ENEL.

## **22 CONFIDENTIALITY**

22.1 "Confidential Information" means, including but not limited to, even if not expressly defined as such, trade secrets, economic and financial documents, data and information concerning company strategies, information regarding products and/or production processes and methodologies, means and costs of production, information on sales, information on developments, customer management, any other type of information regarding customers, documentation concerning technical and economic offers in private or public competitive processes, data relating to tests or operation of plants, equipment, machinery and products, business analysis, business plans, market researches, commercial and marketing plans, other statistical data relevant to company strategy, internal organizational procedures, advertising communication ideas, brands not yet marketed, prices, concepts, procedures, drawings, drafts, discoveries, formulas, models or prototypes of goods and/or services not yet commercialized, contractual terms and conditions, scientific, engineering and/or technical documents and data, with reference for example to: intellectual property rights, discoveries, inventions, developments, licenses, codes (including source code and object code of software), all types of software, algorithms and formulas, technical and/or technological information, technical documents, know-how, new test methodologies for plants, machinery, equipment and products, results of research and development activities. Confidential Information also means all the information that each Party makes available to the other Party, even verbally, including information relating to contracts with third parties.

22.2 Confidential Information also includes all information relating to one Party and made available to the other Party, before or during the performance of the Contract, either by the directors, managers, or employees of the disclosing Party, or by Subcontractors or Affiliates of said Party and its corresponding directors, officers, employees or subcontractors (hereinafter, "Representatives of the Disclosing Party"). Confidential Information also includes all information concerning the Representatives of the Disclosing Party.

22.3 The following information will not be considered confidential:

- information that the recipient Party is able to demonstrate that it has received from third parties not subject to (or in breach of) a confidentiality agreement;
- information which, after being communicated to the recipient Party, without any liability of the latter, has become generally known or easily accessible.

22.4 Confidential Information cannot be disclosed to third parties without the prior written and explicit authorization of the disclosing Party. Furthermore, without the prior written and explicit authorization of the disclosing Party, the other Party may not copy, reproduce, translate, modify, adapt, develop and/or dismantle the Confidential Information provided, perform reverse engineering operations or any operation intended to extract the source codes - in whole or in part - of said Confidential Information.

22.5 The receiving Party may disclose Confidential Information to satisfy a lawful request by a court, government agency or competent public authority, provided that: (i) said Party preliminarily informs the other Party (when legally practicable), allowing the other Party to be aware of the request, in order to evaluate possible defensive actions; (ii) the receiving Party discloses only that part of the Confidential Information that it has been required to disclose; and (iii) in any case, every precaution is taken to guarantee confidentiality, without prejudice to the fulfillment of the obligation of the request received.

22.6 The receiving Party may share any Confidential Information with the Representatives its consultants, lenders, investors, and their respective consultants as well as the Representatives of the Disclosing Party, who are in turn bound by confidentiality obligations to the same extent and with the same methods that bind the receiving Party towards the disclosing Party.

22.7 Each of the Parties:

- must limit the disclosure of Confidential Information exclusively to Representatives who have an effective need to know it due to their involvement in the performance of the Contract;
- is required to bind its Representatives and to ensure that they act in full compliance with the obligation referred to under this clause;
- will be held responsible for acts or omissions of its Representatives which involve a violation of the obligation referred to under this clause.

22.8 The Party receiving the Confidential Information has the obligation to manage it using the best techniques and practices available internationally, in order to guarantee the protection of such Confidential Information from unauthorized access, reproduction, communication or use. After the expiry of the Contract, the Party that received the Confidential Information shall return all data, documents and information, provided by the other Party or otherwise at its disposal for the performance of the contractual activities, as well as destroy all copies and files in its possession, unless it has received written instructions to the contrary from the Party that provided the Confidential Information. The receiving Party will confirm to the other Party the destruction of such Confidential Information within a maximum term of fifteen (15) days from the request and will declare in writing that it will not keep documents or other objects containing (or relating 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 its expiry unless a different term has been agreed in the Contract or is required by applicable law or by a competent authority. Without prejudice to the foregoing, in case of Confidential Information classified as "strictly confidential" or "trade secrets" by ENEL, the obligations of confidentiality and non-use provided for in this clause 22 (CONFIDENTIALITY) will remain valid in the event of extinction of the Contract for any reason and shall remain in effect until the receiving Party is able to demonstrate that such information has become generally known or readily accessible to persons within circles which normally deal with the type of information in question for causes other than its disclosure by the receiving Party.

22.10 Both Parties will agree in writing on the content, means of communication and the date of publication of press articles, news and communications of any kind regarding the Contract or any question or information pertaining to it.

22.11 Both Parties acknowledge and agree that damages may not constitute a sufficient remedy for breach of the confidentiality and non-use obligations under this clause and/or the Contract and that the injured Party shall be entitled to seek other remedies in accordance with the



legislation in force. In the event of non-fulfilment by one Party of the obligations of confidentiality and non-use provided for in this clause and/or in the Contract, the other Party will have the right to terminate the Contract.

22.12 At any time, if the Party supplying the Confidential Information requests it and this does not affect the correct performance of the Contract by the other Party, the receiving Party shall return or destroy or request that its Representatives return or destroy all copies of Confidential Information in its possession or in the possession of its Representatives. In addition, the Party receiving the information will do everything in its power or request that its Representatives do everything in their power to return or destroy the data stored in electronic format, will confirm the destruction of such data to the Party having provided the Confidential Information within fifteen (15) days of the request and will confirm in writing that it will not retain in its possession any document or other object containing (or relating to) Confidential Information.

22.13 Each Party acknowledges and accepts that Confidential Information is and remains the exclusive property of the Party disclosing it. Nothing in this Contract will be construed - unless expressly specified in writing - as granting any license to any patent, copyright, trade secret, trademark, or other intellectual property right created or acquired before, during and after the performance of the Contract.

22.14 Each Party represents and warrants to the other Party that in the performance of the Contract it does not violate any right relating to trade secrets of third parties.

#### **22.15 Cyber Security.**

22.15.1 The Contractor may access ENEL's IT systems only if authorized by ENEL. The Contractor is responsible for the activities carried out on ENEL systems using his own digital identity, to be safeguarded at all times. In carrying out these activities, the Contractor must comply with the following rules of conduct:

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

22.15.2 If, at any time during the term of validity of the Contract, the performance of the Contract requires or implies that the Contractor obtains access to and/or uses any application available in Enel's systems and/or Enel's IT infrastructure ("Enel System"), this clause will be applicable to the Contractor. At Enel's request, at any time and for any reason, the Contractor must accept and implement ENEL's two-factor authentication system (the "Multifactor Authentication System"), as a mandatory requirement for access and/or use of any Enel system. The Contractor, in order to use and implement the "Multifactor Authentication System", undertakes that: (i) a smartphone and a functioning SIM card are available (personal or mixed use); (ii) each smartphone used for the purposes of the "Multifactor Authentication System" must be associated exclusively with the personal identity of the employee, agent, Subcontractor, representative or other personnel of the Contractor who has access to and/or who will use the Enel Systems on behalf of the Contractor; and (iii) Contractor must meet all of the above requirements at its own risk, cost and expense. Enel does not assume any burden (financial or otherwise) for the supply of the smartphone and will not be liable towards the Contractor or third parties for any damages, claims or losses, direct or indirect, deriving from or related to the failure and/or malfunction or illegal use of any smartphone used for the "Multifactor Authentication System" by employees, agents, subcontractors, representatives, or other personnel of the Contractor.

### **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 (hereafter "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 and in accordance with the privacy notice available on the Global Procurement website and on the websites of the relevant Data Controller companies of Enel Group

#### **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<sup>5</sup> 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 If the Supplier is a Temporary Consortium of Companies (RTI)/Ordinary Consortium or a Stable Consortium, the companies belonging to the Temporary/Ordinary or Stable Consortium and the executing companies are all appointed as Data Processors. The agent company or the Consortium undertakes to transmit to the principal companies and to the executing companies the letters of appointment to the person in charge of the processing of personal data, which must reach ENEL, filled in and signed for acceptance by the principal companies and the executing companies. The agent company or the Consortium undertakes to inform the principal companies and the executing companies of the obligations of this Article.

23.3.3 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.

## 23.3.4 Duties and instructions

23.3.4.1 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;
- b) must declare to 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) will send to ENEL the self-declaration of the appointment of the Authorized Persons which process Personal Data as well as the relevant instructions. It will be the Contractor's responsibility to verify that the Sub Data Processors has also regularly provided his staff with instructions on the correct processing of personal data, appointing them as Authorized Persons. In addition, Supplier will provide the list of Authorized Persons who must be approved to operate directly or indirectly on ENEL's systems; It will be Supplier's responsibility to inform the Data Controller of the termination of the employment relationship or of the existing assignment no later than five days from the event, in order to allow the Data Controller to immediately revoke the IT authorizations issued by him (**Annex GDPR 2**);
- d) must take all the security measures referred to in art. 32 of the GDPR 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;
- e) must implement any other security measures that ENEL deems necessary to adopt, to prevent the violation of personal data;
- f) will provide all the information necessary for ENEL to guarantee and answer to Data Subjects' request of exercising their rights on personal data;
- g) 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;
- h) upon termination of the Contract, the Supplier must return and delete, by giving notice, all the personal data he 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;
- i) 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;
- j) ENEL reserves the right to carry out audits and inspections, including through a third party appointed by ENEL;
- k) 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;
- l) 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.

<sup>5</sup> For the purposes of this Agreement, the following profiles are considered "System Administrators", by way of example and not limited to: operating system administrator such as Unix, Linux and Windows, database administrators, network administrators, backup/recovery manager, administrators of complex system such as ERP systems

23.3.4.2 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.

23.3.4.3 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.

### **23.3.5 Compensation and Liability**

23.3.5.1 Pursuant to Article 82 of the GDPR, the Supplier will be fully 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.

23.3.5.2 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.

23.3.5.3 In the event of further damage suffered by ENEL as a result of the Supplier's behavior or one of its Sub- Processors, ENEL reserves the right to request further compensation that will be proportionate to the damages suffered.

### **23.3.6 Duration**

23.3.6.1 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. 23.3.4.1, lett. i.

### **23.3.7 Sub Data Processors**

23.3.7.1 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.

23.3.7.2 At the time of signing the Contract, the Sub-Processors communicated by the Supplier are considered authorized. 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 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 3**).

23.3.7.3 In the event that the Supplier, for proven and reasonable reasons, intends to modify such list of Sub-Processor provided in accordance with art. 23.3.7.2. shall, before entrusting the assignment to new Sub-Processors, request an authorization from ENEL as per the attached standard (**Annex GDPR 4**). The same Annex GDPR 4 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.

## **24 SUPPLIER PERFORMANCE MANAGEMENT.**

24.1 Contractor acknowledges that ENEL monitors and assess the performance of Contractors in relation to the scope of the Contract through a dedicated supplier performance management ("SPM") process, also considering the specified level of service KPI in the Contract with particular focus on

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

24.2 On ENEL shall assign a score to the Contractor. In the case of a positive score, the Contractor may have access to the supplier development initiatives of the ENEL Group, regulated by the Regulations on incentive of the Supplier Performance Management, available at: <https://globalprocurement.enel.com/it/diventa-fornitore/valutazione-performance>.

## **25 VALUE ENGINEERING AND GAIN SHARING.**

25.1 The Contractor and ENEL may identify new opportunities for the development of the activities under the Contract and/or for the economic optimization and improvement of the Scope of Contract (the so-called "Value Engineering").

25.2 The Value Engineering proposals shall include:

- a) the 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 each Party;
- c) the estimated costs to be incurred by each Party;
- d) the proposal for the allocation between the Parties of the Gain Sharing as economic value of the Value Engineering;
- e) any other impact on the provisions of the Contract.

25.3 ENEL undertakes to examine in good faith respond to and, if applicable, approve the Value Engineering proposals within fifteen (15) days from their receipt.

25.4 If a Value Engineering proposal is approved, the Contractor shall timely develop a specific implementation plan of the approved proposal, that, if shared, shall be submitted by ENEL to the Contractor, in accordance with art. 7.10 of the GC.

## **26 GOVERNANCE.**

### **26.1 Contract governance structure.**

26.1.1 Notwithstanding the provisions of art. 6 of Law No. 120 of September 11th, 2020, as amended, on technical advisory committees, if required by the Contract, the Parties may set up a committee (the so-called "Review Group") to supervise the performance of the Scope of Contract and the Contract accepts to possibly join the Review Group between Enel and another Contractor if necessary and useful for the implementation of the project. The Review Group is made up of an equal number of representatives of the Parties in which the representatives of other Contractors working on the same Project may also participate, to an equal extent. It's the representatives of the Review Group may change depending on the project depending on the skills, from time to time necessary, without prejudice to the obligation of all third parties to sign and comply with the confidentiality obligations.

26.1.2 The Review Group is chaired by a representative of ENEL which, in accordance with the Contract, will establish the operating procedures.

### **26.2 Decision-making process.**

26.2.1 All the decisions of the Review Group shall be kept unanimous. If the Review Group fails to reach an agreement, this matter shall be referred to the representatives of ENEL and the Contractor specified for this purpose in the Contract.

### **26.3 Responsibility.**

26.3.1 The Review Groups' responsibilities include:

- a) support and facilitate ongoing cooperation and communication between the Parties and the other participants to the Group ;
- b) supervise and coordinate the transfer of information;
- c) periodically evaluate the performance of the Contract;
- d) discuss in good faith all potential improvements that may be implemented during the performance phase also in consideration of the project to which the Contract is related.

26.3.2 Any expenses for attending the meetings shall be borne by each Party.

## **27 KPI (KEY PERFORMANCE INDICATOR).**

27.1 The Contractor shall perform the Contract satisfying the service levels (KPI) specified in the Contract and defined in accordance with the features and conditions objectively measurable in the performance of the works or services.

## **28 GLOBAL COMPACT.**

28.1 Each of the Parties acknowledges the content of the so-called "Ten Principles" of the 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, labor, 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 shall ensure that all the activities carried out, either directly or by its Subcontractors, Subsuppliers, other third parties appointed by the Contractor and its entire supply chain, comply with the following principles of the Global Compact:

### **a) HUMAN RIGHTS.**

- One: Businesses must support and respect the protection of internationally recognized human rights in conducting their business activities.
- Two: Businesses must ensure that they do not take part, either directly or indirectly, in human rights violations.

### **b) LABOR.**

- Three: Businesses must uphold the freedom of association and the effective recognition of the right to collective bargaining.
- Four: Businesses must uphold the elimination of all forms of forced and compulsory labor.
- Five: Businesses must uphold the effective abolition of child labor.
- Six: Businesses must uphold the elimination of discriminatory practices in employment and education.

### **c) ENVIRONMENT.**

- Seven: Businesses must conduct their affairs in a preventive manner to avoid potential damage to the environment.
- Eight: Businesses must undertake initiatives to promote greater environmental responsibility.
- Nine: Businesses must encourage the development and diffusion of environmentally friendly technologies.

### **d) ANTI-CORRUPTION.**

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

28.3 The Contractor undertakes to inform ENEL of any situation which, to the best of its knowledge, after due inquiry, including situations related to its Subcontractors, Subsuppliers, third parties appointed by the Contractor and its entire supply chain, may result into a failure to fulfill these principles, as well as the plan to remedy these situations.

28.4 Throughout the Duration of the Contract, the Contractor undertakes to allow ENEL to verify the degree of compliance with the requirements set out in this clause, by carrying out inspections, audits and/or requests for documents. In such cases, the Contractor shall grant ENEL access to its facilities and duly provide the requested documents, and the Contractor shall employ its best efforts to ensure that its Subcontractors, Subsuppliers, third parties appointed by the Contractor and its entire supply chain do the same.

## **29 CODE OF ETHICS.**

### **29.1 General details.**

29.1.1 The ENEL Group in the conduct of its business and in the management of its relationships refers to the principles laid down in its Code of Ethics, the Zero Tolerance Plan Against Corruption (ZTC), the Organizational Model pursuant to Legislative Decree No. 231/2001 and the Human Rights Policy.

29.1.2 The Contractor acknowledges the commitments undertaken by ENEL in the documents specified above, and undertakes to refer, and to ensure that all of its Subcontractors, Subsuppliers, third parties appointed by the Contractor and its entire supply chain refer, to principles similar to those adopted by ENEL under art. 29.1.1, in the conduct of their business and in the management of the relationship with third parties.

29.1.3 The Contractor undertakes to comply with the principles of the International Labor Organization conventions, as well as with the legal regulations on: the protection of child and women labor; equal treatment; the prohibition of discrimination, abuse and harassment; freedom of association and representation; forced labor; environmental safety and protection; health and hygiene conditions. Furthermore, the Contractor shall ensure that all of its Subcontractors, Subsuppliers, third parties appointed by the Contractor and its entire supply chain comply with the same.

29.1.4 Furthermore, the Contractor shall comply, and ensure that its Subcontractors, Subsuppliers, third parties appointed by the Contractor and its entire supply chain comply, with the applicable laws on salaries, social security contributions, insurances, taxes, in relation to all the workers employed for the performance of the Contract. In the case of any conflict between the International Labor Organization conventions and the applicable Law, the most restrictive rules shall apply.

29.1.5 Each of the Parties undertakes to prevent any form of corruption. Therefore, ENEL forbids, and the Contractor undertakes to refrain from using, any promise, offer or request for unlawful payments, in cash or other benefits, with the aim of taking an advantage of the relations with the interested parties. This prohibition shall apply also to its employees, directors and officers, and the Contractor shall ensure that all of its Subcontractors, Subsuppliers, third parties appointed by the Contractor and its entire supply chain comply with the same.

29.1.6 ENEL reserves the right to carry out any control and monitoring activity (e.g., inspections, audits and/or requests for documentation) to verify the fulfillment of the obligations specified above, both by the Contractor and by any of its Subcontractors, Subsuppliers, third parties appointed by the Contractor and its supply chain. In such cases, the Contractor shall grant ENEL access to its premises and duly provide the requested documents, and the Contractor shall employ its best efforts to ensure that its Subcontractors, Subsuppliers, Third Parties appointed by the Contractor and its entire supply chain do the same.

### **29.2 Conflict of interests.**

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 Throughout the term of the Contract, the Contractor undertakes to adopt a suitable conduct in order to avoid potential conflicts of interests. If any situation is considered as liable to create a conflict of interests - notwithstanding ENEL's right to terminate the Contract - the Contractor undertakes to promptly inform ENEL in writing and to follow its reasonable instructions, which shall be given after consultation and assessment of the requirements pointed out by the Contractor.

### **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 shall determine the suspension of works 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 environmental protection. Such commitment is further detailed in the "Declaration of Commitment to Health and Safety", the "Stop Work Policy" and the "Environmental Policy", available at the following addresses:

<https://globalprocurement.enel.com/it/documenti> , under the section "Other useful documents" and

<https://globalprocurement.enel.com/it/documenti/documenti-salute-e-sicurezza> and

<https://corporate.enel.it/it/azienda/politica-ambientale-enel> .

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

### **29.4 Integrity Clause.**

a) The Contractor<sup>6</sup> declares:

- that the Contractor is not subject to any criminal proceedings in relation to tax crimes, crimes against the public administration and its assets, crimes against property, crimes against the personal freedom or the public order, environmental crimes, organized crime offenses, corporate crimes, crimes related to terrorism of subversion of democracy, occupational health and safety offenses, crimes related to personal data, computer crimes;
- That, to the best of its knowledge, the Contractor is not subject to any criminal investigation in respect of any matter, fact, or unlawful conduct constituting tax crimes, crimes against the public administration, crimes against property, crimes against the personal freedom or the public order, environmental crimes;

<sup>6</sup> The Legal Representative of the Company **in his/her own right and on behalf of** (a) the owner and the technical director, in the case of individual companies; (b) the partners and the technical director, in the case of business partnerships; (c) the general partners and the technical director, in the case of limited companies; (d) the managers holding powers of representation, the technical director and the single member (natural person), or the majority shareholder in the case of companies with less than four members, in the case of other type of company or consortium, **of the Company where they perform their office and**, where applicable, **on behalf of the Parent Company and** of the (e) owner and the technical director, in the case of individual companies; (f) the partners and the technical director, in the case of business partnerships; (g) the general partners and the technical director, in the case of limited companies; (h) the managers holding powers of representation, the technical director and the single member (natural person), or the majority shareholder in the case of companies with less than four members, in the case of other type of company or consortium, **of the Parent Company**.

- to acknowledge and agree that - for the purposes of assessing the professional conduct of the Contractor, pursuant to the second and third point of this letter a) - ENEL may independently collect additional information, considering the necessary existence of duties of loyalty for the Contractor.

b) The Contractor undertakes to promptly inform and to provide all the relevant documents to ENEL:

- 1) if the Contractor becomes aware of the opening of any criminal proceedings, referred to in the first paragraph of letter a) above;
- 2) if the Contractor is involved in criminal investigations, as referred to in the second point of letter a) above.

ENEL may take into account the aforementioned information, in order to assess the professional conduct of the Contractor.

#### **29.5 Statement on special part "D" crimes against the individual**

29.5.1 With reference to the crimes referred to in arts. 25-quinquies, 25-duodecies and 25-terdecies of Legislative Decree No. 231/2001, which are relevant for Enel's Organizational Model, the Contractor declares to have not been investigated in the last 5 years in proceedings relating to the aforementioned crimes.

#### **29.6 International sanctions**

29.6.1 Each Party represents and warrants to the other Party that, to the best of its knowledge, after due inquiry, at the execution date of the Contract, neither such Party nor any of its directors, members of its governing body, shareholders owning at least a 5% interest in the Party's company or in any company of which such Party owns at least 50 % or is otherwise controlled by such Party, or is under common control by the same parent company, are (i) subject to Sanctions, or (ii) involved in any activity, or have been previously involved in any activity, which may expose them to Sanctions. For the purposes of this section, the term "Sanctions" refers to all the applicable economic or financial sanctions or trade embargos imposed or enforced in accordance with the laws, regulations, executive orders, restrictive measures or other related rules publicly issued or notified by: (i) the United Nations; (ii) the European Union; (iii) the United States government, including those established by the U.S. Department of the Treasury's Office of Foreign Assets Control; (iv) the UK Her Majesty's Treasury.

29.6.2 Each Party shall fully comply with all the legal requirements related to Sanctions with regard to the performance of the Contract.

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

29.6.4 Furthermore, the Contractor represents that, to the best of its knowledge, after due inquiry, its Subcontractors, Subsuppliers, third parties engaged by the Contractor and its entire supply chain, are not subject to any Sanctions and the Contractor shall promptly notify in writing to Enel, in accordance with clause 6 "COMMUNICATIONS" of these General Conditions, any circumstance in its knowledge concerning the application of any Sanctions throughout the Duration of the Contract against its Subcontractors and/or Subsuppliers.

### **30 GOVERNING LAW.**

Except as otherwise agreed in the Contract, the Contract shall be regulated by the Italian law.

### **31 JURISDICTION.**

Any dispute between the Parties in relation to the interpretation or performance of this Contract shall be submitted to the jurisdiction of the courts of Rome, except as otherwise agreed in the Contract.