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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 common control with another legal entity; such legal entity shall be considered an Affiliate as long as Control exists. The term "Control" means, in relation to any legal entity, the direct or indirect power to direct or cause the direction of the management and/or policies of such legal entity, whether (i) through the ownership of voting shares which entitle to elect or appoint, directly or indirectly, the majority of the members of the board of directors or other decision-making body, (ii) by contract or (iii) otherwise.
- **Completion Term**: period by which the Contractor undertakes to complete the Scope of Contract.
- **Duration**: period of validity of the Contract set forth in the Order Letter.
- **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 Date**: date when the Warranty Period ends contextually to the Final Acceptance.
- **Test**: technical assessment of materials, equipment, works and services, aimed at verifying suitability for their intended use, compliance with the legal regulations and the requirements set out in the Technical Specifications.
- **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 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
- **Contractor**: any natural or legal person (even grouped) entering into a Contract for the performance of works, services and/or supplies.
- **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.
- **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.

- **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.
- **ENEL Global Procurement Portal:** ENEL Portal accessible by Contractors to operate with ENEL on-line.
- **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.
- **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.
- **Contract:** set of documents, as specified below, regulating contractual terms and conditions for the acquisition of materials or equipment and/or the performance of specific works or services:
  1. **Order Letter ("Lettera d'Ordine"):** means the document that specifies the name and the personal data of the Parties, as well as the scope and the term of the Contract, that sets out the economic, administrative and regulatory conditions, and that lists and makes reference to any contractual document constituting the Contract.
  2. **Particular conditions:** document providing the specific terms and conditions regulating a Contract.
  3. **Technical-economic documents:**
    - **Technical Specification:** document specifying the technical requirements of the Contract.
    - **Consideration or Price List:** document that provides the consideration to be paid for the specific services performed by the Contractor, which may be grouped by category.
    - **Any additional document:** other documents relating to a specific Contract (e.g., description of works and interventions, project descriptive diagrams and prints, schedules and deadlines, etc.)
  4. **HSE Terms or HSE Essential Terms** (hereinafter "**HSE Terms**"): documents governing the health, safety and environmental obligations of the Parties under the Contract. The HSE Terms are available on ENEL Global Procurement Portal.
  5. **General Conditions Italy:** this document.
- **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.

## 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. **Technical-economic documents** (Technical Specifications, Consideration or Price List, any additional document);
4. **HSE Terms;**
5. **General Conditions Italy.**

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 In the event that the Contract provides for a different order, art. 1.3 of the GC shall apply.

5.4 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, unless approved in writing, in accordance with art. 1.3 of GC.

5.5 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.

5.6 The Contract shall be governed by the applicable Law. For contracts falling within the scope of Italian Legislative Decree No. 50/2016, as amended (hereinafter also referred to as the "Public Procurement Code"), the Contract shall be also regulated by the provisions of the Public Procurement Code, even if not expressly recalled.

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

## **6 COMMUNICATIONS.**

6.1 The Parties shall communicate in writing and in accordance with the terms set forth in the Order Letter (hereinafter "Communication"). The Parties undertake to promptly notify any change of their addresses, failing that, the communications sent to the addresses originally specified in the Contract shall be considered effective.

6.2 The Parties may use electronic means for communications, provided that they allow their proper tracking.

6.3 The Contractor undertakes to comply with and promptly give effect to all the Communications received from ENEL, without further formalities.

## **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 The prices for works and interventions required for the proper performance of the contractual services are specified in the consideration or price list.

7.1.4 If the Contractor, on its own initiative and without ENEL's written 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 review of the Price shall be calculated according to the Contract; if calculated by the Contractor, ENEL shall be entitled to verify such modification.

7.2.3 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.

7.2.4 The amount resulting from the modification of Prices shall not be considered for the determination or achievement of the total amount of the Contract.

7.2.5 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).

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 Annex 1 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. The Contractor shall include these codes in the invoice. If ENEL provided the CUP and/or CUG, but such codes are not included in the invoice, according to the terms specified in Annex 1 of the General Conditions, ENEL cannot pay the invoice.

#### **7.4 Payments**

7.4.1 If the payment date, as described above, falls on Monday or Tuesday, the payment shall be postponed to Wednesday, if it is a working day; otherwise, the payment date shall not be modified. 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 specified below:

- a) For the first half of the year to which the delay refers to, the legal interest rates for late payment effective as of January 1<sup>st</sup> of the relevant year shall apply;
- b) For the second half of the year to which the delay refers to, the legal interest rates for late payment effective as of July 1<sup>st</sup> of the relevant year shall apply;

7.4.2 For the application of the interest rates specified in point a) and b) reference shall be made to the interest rate published in the Official Journal of the Italian Republic, by the Ministry of Economy and Finance, on the fifth working day of each calendar semester. 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 If the Contractor proves to have incurred in costs for the collection of receivables, a lump sum of Euros 40 (forty) as compensation for damages shall be payable to the Contractor, with no need to issue of a formal notice of default. This shall not prejudice the right to prove greater damages, which may include the costs suffered to recover the receivables.

7.4.4 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.

7.4.5 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 The Contractor undertakes to issue invoices including all the information required by the Contract and the Law, and only after proper completion of the activities specified therein, subject to ENEL's authorization.

7.6.2 Invoice shall be issued as follows:

A. Using ENEL's Global Procurement Portal:

After receiving the invoicing authorization from ENEL, and in accordance with the contractual provisions, the Contractor shall send the invoice with all the information required by the Law, through an electronic system (e.g., EDI) ensuring the authenticity and integrity of the information included in the invoice.

Pursuant to the regulations on electronic invoicing, the Contractor may send to ENEL the invoices issued in an electronic format. This would ensure the integrity of the data and the unambiguous attribution of the document to the issuer.

B. Without using electronic systems:

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 invoice shall specify the quantities supplied and/or the services provided for an amount corresponding to the invoiced amount), 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 In 2020, ENEL has joined the new optional "VAT Group" fiscal system (art. 70-ter of Pr. Decree n. 633 of 1972). This system provides for the establishment of a single and autonomous VAT taxable entity with a single VAT number for all the member companies. The establishment of the ENEL VAT Group is effective from January 1<sup>st</sup>, 2021. The list of ENEL companies 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>". The application of such system by ENEL Italian companies implies the non-application of the VAT Split Payment System from January 1<sup>st</sup>, 2021. In addition to the Group VAT number, which is the same for all the ENEL Group companies, the invoice shall also specify the tax code of the ENEL customer Company.

7.7.1.2 Except for letter "B" of art. 7.6.2 of GC, the amounts shall be invoiced by the Contractor in accordance with the terms and requirements set out in the Contract.

7.7.1.3 In particular, as an exception to the provisions of letter "B" of art. 7.6.2 of GC, the submission of the invoices may be made through ENEL's electronic systems (the Procurement Portal where ENEL operates as an intermediary for the E-Invoice Interchange System). The use of the ENEL Portal for the submission of the invoices digitalizes the document management process for the administrative department of ENEL, ensuring the fulfillment of the payment terms.

7.7.1.4 Furthermore, according to the technical specifications under Annex A of the Resolution of the Revenue Agency Director of April 30<sup>th</sup>, 2018, an intermediary is any third party, appointed by the contractor/supplier to submit on its behalf the electronic invoices through the Interchange System (SDI, Sistema di Interscambio).

7.7.1.5 Thus, ENEL operates free of charge as an intermediary for the SDI exclusively and limited to 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.

7.7.1.6 ENEL undertakes to submit all the invoices received to the SDI by virtue of its intermediary role assigned by the Contractor, separating this activity from the role of controller of the services or supplies received, generally played by the customer/recipient. 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.

7.7.1.7 ENEL does not carry out activities to the SDI other than those of intermediary (including issuer in the name and on behalf of the invoice provider pursuant to art. 21 of the VAT Presidential Decree, or the intermediary specified in art. 3 par. 3 of the Decree of the President of the Republic no. 322 of July 22<sup>nd</sup>, 1998 - such as labor consultant, accountant, tax advisor, bookkeeper - representing the only subject which may be delegated to view and process the e-invoices or their electronic copies available in the reserved area of the Revenue Agency website).

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

7.7.1.9 Invoice shall be valid, and ENEL may accept it, only if the invoice specifies all the data required by the Contract and by the applicable regulations, provided that the contractual activity has been properly performed. Invoices shall specify all the information provided for by the applicable tax regulations. In particular, the Budget Law 2018 (Law no. 205 of December 27<sup>th</sup>, 2017) imposes the obligation to issue the e-invoice between private parties from January 1<sup>st</sup>, 2019. Invoices shall be issued according to the technical specifications approved by the Resolution of the Revenue Agency Director of April 30<sup>th</sup>, 2018 and shall be sent through the SDI (Interchange System), except for the exempted small/flat/agrarian taxpayers and for the transactions with subjects established outside the country. Annex 1 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.

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

7.7.1.11 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 referred to in art. 7.11 of GC. Any invoices sent by each principal company to ENEL shall be accompanied by the approval of the agent company.

7.7.1.12 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 piecemaker 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 piecemaker, specifying the relevant guarantee withholding applied.

7.7.1.13 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.

7.7.1.14 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 Contractor undertakes to notify its general bank and tax details to ENEL, as well as to promptly inform ENEL of any change to its general bank or tax details (such as: VAT Number, address, business name, etc.) and any change to its ownership/corporate structure, without prejudice to ENEL's right to suspend the payment of any invoice issued with outdated data.

7.8.2 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, expressly reserving the right to enforce them, without prejudice to any payment made.

7.8.3 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. The new payment terms and conditions agreed shall prevail.

7.9.2 ENEL shall pay to the Contractor a deferral charge, 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.

7.9.3 Deferral charges, determined as above, shall be paid by ENEL together with the amount of the relevant deferred invoice. It is understood that in the event of a delayed payment in respect of the agreed deferred due date, ENEL shall pay the default interests set out in art. 7.4.1 of the GC.

## **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. If the Contract does not provide any specific price for such services or works, these shall be determined by analogy with the contractual prices set out for similar services or works or, if this is not possible, analytically on the basis of the basic cost of labor, rentals and materials, etc.

7.10.3 The Parties shall agree in writing the new prices. 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.

7.10.4 The Contractor undertakes to deliver the required technical and economic documents, prepared in the same way as those submitted during the tender procedure for the purposes of awarding the Contract, in order to allow ENEL to identify the consistency of the new/different services or works and the related costs.

## **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 13<sup>th</sup>, 2010 (Traceability of financial flows), as amended by Law Decree no. 187 of November 12<sup>th</sup>, 2010, converted by Law no. 217 of December 17<sup>th</sup>, 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 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 sub-supplier or subcontractor shall notify, through the Contractor, to the Contract manager the data specified above.

7.11.6 If the Contractor, the sub-supplier 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 sub-suppliers 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 In the case of a breach by the Contractor of any of the obligations provided for by art. 3 of Law no. 136 of August 13<sup>th</sup>, 2010, or by this article, the Contract shall be legally terminated with immediate effect, pursuant to art. 1456 of cc.

7.11.9 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. 7.2.5 of GC.

## **8 TAXES.**

8.1 The Parties mutually undertake to perform any obligation, handle any administrative formality and deliver any document required to settle the payment of taxes, including withholdings and other legal obligations applicable to the Contractor, in compliance with the procedures set out by the Law. Likewise, the Parties undertake to cooperate in order to obtain any exemptions or other tax benefits applicable to the Contract. If, due to a lack of diligence or any other cause imputable to the Contractor, ENEL loses its entitlement to a tax benefit, ENEL may deduct the amount of such tax benefit from the amount due to the Contractor.

8.2 Should any treaty between the Contractor's country of residence and Italy be in force for the avoidance of double taxation, and the Contractor claims the application of the provisions of such treaty, the Contractor shall provide its certificate of tax residence (or any other certificate/statement required for the application of the treaty against double taxation) to ENEL. In order to assess the nature of the income according to the treaty against double taxation, the Contractor shall consider the current interpretation in Italy.

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

8.3 If ENEL applies any deduction to the payments due to the Contractor, and upon the Contractor's request, ENEL shall issue a document certifying the deductions applied and, in particular, the amounts paid and the amounts withheld.

8.4 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.

8.5 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.

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

### **8.6.1 Fiscal representation.**

8.6.1.1 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.

8.6.1.2 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.

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

### **8.6.2 Technical representation.**

8.6.2.1 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.

### **8.6.3 Other Provisions.**

8.6.3.1 In the case of any delay in the notification to ENEL of the fiscal or technical representative, with regard to the deadlines specified above, ENEL reserves the right to terminate the Contract pursuant to art.1456 of cc.

## **9 PERFORMANCE.**

### **9.1 Introduction.**

9.1.1 The Order Letter sets out the terms for the performance of the Contract. The Contractor shall comply 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 ENEL undertakes to provide, upon the Contractor's request, all the information required for the performance of the activities under the Contract. Should such information be insufficient or incomplete, the Contractor undertakes to point out any missing information without delay, so that ENEL may promptly provide it.

9.1.3 The Contractor, before starting the activities, shall appoint one or more representatives, who shall remain in office throughout the duration of the Contract. The Contractor's representatives 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.

9.1.4 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.

9.1.5 ENEL shall be entitled to verify Contractor's timely and proper performance of all the contractual obligations and activities, in compliance with the terms and conditions set out in the Contract.

9.1.6 If, as a result of these verifications and inspections, ENEL challenges the proper performance of the Contract, including due to errors or inaccuracies, 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 Pursuant to art. 9.1.5 of these GC, ENEL's personnel and/or the personnel of third parties authorized by ENEL, may physically or remotely 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. The Contractor may attend the inspections carried out by ENEL or authorized third parties and, upon request, the Contractor shall be entitled to be informed, even orally, on the results of such inspections.

9.2.2 During its accesses, either on-site or remote, ENEL's personnel and/or the personnel of authorized third parties shall comply with the access rules and limitations set out by the Contractor on intellectual property and/or confidential information, if expressly classified as such in the Contract, if the access rules do not make the proper and accurate performance of the inspections, tests and/or checks by ENEL impossible or excessively difficult.

9.2.3 As regards remote access inspections, the Contractor and its Subcontractors shall make available a connection system (e.g., video conference, smart glasses, web cam, etc.) enabling the video streaming of the inspections/tests, as well as the documents review and the interaction among local and remote attendees. The Parties acknowledge that 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.

9.2.4 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 deemed necessary. 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.

9.2.5 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.

9.2.6 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.

9.2.7 The Contractor may not invoke the duration and the conditions under which the inspections, Tests and trials shall be carried out as a reason or justification for deferring the delivery date set forth in the Contract, unless the delay in their performance is solely due to ENEL and such delay is not grounded on the provisions of the Contract.

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

9.3.1 Notwithstanding ENEL's right to carry out inspections, except as otherwise set forth in the Contract, the Contractor shall carry out, at its own expenses, all the agreed Tests and inspections provided by the Law. The Contractor shall notify in writing to ENEL (i) the date of performance of such checks with a prior notice of at least fifteen (15) days, 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 Where provided for by the Contract, before the start of manufacturing, the Contractor undertakes to provide ENEL with the type certificates of the components in compliance with the technical specifications, or, if they are not available, a detailed schedule of the activities aimed at obtaining them. However, the type certificates of the components shall be provided within the delivery of the components. 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, or in case ENEL does not provide any indications to the contrary within ten (10) days after the Contractor has notified the performance of the inspections and Tests.

### **9.4 Delivery and Acceptance.**

9.4.1 Deliveries, including partial, shall be made in accordance with the terms set out in the Contract. If the Contract does not specify any term for deliveries, these shall be made within the Completion Term, which shall run from the Execution Date. Under no circumstances, including in the case of disputes between the Parties, the Contractor may defer the terms set forth in the Contract, except as specified below.

9.4.2 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. As regards supplies, except as otherwise provided for by the Contract, the Contractor may invoice the supply after registration of materials on consignment, sending a specific notification.

9.4.3 Contractor may anticipate the contractual delivery terms, or the Completion Date only with ENEL's express consent, although such anticipation does not entitle an advance payment, in full or in part, of the Price.

9.4.4 The Contractor shall duly notify to ENEL the effective, partial or full, delivery date of the Scope of Contract and request the Provisional Acceptance, or shall notify any circumstances which caused or may cause a delay in such deadlines, to be subsequently confirmed by specific notification to ENEL. The Contractor undertakes to remedy at its own expenses and responsibility to any delay in the contractual deadlines, even if such delay is justified.

9.4.5 ENEL shall inform the Contractor of the Provisional Acceptance Date within thirty (30) days from the receipt of the notification referred to in art. 9.4.4 of the GC. On the Provisional Acceptance Date, ENEL shall meet the Contractor's Representative in order to carry out the activities referred to in art. 9.5 of the GC ("Provisional Acceptance Meeting").

9.4.6 The Contractor may request the Final Acceptance only upon expiry of the Warranty Period. ENEL shall notify to the Contractor the Final Acceptance Date within thirty (30) days from the relevant request. Upon Final Acceptance Date, ENEL and the Contractor's representative shall meet to formalize the Final Acceptance ("Final Acceptance Meeting").

### **9.5 Materials and equipment.**

9.5.1 Except as otherwise agreed in the Contract, 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. Where required, the Contractor shall obtain from the competent authorities

any transit permits, licenses, authorizations, including customs authorizations, or police protection in order to transport the materials and the Contractor shall bear all costs related thereto or connected therewith (e.g., transit deviations, bridge buttresses, signs, etc.).

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.

9.5.7 Failure by the Contractor to fulfill these obligations shall entitle ENEL to terminate the Contract pursuant to art. 1456 of cc.

#### **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 specific inspections to examine the deliveries.

9.6.2 The absence of the Contractor's representatives shall not affect the acceptance of the Provisional Acceptance Certificate.

9.6.3 The specific inspections referred to in art. 9.6.1 of the GC may be carried out either on the same date of the Provisional Acceptance Certificate or thereafter; in the latter case, ENEL shall call another Provisional Acceptance Meeting. After completion of inspections, the results shall be included in the Provisional Acceptance Certificate, signed by both of the Parties.

9.6.4 If the specific inspections referred to in art. 9.6.1 are unsuccessful, ENEL may terminate the Contract or point out in the Provisional Acceptance Certificate the defects identified, requesting to the Contractor to remedy such defects 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.

9.6.5 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.

9.6.6 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. The absence of the Contractor's representatives shall not affect the acceptance of the Final Acceptance Certificate.

#### **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.

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 ENEL shall request the Contractor to implement the amendments in accordance with art. 6 of the GC.

9.7.4 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.

9.7.5 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.

9.7.6 The Contractor failing to submit the request referred to in art. 9.7.4. of the GC, shall perform the contractual activities exceeding the percentages specified in the Contract under the conditions originally agreed.

9.7.7 As regards contracts falling within the scope of the Public Procurement Code, if the Contract amendments 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. In such a case, the Contractor may not enforce the right to terminate the Contract.

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

9.8.1 Changes in the executive project relating to activities remunerated on a lump sum basis, expressly and exclusively requested by ENEL, 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. The Services on completion shall be listed in special daily lists, specifying in detail: the work performed; the qualifications; the quantities of materials supplied and the effective working time of workers, machineries, equipment and means.

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 and in accordance with the provisions of art. 9.4.1. of the GC.

9.10.1.2 ENEL shall take possession of the materials and equipment, or part thereof, as soon as they are incorporated into the works or placed into an ENEL's installation and the Contractor authorizes their use. Therefore, 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.

9.10.1.3 ENEL shall be entitled to refuse or limit the possession of materials and/or equipment, on justified grounds.

**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 ENEL may entrust the Contractor with the performance of services or works requiring the use of materials, monitoring and/or measurement tools and equipment provided, in full or in part, by ENEL, in accordance with the provisions of the Contract.

9.13.2 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 return them to ENEL within the terms specified in the Contract.

9.13.3 The Contractor undertakes to check, in accordance with the terms and conditions set out in the contractual documents, that the quantities, consistencies and the condition of materials and equipment meet the requirements of such documents.

9.13.4 Should ENEL entrust its materials and equipment required for the performance of the services or works under the Contract to the Contractor, ENEL may specify the applicable terms and conditions (e.g., free of charge loan for use). If the entrusting is not free of charge, ENEL shall specify the fees and the payment conditions.

9.13.5 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.

9.13.6 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.

9.13.7 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. Under no circumstances ENEL's refusal of the materials and equipment shall entitle the Contractor to a suspension or extension of the terms for the completion of the contractual services or works.

9.13.8 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 and well-maintained sites in order to ensure their accurate identification and preservation.

9.13.9 Any materials and equipment owned by ENEL and entrusted, at any title, to the Contractor, shall be returned to ENEL within the terms established in the Contract.

9.13.10 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 ENEL shall be entitled to check and verify the proper performance, by the Contractor, of all the contractual obligations and of any other instruction given by ENEL during the performance of the Contract.

9.14.2 The Contractor shall be entitled to raise objections against ENEL's assessments resulting from the checks and inspections referred to in art. 9.14.1, by a notification sent in accordance with the terms of art. 6 of the GC, within ten days from their receipt. If the Contractor does not raise any objection, ENEL's assessment shall be considered as fully accepted and 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.

9.14.3 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.

9.14.4 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, otherwise the reservation shall be considered void.

9.15.2 In such accounting document, the Contractor shall also reaffirm the reservations made, otherwise they shall be considered void.

9.15.3 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.

9.15.4 The Contractor shall explain its reservations informing ENEL, within fifteen days from the signature subject to verification of the accounting document, of the reasons determining such reservations and the detailed specifications of any compensation the Contractor intends to claim.

9.15.5 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.

9.15.6 Upon signature of the last update of the accounting document, 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.

9.15.7 If the Contractor signs the last update of the accounting document 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.

9.15.8 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.

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

#### **9.16 Difficulty of performance.**

9.16.1 The Parties agree that, if during the performance of the Contract any documented and unpredictable difficulties occur, due to extraordinary water or geological causes, such as to make the performance of the Contract substantially more burdensome, the Contractor shall immediately notify in detail the occurrence of such difficulties to ENEL, to enable ENEL to carry out any applicable inspection.

9.16.2 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 in accordance with art. 16.2.3 of the GC.

9.16.3 If 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.

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

9.17.1 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.

9.17.2 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.

9.17.3 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.

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

#### **9.18 Site organization and management**

##### **9.18.1 Knowledge of environmental conditions.**

9.18.2 After the inspection specified in art. 9.17.2 of the GC 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.

##### **9.18.3 Special obligations.**

9.18.3.1 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, without limitation, for:

- production, transformation and transmission of electricity, including electric cables and live machinery of all kinds;
- pressurized transport and distribution of gas (methane, LPG or other types), either liquefied or not;
- transport and distribution of pressurized and/or open channel water;
- data telecommunication and transmission via cable and/or optic fiber;
- plants, networks and equipment under construction and/or in operation of any other type;

including where their presence should be verified during progress of works.



**9.18.4 Custody.**

9.18.4.1 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.

9.18.4.2 Should the Contractor deem necessary to safeguard sites, warehouses and work areas by means of a guard service, the Contractor shall comply with the requirements set out by the Law.

**9.18.5 Discipline at work sites and areas.**

9.18.5.1 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.

9.18.5.2 The Contractor shall be liable in any case towards ENEL and any third parties for actions or omissions of the personnel involved in the works.

**9.18.6 Placing of worksites.**

9.18.7 In placing the worksites, the Contractor shall duly take into account, in addition to the nature of the works, also all the elements arising from environmental conditions.

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

9.18.9 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.

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

9.18.10.1 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.

9.18.10.2 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.

9.18.10.3 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.

9.18.10.4 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.

**9.18.11 Worksite signs.**

9.18.11.1 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.

**9.18.12 Transport, warehousing and storage.**

9.18.12.1 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.

9.18.12.2 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.

9.18.12.3 The entry and exit of the items supplied by ENEL from these depots and warehouses shall be regulated by the instructions provided by ENEL.

**9.18.13 Closure of worksites.**

9.18.13.1 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.

#### **9.19 Bonus**

9.19.1 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.

9.19.2 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.

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

#### **9.20 Records and audits.**

9.20.1 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.

9.20.2 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 Subcontracting shall be duly authorized by ENEL.

10.2 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, 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.

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

10.4 The Contractor shall promptly provide ENEL with the list of the potential Subcontractors and the schedule of their activation; such list and the relevant schedule 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.

10.5 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/parts of works or the services, supplies or parts of services or supplies 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.

10.6 The Contractor shall pay to Subcontractors the safety costs<sup>2</sup> related to the subcontracted activities<sup>3</sup>, 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.

10.7 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.

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

10.9 In relation to the subcontracting, the Contractor shall also provide:

#### **A) For contracts regulated by Legislative Decree 50/2016, as amended:**

- certified copy of the subcontract executed by the parties;

<sup>2</sup> Costs for the measures implemented to remove or (if not removable) mitigate the health and safety risks entailed by the different working activities interfering with each other.

<sup>3</sup> If provided for by the national laws.

- 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 set out in sect. 83 and 84 of the Procurement Code;
- 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;
- Subcontractor's self-certification confirming the regular fulfillment of the requirements on occupational hygiene and safety of its employees;
- Subcontractor's self-declaration, 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;
- Proof of proper registration with Enel's Portal, or proof of qualification if required in the Contract.

## **B) For contracts not regulated by Legislative Decree 50/2016, as amended:**

- 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 applicable regulations;
- 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;
- Any other documents required by the Contract.

10.10 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.

10.11 The Contractor shall apply the same Contract prices for the activities subcontracted with no more than 20% (twenty percent) markdown reduction, except for the relevant safety costs that shall be paid without any reduction. 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.

10.12 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.

10.13 In the event of a failure by the Contractor to perform the obligations set out in art. 10.2 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.

10.14 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.

10.15 The Contractor shall promptly replace any Subcontractor failing to fulfill the eligibility requirements set out in Legislative Decree 50/2016, as amended.

10.16 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.

10.17 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.

10.18 Failure to fulfill the obligations and requirements set out in art. 10 of the GC, shall entitle ENEL to terminate the Contract, pursuant to art. 1456 of cc.

## **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 (hereinafter the "Assignee") enrolled in the relevant Registers as per Legislative Decree no. 385 of September 1<sup>st</sup>, 1993, 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 may not assign the Contract, either in full or in part.

11.6 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.

11.7 Notwithstanding the provisions set out by the Law, Enel may assign the Contract and/or the rights and/or credits arising therefrom to any third party, notifying such assignment to the Contractor.

## **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 with ENEL and other third parties appointed by ENEL and use 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:

- o 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;
- o 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;
- o 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. 9.1.3 of the GC;
- o 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 notify ENEL of any event which interferes, or may interfere, in any way whatsoever with the performance of the Contract, in accordance with art. 9.4.4 of the GC;
- 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, as well as to terminate the Contract in accordance with art. 1456 of cc, without prejudice to ENEL's right to compensation for damages.

#### **12.7 Legality protocols and anti-mafia legislation.**

12.7.1 The Contract 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.

12.7.3 In particular, the Contractor and the Subcontractors, if any, undertake to:

- a) promptly report to the Law Enforcement Agencies 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) advise the competent Prefecture of any reports referred to in point a) and ensure the required support to the investigating bodies;
- c) comply with all the legal, statutory and contractual requirements on occupational health and safety (Legislative Decree no. 81/2008, as amended) and fulfill the contractual, insurance, tax and social security obligations towards the employees;
- d) 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;
- e) 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;
- f) 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;
- g) accept the termination of the Contract in the case of violation of the commitments undertaken pursuant to the points above, as well as in the event of false, failed or incomplete communication of data or changes for any reason concerning its own companies and/or any Subcontractors;
- h) accept ENEL's termination of the Contract pursuant to art. 1456 of cc and/or the Contractor's termination of any subcontract if, after the Prefecture's investigations, any interdiction information pursuant to the current legislation, or any attempt of mafia infiltration in the Contractor's company or in its Subcontractors, should emerge;
- i) pay a penalty as a compensation for damages - notwithstanding the right to claim further damages - in the case of interdiction anti-mafia information resulting in the termination of the Contract by ENEL (or by the Contractor, in the case of subcontract);
- l) in the event of termination of the Contract for the causes referred to in points above, expressly waive, also on behalf of its Subcontractors, any right to claims, including for compensation, as well as any other consideration, indemnification, reimbursement of expenses and loss of profits.



**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 shall prevent any situation that may give rise to conflicts of interest and therefore the Contractor shall take all necessary measures for their prevention and identification, and immediately inform ENEL of any conduct that may give rise to a conflict of interest.

13.4 The Contractor undertakes to indemnify and hold ENEL harmless from any liability and damage 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.

13.5 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. Failure by the Contractor to comply with this clause shall be regarded as a material breach and shall entitle ENEL to terminate the Contract pursuant to art. 1456 of cc.

**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 visible or hidden defects;
  - are suitable for their intended use, as specified in the Contract;
  - meet the required quality level;
  - are brand new or, within the limits expressly set out in the Contract, regenerated;
- 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 Except as otherwise provided for by the Contract, 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, even if such assignment is difficult.

14.4 The Contractor's warranty, during the Warranty Period, 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 or recommendations.

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, without prejudice to ENEL's right to use the materials refused until their replacement;
- 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;
- d) indemnify ENEL for any claim from third parties in relation to defective materials, equipment, services or works.

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 If the overall amount of the penalties applied exceeds 10 % of the Contract amount, ENEL shall be entitled to terminate the Contract.

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

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

15.5 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, notwithstanding ENEL's right to extend the suspension until the relevant cause preventing the resumption of the Contract performance is removed.

16.1.2 If suspension is due to causes attributable to the Contractor's default, the Contractor shall compensate ENEL for all the costs and expenses incurred as a result of suspension.

16.1.3 Pursuant to the provisions of the HSE Terms, any risk situations or unsafe behavior by the Contractor may result into the suspension of the performance of the Contract until proper health, safety and environmental conditions are restored.

16.1.4 The suspension shall be effective from and to the dates specified in the relevant notice referred to in art. 16.1.1. of the GC; from the date of suspension, 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.

16.1.5 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.

16.1.6 Except in the cases referred to in art. 16.1.2 and 17 of the GC, Enel undertakes to reimburse to the Contractor all the duly documented costs incurred by the Contractor as a result of suspension (including storage costs). 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 in compliance with the Law.

16.2.2.2 Furthermore, the Contractor may send Enel an application for withdrawal from the Contract, if the conditions and circumstances expressly set out in the Contract occur, subject to the restrictions and under the terms specified therein.

16.2.2.3 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.

16.2.2.4 All 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. Except as otherwise agreed, all the materials already supplied by the Contractor shall be accounted for at their cost price.

**16.2.3 Withdrawal for difficulty of performance.**

16.2.3.1 The Contractor may notify ENEL of its intention to withdraw from the Contract due to “difficulty of performance”, arising from geological, water or similar causes, not considered by the Parties, making the performance of the Contract substantially more burdensome.

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.

**16.2.4 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. 28 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 requirements and obligations set forth by the applicable law;
- h) the Contractor fails to comply with the legal and contractual obligations on intellectual property, confidentiality and personal data processing;
- i) ENEL ascertains, at any time, during the term of the Contract, any omission or 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;
- j) the Contractor no longer meets any of the type-approval requirements (if applicable);
- k) 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.

16.3.2 In the cases listed above, 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 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.

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.

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

17.3 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 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 Joint and several liability<sup>4</sup>.**

#### **18.1.1 The Contractor's obligations.**

18.1.1.1 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>5</sup>.

#### **18.1.2 Submission of documents.**

18.1.2.1 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 the documentation specified below to the Joint Liability Control System (hereinafter also "SCS") at the following address (for further details, please see Annex no. 5 "Technical Annex"):

<https://www.ENEL.intesa.it/ENELrs>

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

18.1.2.3 ENEL reserves the right:

- by notification and with a 30-days' notice, to modify the list of the documents specified below and/or to change the method of submission of such information/documents;
- to carry out all the inspections referred to in art. 18.2.3.1 and 18.1.3.2 below. In the case of unsuccessful outcome of such inspections, ENEL reserves the right to suspend any payment due to the Contractor as well as to terminate the Contract pursuant to art. 1456 of cc, without prejudice to any other right or remedy available to protect its interests.

#### **18.1.3 Information and documents to be submitted.**

##### **18.1.3.1 Information required upon first inspection:**

- If the Contract effective date is included between the 1<sup>st</sup> and the 15<sup>th</sup> day of the month, the documents shall be provided from the 1<sup>st</sup> to the 20<sup>th</sup> day of the immediately following month.
- If the Contract effective date is included between the 16<sup>th</sup> and the 31<sup>st</sup> day of the month, the documents shall be provided from the 1<sup>st</sup> to the 20<sup>th</sup> day of the second following month.

To this end, the Contractor shall:

- a) fill out the table under Annex No. 2 "*List of Contract Resources*", by entering the data requested for all the resources employed in the performance of the Contract during the calendar month before that of request of inspection. The table shall be completed by entering the personal details of the personnel of all the companies (contractors, subcontractors, seconding companies, staff leasing agencies) that have in any capacity employed workforce in the contractual activities<sup>6</sup>;
- b) complete and upload on the SRS system, for each company for which resources have been declared in the table referred to in the previous point, a "*Self-certification of regular employment*" drawn up according to the template attached hereto under Annex No. 3;

<sup>4</sup> The clauses under this article shall apply to contracts for works, services and supplies with installation.

<sup>5</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.

<sup>6</sup> In the case of employment of non-EU workers on secondment, also the suitable documentation required by law confirming the compliance with the requirements to be fulfilled to work in Italy, e.g., permit to stay, residence permit, etc., shall be submitted.



- c) complete and upload on the SRS system, for each company for which resources have been declared, a “Self-certification of salary and social security compliance” drawn up according to the template attached hereto under Annex No. 4.

**18.1.3.2 Information required upon subsequent inspections**

For each active Contract the subsequent inspections shall be carried out at the end of every month.

Within the 20<sup>th</sup> day of each month, the Contractor shall verify the content of the table “List of Contract Resources” completed for the previous monthly inspection.

- a) If no changes occurred compared to the table of the previous month, the Contractor shall only submit the “Self-certification of salary and social security compliance”.
- b) If a change occurred compared to the table of the previous month, the Contractor shall update the “List of Contract Resources”. If such changes entail the employment of new resources, the Contractor shall submit the “Self-certification of regular employment”.

Failure to submit the self-certifications, including if the table has been completed, shall be considered as a breach of the obligations set forth herein.

**18.1.4 Right to further inspections.**

18.1.4.1 In compliance with the applicable provisions on personal data protection, the Contractor shall allow ENEL to carry out further spot inspections on the proper fulfillment of the compensation, insurance and social security contributions obligations.

18.1.4.2 In addition to the abovementioned inspections, ENEL reserves the right to carry out additional inspections to verify the compliance with the legal and contractual provisions (including the regulations on the working time). These inspections may be carried out either directly by ENEL's authorized personnel, which may access at any time the work sites and areas, or by requesting to the Contractor to submit the relevant documentation.

18.1.4.3 This includes, without limitation, the verification of the compliance with the obligation to show the identification card according to the applicable law, as well as the request of a copy of: single employment ledger, including in the personal details, salary/contribution and attendance sections the punch clock (or the weekly attendance report) signed by the employee, or an equivalent attendance detection system; tax compliance certificate (DURC); acknowledgment of submission of the Uniemens form including the submission sequential number, the file name, the data of the form contents including in detail the DM10 generated by the INPS electronic procedure; and the copy (if not already received) of the preliminary mandatory electronic hiring notice, or a copy of the notification sent to the INPS/INAIL and to the special construction workers' fund, as well as a copy of the receipted F24 forms, etc.

18.1.4.4 It is understood that failure by ENEL to request an inspection shall not limit in any way whatsoever the liability of the Contractor in the event of a breach of its obligations.

**18.1.4.5 Subcontracting.**

18.1.4.6 The Contractor undertakes to include in the agreements with its Subcontractors the obligations referred to in the previous paragraphs. The Contractor specifically undertakes, pursuant to art. 1381 of cc, to ensure the proper fulfillment of such obligations by its third-party Subcontractors. The Contractor undertakes to provide ENEL, upon ENEL's request and notwithstanding the provisions of art. 18.1.3 of GC, with all the documents required to certify the regularity of the treatment of the Subcontractor's employees, as well as to inform ENEL of any claim made by the Subcontractor's employees.

18.1.4.7 Furthermore, the Contractor shall indemnify and hold ENEL harmless from any property claim against ENEL made by its employees and those of its Subcontractors due to a breach of the contractual, insurance and social security obligations.

**18.1.5 Processing of data.**

18.1.5.1 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.

18.1.5.2 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.

**18.1.6 Enel's actions in the event of breach of obligations**

18.1.6.1 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.

**18.2 Controls against the illegal provision of manpower. (sect. 17 bis of Legislative decree no. 241 of July 9<sup>th</sup>, 1997)**

18.2.1 Art. 17-bis of Legislative Decree No. 241 of July 9<sup>th</sup>, 1997 sets forth the following requirements:

- a) entrusting the completion of one or more works or services to the Contractor for a total amount exceeding EUR 200,000;

- b) the entrusting referred to in point a) above shall occur through contracts, subcontracts, entrusting to members of the consortium or contractual relationships, regardless of their classification;
- c) the agreement referred to in point b) shall be characterized by:
  - i. main use of manpower;
  - ii. services performed at the customer's places of business;
  - iii. use of instrumental goods owned by the customer or attributable to the customer in any form.

#### **18.2.2 Single Certificate of Tax Compliance (DURF)**

18.2.2.1 In the cases provided for by art. 17 bis of Legislative Decree No. 241 of July 9<sup>th</sup>, 1997, the Contractor shall inform Enel, pursuant to the provisions of paragraph 5 of the same article, sending to the Contract manager to the address specified in the Contract a valid specific certificate of tax compliance issued by the Italian Revenue Agency ("DURF"), pursuant to paragraphs 5 and 6 of the same article, of the fulfillment of the following requirements on the last day of the month before that of payment deadline for withholding taxes:

- a) to have been in business for at least three years, to have fulfilled the tax return obligations and to have made, in the tax periods specified in the tax returns submitted in the last three years, total payments registered in the tax account for an amount not lower than 10 percent of the amount of revenues or income resulting from such tax returns;
- b) not to have any entry in the taxpayers' list or notice of assessment or notice of charge entrusted to collection agents concerning income taxes, regional tax on productive activities, withholdings and social security contributions for amounts exceeding Euros 50,000, for which the terms of payment have expired and there are payments still due or there are no outstanding measures of suspension, with the exception of sums subject to installment payment plans for which the forfeiture has not occurred.

#### **18.2.3 Information and documents to be submitted in the absence of the Single Certificate of Tax Compliance (DURF)**

18.2.3.1 In the absence of the DURF (or in the case of an invalid DURF) and for the purpose to enable Enel to verify the amounts paid with the withholdings applied, the Contractor shall deliver to Enel - in compliance with the applicable laws on personal data protection - within five working days after the due date of the payment referred to in article 18, paragraph 1, of Legislative Decree No. 241 of July 9<sup>th</sup>, 1997 - the documentation certifying the regular fulfillment of tax obligations.

18.2.3.2 The documentation to be delivered, which shall concern employees directly employed in the performance of the work or service under the Contract, is the following:

- a) copy of payment authorizations concerning the payment of IRPEF (personal income tax) withholdings applied on employment and similar incomes and the corresponding local additional taxes, completed according to the guidelines provided by the Revenue Agency with Resolution no. 109/2019 as amended and supplemented;
- b) list of workers' names, identified by tax ID number, directly involved in the previous month in the performance of the work or service covered by the Contract, with the details of working hours spent by every worker in performing the contractual work or service, the amount of the salary paid to the worker in relation to such performance and the details of the withholding taxes applied in the previous months for each worker, with a separate indication of those related to the service covered by the Contract. If the salaries have been paid on the month after the month of the "pay slip", reference should be made to the penultimate month.

All the documentation specified below shall be sent to ENEL's contract manager, to the email address specified in the Contract.

18.2.3.3 In the case of subcontracts, the Contractor shall also provide within the terms set out by art. 17 bis of the Italian Legislative Decree No. 241 of July 9<sup>th</sup>, 1997, the Contract manager with the same certification/documentation referred to in the points above for the

Subcontractor in relation to the works or services, or part thereof, covered by the subcontract, in order to allow Enel to carry out any controls due pursuant to art. 17 bis of Legislative Decree No. 241 of July 9<sup>th</sup>, 1997 on withholding taxes applied by the Subcontractor. In this case, the payment authorizations of the Subcontractor shall contain the indication of the tax ID number of Enel, to allow Enel to verify the withholdings applied to the personnel employed in this Contract. It is understood and agreed that for the purpose of determining the annual threshold equal to Euros 200,000, provided for by sect. 17 bis of Legislative Decree no. 241 of July 9<sup>th</sup>, 1997, reference should be made to the relationships between Enel and the Contractor, not including the amounts of any subcontracts.

#### **18.2.4 Additional documents to be submitted**

18.2.4.1 For the purposes of determining the annual threshold equal to 200,000 Euros provided for by art. 17 bis of the Legislative Decree No. 241 of July 9<sup>th</sup>, 1997, the Contractor undertakes to inform Enel about any transfer (sale or lease of business branch), including extraordinary corporate operations, that may affect the aforementioned threshold and to notify any further circumstance that may affect the application of the provisions of art. 17 bis of Legislative Decree No. 241 of July 9<sup>th</sup>, 1997.

18.2.4.2 If the Contractor or the Subcontractor fail to fulfill the obligation to deliver to Enel the certification or the payment authorizations and the information related to the workers employed, referred to in the points above, or in the event of any failure to pay, or underpayment of, the withholding taxes in respect to the data resulting from the documentation submitted, Enel - without prejudice to its right to terminate the Contract pursuant to art. 1456 of cc, as well as to exercise any other right or remedy to protect its interests - shall suspend, as long as the breach persists, the payment of any amount accrued by the Contractor up to 20 % of the total value of the work or service or up to the amount equal to the withholdings not paid with respect to the data resulting from the documentation submitted. In these cases, the Contractor may not take any action for the settlement of the credit relating to the payment suspended, until the payment of withholdings has been carried out.

**19 ECONOMIC GUARANTEE.****19.1 Introduction.**

19.1.1 The Contractor shall guarantee the performance of all contractual obligations as well as the payment of damages arising from the breach of the Contract, also by establishing guarantees. ENEL may request the establishment of the Performance Guarantee, Advance Payment Guarantee (if applicable) and Warranty Guarantee, which may be submitted either as a caution deposit or as a guarantee issued by a financial institution approved by ENEL.

19.1.2 The Economic Guarantee shall be signed, if possible, by electronic signature (in p7m format) pursuant to Legislative Decree No. 82 of March 7<sup>th</sup>, 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 The financial institution issuing the guarantee shall be a bank, an insurance company or an authorized financial intermediary, preferably Italian or Italian branches of foreign institutions. Therefore, ENEL shall be entitled to refuse bank guarantees from issuers not satisfying ENEL's requirements due to their low credit rating. 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.

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, the Price or the Duration of the Contract should increase due to an amendment, ENEL may request the Contractor to provide an additional or replacement economic guarantee to cover the increase. 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.

19.1.6 If the amount of the guarantee established should be reduced due to the application of penalties or for any other reason, the Contractor shall restore the guarantee within ten (10) days from receipt of the relevant notification by ENEL, otherwise ENEL shall be entitled to terminate the Contract, pursuant to art. 1456 of cc, to suspend payments or 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 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 ("Advance Payment Guarantee"), that shall be returned after completion of the activities covered by the advance payment.

**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 ("Warranty Guarantee").

19.4.2 The Contractor shall deliver the Warranty Guarantee upon Provisional Acceptance.

19.4.3 ENEL shall return the Warranty Guarantee to the Contractor within one (1) month from the expiry of the Warranty Period.

**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 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.

20.2 The Contractor undertakes 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;
- of the right to raise objections 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 If the Contract provides for the storage of materials at ENEL's premises, ENEL may request, and the Contractor shall take out, an insurance against theft and other damage which may be caused to the materials stored for the entire duration of the Contract.

20.8 Such policies shall include a provision requiring the insurance company to make payments directly to 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.

20.9 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.

20.10 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.

20.11 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.

20.12 The Contractor shall submit, within 30 days from the signature of the Contract, the insurance certificates proving both the existence of the insurance coverages specified above and the regular payment of the relevant insurance premiums.

20.13 The insurance certificates 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. The Contractor, throughout the term of the contractual relationship, shall also provide the required documents (insurance certificates, as specified above) 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, in accordance with the provisions of this article, within 30 days from each expiry date.

20.14 In the event that, as a result of a contractual amendment, the works or services under the Contract are modified both in terms of activities and duration, the Contractor hereby undertakes to adjust the insurance policy to the contractual activities to be performed, in accordance with the provisions of this article, and to deliver to ENEL the documents certifying such adjustment.

20.15 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.

#### **20.16 Professional insurance obligation<sup>7</sup>.**

20.16.1 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.

20.16.2 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).

20.16.3 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.

#### **20.17 "All Risks" insurance.**

20.17.1 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

<sup>7</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.



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 The Contractor represents and warrants that in the performance of the contractual activities and in the design, manufacturing, sale, distribution or marketing of any product or service supplied to ENEL, the Contractor has not infringed, is not infringing and shall not infringe any third party's intellectual property rights, such as rights on trademarks, patentable inventions, copyrightable works, utility models, industrial designs and trade secrets.

21.2 Should the Contractor be required to use any third party's intellectual property right to perform its contractual obligations, ENEL reserves the right to request to the Contractor to submit the relevant documentation. Upon ENEL's request, the Contractor shall provide any additional information, explanation, evidence, correspondence, manual and other documents or data relating to the resources protected by intellectual property rights, used in the performance of the Contract.

21.3 The Parties agree that, as for ENEL's products, samples or technical specifications that are made available by ENEL to the Contractor for the performance of the Contract, the Contractor: (i) may not in any way copy, reproduce, process, translate, modify, adapt, develop, decompile, dismantle, excluding reverse-engineering operations (or, in any case, excluding operations required to extract the source codes) – in full or in part – any of such ENEL's products, samples or technical specifications, (ii) may not perform or manufacture any works, objects, items, products, samples or technical specifications derived therefrom; (iii) shall not use such products, samples, technical specifications or information covered by ENEL's intellectual property for any purpose other than the performance of the Contract, (iv) shall ensure that the aforementioned prohibitions are complied with also by the other parties involved, or which may be involved, by the Contractor in the performance of the Contract, (v) shall not disclose, and ensure that its employees do not disclose, them to third parties without the prior written authorization by ENEL, and shall keep them confidential in accordance with clause 22 below.

21.4 The Contractor is responsible for obtaining the licenses, permits and authorizations required by the holders of patents, models and related trademarks, as well as other intellectual property rights. The Contractor shall be responsible for the payment of any royalty or other charges due on this basis.

21.5 The Contractor represents and warrants that there are no existing contracts, agreements, licenses, permits, restrictions, requirements, patents, certificates, obligations for the Contractor, nor any other circumstances that prevent, or may prevent, ENEL from using or otherwise exploiting the intellectual property for the performance of this Contract, as well as the product, service, supply, license, document, object, item to which it is embedded or into which it is included.

21.6 If, as a result of a dispute raised by the owners or concessionaires of the rights referred to in this clause, ENEL is obliged to totally or partially modify the materials to be supplied under the Contract, they shall be modified as soon as possible at the Contractor's expense, without this resulting in a deterioration of the quality of the supply, the operating features or the warranties. If the above occurs, a new process for the approval of prototypes shall be carried out, where this is prescribed for the relevant type of supply and before the materials are supplied. The Contractor shall indemnify ENEL for any costs related thereto, including, without limitation, transport costs, costs for tests, certifications, customs clearance, receipt of permits/authorizations or documents, as well as those for the purchase of any replacement or additional materials/items and any other costs and expenses.

21.7 All the amounts shall be payable to ENEL within thirty (30) calendar days after receipt of the relevant request from ENEL.

21.8 If legal action is taken against ENEL by a third party for breach by the Contractor of the obligations referred to in the paragraph above, the Contractor shall, at ENEL's request, provide a coverage (according to the provisions of article "ECONOMIC GUARANTEE") in relation to the value of the claims, within ten (10) calendar days. The Contractor shall release ENEL from any liability for infringements of the intellectual property rights and undertakes to make any reasonable effort to hold ENEL harmless from any claim for compensation or legal actions made or taken against ENEL, and undertakes to indemnify ENEL for any loss or damage, either direct or indirect, arising from claims or subpoena.

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

21.10 All the documents, drawings, plans, computer programs, as well as copies thereof, provided by ENEL to the Contractor for the performance of the contractual services, including rights on inventions, patents, copyrighted works, utility models and other intellectual property rights required, or that will be required, for the performance of the Contract according to the documents provided to the Contractor by ENEL, shall be the property of ENEL. The Contractor shall use them solely for the purposes of performing the Contract and shall return them to ENEL, taking at all times suitable measures in relation to the processing, use and transfer of data to ensure security and confidentiality, pursuant to article "CONFIDENTIALITY" below.

21.11 The intellectual property rights, the technology and the methods resulting from the works or services delivered by the Contractor in the performance the Contract, and the relevant records created shall be the property of ENEL, without giving the Contractor any right to increase the price specified in the Contract for such works or services.

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



21.13 The marketing methods and the way the technology covered by the Contract are distributed to third parties, as well as any benefits arising therefrom, are regulated by the Contract.

21.14 Failure by the Contractor to comply with the intellectual property obligations set out in this section, shall entitle ENEL to terminate the Contract, without prejudice to its right to undertake any action and claim compensation for any damages suffered.

21.15 The Contractor shall not use ENEL's trademarks, logos and/or distinguishing marks and shall not disclose for commercial purposes the services provided to ENEL, without ENEL's prior written authorization.

## **22 CONFIDENTIALITY.**

22.1 "Confidential Information" includes, without limitation, economic and financial documents, data and information relating to business strategies, product information and/or production processes (design, study and development), means and costs of production, sales information, development and customer management strategies, any kind of data about customers, contractors and their technical or commercial profile, documentation regarding technical and economic bids in public and private tenders, data about tests and/or operations of plants, equipment, machineries and products, business analysis, market researches, business and marketing plans and other statistical data that are relevant for the business, internal organization procedures, ideas for advertising and new trademarks not yet used in the market, etc. The term also includes economic, financial and technical documents referring, for instance, to patentable inventions, patents, patents applications, licenses, source code of any kind of software, its principles and the related algorithms; discoveries, algorithms and formulas; new production processes and methods; new methodologies for testing plants, equipment, machineries and products, results of Research and Development (R&D) activities. Furthermore, the term applies to any other information that:

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

22.2 Confidential Information includes all information relating to a Party and made available to the other Party, before or during the performance of the Contract, either by the administrators, managers or employees of the disclosing Party, or its Subcontractors or Affiliates and their relevant administrators, managers, employees or subcontractors (hereinafter, "disclosing Party's Representatives"). Confidential Information also includes all information regarding the disclosing Party's Representatives.

22.3 Confidential Information shall not include any information that:

- the receiving Party may prove to have lawfully known before the commencement of the performance of the Contract;
- the receiving Party may prove to have lawfully received from third parties not bound by (or not in breach of) any legal or contractual non-disclosure obligation;
- after disclosure to the receiving Party, due to reasons other than the receiving Party's default, becomes generally known or easily accessible to persons within the circles that normally deal with this kind of information.

22.4 All Confidential Information that each of the Parties makes available (orally, in writing, in electronic format or in any other form) for the purposes of and/or during the performance of the Contract, as well as any other Confidential Information of which the Parties may become aware as a result of other contracts executed between the Parties and/or entered into by each of the Parties with a third party, and/or as a result of the relevant pre-contractual negotiations, including all documents, information, specific knowledge (regardless of how they have been drafted, collected or developed), may only be used for the purposes of performing the Contract and shall be confidential, according to the provisions of this clause.

22.5 In particular, Confidential Information may not be disclosed to third parties without the prior and explicit written consent of the disclosing Party. Furthermore, each of the Parties may not use, copy, reproduce, translate, modify, adapt, develop, dismantle or separate, nor reverse-engineer or carry out any other operation intended to extract the source codes - in full or in part - of the Confidential Information received, without the prior and explicit consent of the disclosing Party.

22.6 Notwithstanding the foregoing, the receiving Party may disclose Confidential Information to fulfill a legal request by a competent court, a government agency or an antitrust authority, having jurisdiction on such Party, provided that in this case the Party informs the other Party (where legally allowed) before disclosing the Confidential Information, so that the other Party may defend, limit or protect from such disclosure, and provided that: (i) the disclosure only refers to the portion of Confidential Information strictly required to be disclosed, and (ii) the Party makes any reasonable effort to obtain a confidential treatment for any Confidential Information disclosed.

22.7 Each of the Parties:

- shall limit the disclosure of the Confidential Information only to Representatives and Affiliates that effectively need to know such information, due to their degree of involvement in the performance of the Contract;
- shall bind its Representatives and Affiliates in order to ensure that they fully comply with the obligations set out in this clause;
- shall be held liable for any action or omission by its Representatives and Affiliates that leads to a breach of the obligations to maintain confidentiality and not to use Confidential Information for purposes other than the performance of the Contract.

22.8 The Party receiving the Confidential Information shall create and manage logical and physical data, using state-of-the-art international techniques and practices, in order to ensure protection of such data from unauthorized access, reproduction, disclosure or use. After expiry of the Contract, the receiving Party shall return all data, documents and information received from the other Party or in its possession, for the purposes of carrying out the contractual activities, and shall destroy all copies and files that it may have, unless otherwise authorized in writing by the disclosing Party. In this regard, the receiving Party shall confirm the destruction of these data to the other Party within fifteen (15) days from the request and shall issue a written statement certifying that such Party does not hold any document or other items containing (or related to) Confidential Information.

22.9 The Parties shall ensure that Confidential Information is not disclosed during the performance of the Contract and for five (5) years after its expiry, except as otherwise provided for by the Contract or where required by the Law or a competent authority. Notwithstanding the foregoing, in the case of Confidential Information qualified as "strictly confidential" by ENEL, the obligations of confidentiality and non-use set forth in this clause 22 (CONFIDENTIALITY) shall survive the termination of the Contract for any reason whatsoever, unless otherwise specified by the disclosing Party, and shall be valid until the receiving Party is able to prove that said "strictly confidential" information has become generally known among or readily accessible to persons within the circles that normally deal with this kind of information for any reason other than the disclosure by the receiving Party.

22.10 The Parties shall agree in writing the contents, the means of communication, the date of publication of press articles, news or communications of any kind in relation to the Contract or any other subject or information related thereto.

22.11 The Parties acknowledge and agree that compensation for damages may not represent an adequate indemnification for the breach of confidentiality and that the affected Party shall be entitled to seek and obtain other remedies or to avoid any possible violation or damage arising from such breach, according to the current legislation. In the case of a breach of the confidentiality and non-use obligations, any of the Parties shall also be entitled to terminate the Contract.

22.12 If required by the disclosing Party, and provided that it does not affect the performance of the Contract, the other Party shall at any time return or destroy, or request its Representatives to return or destroy, all the hard copies of the Confidential Information in their possession. Furthermore, the receiving Party shall make, and ensure that its Representatives make, any reasonable effort to return or destroy any data stored in electronic format and shall confirm the destruction of these data to the disclosing Party within fifteen (15) days from the relevant request, and issue a written declaration certifying that such Party does not hold any document or other items containing (or related to) Confidential Information.

22.13 Each Party acknowledges and agrees that Confidential Information is, and shall remain, the exclusive property of the disclosing Party. Nothing in this Contract shall be construed - unless expressly specified in writing - as granting a license or a similar instrument in relation to patents, copyrights, inventions, trade secrets, trademarks, discoveries or improvements made, or in relation to any other materials protected by intellectual property rights conceived or acquired either before or after the performance of the Contract.

22.14 Each of the Parties represents and warrants to the other Party that it shall not infringe any third party's right on trade secrets in the performance of the Contract.

22.15 The Contractor undertakes to fulfill the obligations set out in Annex [10]. Furthermore, the Contractor undertakes to provide ENEL with the statements and declaration referred to in such Annex, duly signed.

#### **22.16 Cyber Security.**

22.16.1 The Contractor may access ENEL's IT systems only if authorized by ENEL. The Contractor is responsible for the activities performed on ENEL's IT systems by using its digital identity, which shall be protected at any time. In the performance of such activities, the Contractor shall comply with the following rules of conduct:

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

22.16.2 If at any time during the term of the Contract, its performance requires or entails the access and/or use by the Contractor of any application available on ENEL's systems and/or ENEL's IT infrastructure ("ENEL Systems"), this clause shall apply to the Contractor. Upon ENEL's request, at any time and for any reason, the Contractor shall accept and implement ENEL's two-factor authentication system (the "Multifactor Authentication System"), as a mandatory requirement to access and/or use ENEL Systems. In order to use and implement the Multifactor Authentication System, the Contractor undertakes to meet the following requirements: (i) availability of a smartphone and a working SIM card (personal or for mixed-use); (ii) each smartphone used for the purposes of the Multifactor Authentication System shall be associated exclusively with the personal identity of the specific employee, agent, Subcontractor, representative or other Contractor's personnel who may access and/or use ENEL Systems on behalf of the Contractor; and (iii) the Contractor shall satisfy all of the foregoing requirements at its sole risk, cost and expenses. ENEL shall not bear any charge (financial or otherwise) for the supply of the smartphone and shall not be liable to the Contractor or any third party for any damages, claims or

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

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

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

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

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

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

- the Data Controller is the Client Company of the ENEL Group<sup>8</sup> in the person of its legal representative *pro tempore* (hereinafter "ENEL");
- The data subject is the natural person participating in the awarding procedure, whose personal data are processed for the purposes of stipulation, management and execution of the Contract (hereinafter the "Data Subject");
- Personal data processed may be transferred to third parties, i.e. to companies subject to management and coordination or connected with ENEL S.p.A., or to other third parties. Third parties may be appointed by the Data Controller as Data Processor;
- Personal data shall be retained only for the time necessary to achieve the purposes related to the execution of the Contract and, in any event, shall be deleted 10 years after the signing of the Contract;
- Data Subjects are entitled to exercise the rights envisaged in Articles 15-21 of the GDPR (right to access data, request their rectification, portability or cancellation, request the limitation of processing of data concerning him/her or may oppose processing), where applicable, by contacting the Data Controller;
- Data Subjects are entitled to lodge a complaint to the Italian Data Protection Authority, with registered office in Piazza Venezia 11 – 00187 ; Rome. Tel. (+39) 06.696771, email: protocollo@gdpr.it;
- The Data Controller has appointed the Data Protection Officer (DPO) pursuant to Article 37 of the GDPR, whose contact details can be found on the Data Controller's website, or upon request.

### **23.2 System administrators**

23.2.1 In the event that, in the execution of the Contract, the Contractor's and/or Subcontractors' personnel, who intervene on ENEL's systems and/or personal data, perform functions attributable to the qualification of "System Administrator", intended as a professional responsible for the management and maintenance of an IT system or component, the Contractor undertakes to and ensures that any Subcontractors 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 Contractor and, if necessary, by the Subcontractors;
- 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 Contractor as Personal Data Processor (where applicable)**

23.3.1 In cases where the Contractor 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 Contractor, who accepts, Data Processor for the processing of personal data, pursuant to and for the purposes of Article 28 of the GDPR.

If the Contractor 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.

23.3.2 The Contractor 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

<sup>8</sup> Company of the ENEL group that executes the Contract or the company in the name and on behalf of which this is executed.

above-mentioned instructions. It is agreed that ENEL has the unilateral right to terminate the Contract under Article 1456 of cc if the Contractor is in default of the obligations pursuant with this paragraph.

### 23.3.3 Duties and instructions

23.3.3.1 The Contractor, 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 (**Annex GDPR 2**). In addition, it will provide the list of Authorized Persons who must be approved to operate directly or indirectly on ENEL's systems; It will be Contractor'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;
- d) must take all the security measures referred to in art. 32 of the GDPR, as well as any other preventive measure recommended by experience, suitable for avoiding data processing that is not permitted or does not comply with the purposes of the Contract. Moreover, must have to check periodically the suitability of these measures to ensure that they are adequate for the risk associated with the processing of data;
- 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 Contractor 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 Contractor;
- 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.

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

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

### 23.3.4 Compensation and Liability

23.3.4.1 Pursuant to Article 82 of the GDPR, the Contractor 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.

23.3.4.2 In accordance with art. 28 paragraph 4 of the GDPR, the Contractor 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 Processors.

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

### 23.3.5 Duration

23.3.5.1 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.

### 23.3.6 Sub Data Processors

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

23.3.6.2 Before the start of the activities covered by the Contract, and in any case before the start of the processing activities, the Sub-Processor will, through the Contractor, send ENEL the list of the names of its employees appointed "Authorized Persons" for the processing of Personal Data of which ENEL is the Data Controller, with the self-declaration of the appointment (Annex 2 GDPR).

23.3.6.3 At the time of signing the Contract, the Sub-processors communicated by the Contractor are considered authorized (**Annex GDPR 3**). In the event that the Contractor, for proven and reasonable reasons, intends to modify this list, he must request, before entrusting the assignment to new Sub-Processors, an authorization from ENEL as per the attached standard (**Annex GDPR 4**).

23.3.6.4 The Contractor 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. Should the Contractor consider it appropriate as a result of such assessment, the Contractor 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**).

23.3.6.5 The Contractor guarantees that the aforementioned appointment will be revoked upon expiry of the contractual relationship between ENEL and the Contractor or at the time of termination for any cause thereof, without prejudice to the provisions of the previous art. 17.3.4.1, lett. i.

## **24 SUPPLIER PERFORMANCE MANAGEMENT.**

24.1 ENEL reserves the right to monitor and assess the performance of Contractors through a dedicated supplier performance management ("SPM") process. The main topics evaluated during the assessment are the following:

- 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 the basis of the assessment specified above, 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>. If ENEL applies the remedies set forth in the Contract for breaches of the contractual obligations, ENEL shall assign a negative score to the Contractor.

## **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 "Value Engineering" means 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.

25.3 The monetary value of Value Engineering proposals, when approved by ENEL, is referred to as "Gain Sharing".

25.4 The Contractor's Value Engineering proposals shall be reviewed and approved by ENEL, and 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;
- e) any other impact on the provisions of the Contract.

25.5 ENEL shall make any commercially and technically reasonable efforts to review, respond to and, if applicable, approve the Value Engineering proposals within fifteen (15) days from their receipt.

25.6 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.**

26.2 Notwithstanding the provisions of art. 6 of Law No. 120 of September 11<sup>th</sup>, 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. The Review Group is made up of an equal number of representatives of the Parties. Each Party may periodically change its representatives in the Review Group at its sole discretion, notifying the other Party of the change.



26.3 From time to time, by mutual agreement between the Parties, additional representatives of both Parties, with appropriate technical skills, experience and knowledge, or external consultants, may be invited to attend the meetings of the Review Group, without prejudice to the obligation for all third parties to sign and comply with confidentiality obligations.

26.4 The Review Group is chaired by a representative of ENEL.

#### **26.5 Decision-making process.**

26.5.1 All the decisions of the Review Group shall be unanimous. If the Review Group, after making good faith efforts, 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, who shall promptly meet and negotiate in good faith to resolve this issue.

#### **26.6 Responsibility.**

26.6.1 The Review Groups' responsibilities include:

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

26.6.2 Except as otherwise set out in the Contract, the Review Group shall meet at least once a year at ENEL's premises or other venues agreed by the Parties. Alternatively, the Review Group may meet by teleconference, videoconferencing or other similar communication equipment.

26.6.3 The Chairman of the Review Group is responsible for sending the agenda, reasonably in advance of all meetings, as well as for the preparation of the final minutes of each meeting.

26.6.4 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.

27.2 The Parties shall monitor and verify the achievement of the service levels in accordance with the conditions and within the terms set out in clause "GOVERNANCE" above.

#### **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.

28.5 ENEL shall be entitled to terminate the Contract, for causes attributable to the Contractor, whenever ENEL becomes reasonably aware that the Contractor or its Subcontractors, Subsuppliers, third parties appointed by the Contractor or its supply chain violated one of the above-mentioned principles, and the Contractor shall indemnify and hold ENEL harmless against any damage, loss, cost or expense arising therefrom.

## **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.

29.1.7 In the case of any violation of these obligations, ENEL reserves the right to terminate the Contract and to claim compensation to the Contractor for the damages suffered.

### **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.

### **29.2.3 Express termination clause for crimes under Legislative Decree 231/01.**

29.2.3.1 Where it is established, by judgment become final, that the Contractor<sup>9</sup> committed an administrative offense and/or one or more of the crimes referred to in Legislative Decree No. 231/2001, ENEL shall be entitled to terminate the Contract with immediate effect, pursuant to art. 1456 of cc, notwithstanding the Contractor's obligation to pay the compensation for the damages suffered by any Company of the Group, including, without limitation, damages arising from the application of sanctions, provided by the aforementioned Decree.

### **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

<sup>9</sup> The Legal Person.

<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>10</sup> declares:

- <sup>11</sup> 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;
- 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 Human Rights

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 undertakes to sign and deliver to Enel the statement attached under Annex [11].

## 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.

29.6.5 In the event that the Contractor or any of its Subcontractors and/or Subsuppliers, third parties engaged by the Contractor or any operator belonging to its supply chain, are subject to a Sanction during the performance of the Contract, or if the Contractor provides unfaithful representations under this clause, Enel may terminate the Contract upon a prior written notice of seven (7) days. In the last case, the Contractor shall indemnify and hold ENEL harmless against any damage, loss, cost or expense arising therefrom.

29.6.6 In such cases 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

<sup>10</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.

<sup>11</sup> In relation to the Contractor and the persons listed in note 6.



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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.

### **30 GOVERNING LAW.**

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

### **31 JURISDICTION.**

31.1 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.



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**INVOICING ANNEX**



## **ANNEX 1 - ELECTRONIC INVOICING OBLIGATION**

In order to prevent the impossibility for the Enel Group Company established in Italy to process invoices sent through any channel excluded pursuant to the new regulations, all the contractors and suppliers, before issuing the invoice, shall verify if they are subject to the electronic invoicing obligation.

The list below provides some key fields for the compilation of the electronic invoice (XML format), in order to minimize difficulties in processing the invoices through Enel's management systems and to ensure the relevant payment within the contractual terms.

- ☐ Transmission data
- ☐ Delivery Status Notification (Failed)
- ☐ Purchase Order
- ☐ Stamp Duty
- ☐ VAT System
- ☐ Tender Identification Code (CIG) / Unique Project Identifier (CUP)
- ☐ Delivery Note (DDT)
- ☐ Receipt Data
- ☐ Attachments

The information provided may be supplemented/amended following updates by the Revenue Agency or to supplement information or data required by Enel within the framework of the invoice registration process.

### **Transmission data**

Invoices or journal entries shall be sent to the Enel Companies using the Transmission Format - format reference XML [1.1.3] - required for invoicing between private parties or B2B (FPR12) which requires a seven-digit Recipient Code [1.1.4], "0000000"

Example of correct compilation

```
<Formato Trasmissione>FPR12</FormatoTrasmissione>
<CodiceDestinatario>0000000</CodiceDestinatario>
```

The Enel Companies do not provide certified e-mail addresses (PEC) or recipient codes. The Enel Companies used the pre-registration service available on the Revenue Agency website. The only requirement for the delivery of electronic invoices is to properly enter the Recipient Code 0000000, the tax code of the Enel customer Company, as well as the Group VAT number.

The Interchange System (Sdl) shall forward the document to the electronic address notified with the "registration service", rather than to the address specified in the electronic invoice, if different.

Therefore, the Group VAT number, the tax code of the specific Enel customer Company and the recipient code shall be accurately entered.

It is important to accurately enter the Group VAT number in the correct position of the XML format [1.4.1.1]

Correct example referring to one of the Enel Group Companies (Società Enel Sole S.r.l)

```
<CessionarioCommittente>
<DatiAnagrafici>
<IdFiscaleIVA>
<IdPaese>IT</IdPaese>
<IdCodice> (15844561009) </IdCodice>
<CodiceFiscale> 02322600541</CodiceFiscale>
<Anagrafica>
<Denominazione>Enel Sole S.r.l.</Denominazione>
```

Example of incorrect compilation - failure to enter the Group VAT number

```
<CessionarioCommittente>
<DatiAnagrafici>
<IdFiscaleIVA>
<IdPaese>IT</IdPaese>
<IdCodice> </IdCodice>
<CodiceFiscale> 02322600541</CodiceFiscale>
<Anagrafica>
<Denominazione>Enel Sole S.r.l.</Denominazione>
```

Example of incorrect compilation - failure to enter the tax code (mandatory field)

```
<CessionarioCommittente>
<DatiAnagrafici>
<IdFiscaleIVA>
<IdPaese>IT</IdPaese>
<IdCodice> (15844561009)</IdCodice>
<CodiceFiscale> </CodiceFiscale>
<Anagrafica>
<Denominazione>Enel Sole S.r.l.</Denominazione>
```

Example of incorrect compilation - Reversal of data. Tax code was entered in the Group VAT number position.

```
<CessionarioCommittente>
<DatiAnagrafici>
<IdFiscaleIVA>
<IdPaese>IT</IdPaese>
<IdCodice> 02322600541</IdCodice>
</IdFiscaleIVA>
<CodiceFiscale> (15844561009) =</CodiceFiscale>
<Anagrafica>
<Denominazione>Enel Sole S.r.l.</Denominazione>
```

## Delivery status notification (Failed)

If due to technical reasons not attributable to the SdI, the delivery may not be carried out (e.g., certified e-mail box full or inactive, or inactive electronic channel), the SdI makes the electronic invoice available to the buyer/customer in its reserved area of the Revenue Agency website, notifying such information to the sender. The seller/provider shall promptly notify to the Enel Group Company, by e-mail, that the original copy of the electronic invoice is available on its reserved area of the Revenue Agency website. The contractors are recommended to promptly provide the notification, attaching the **copy of the failed delivery status notification** and an electronic or hard copy of the electronic invoice, in order to enable us to process the invoice within the applicable payment terms.

## Purchase Order

The identification number of the order, if provided by the Enel Company, as specified in the contract, shall be specified in the invoice and entered in the field "DatiOrdineAcquisto" [2.1.2] under the section "IdDocumento" [2.1.2.2].

If such data is entered in other fields, e.g. "DatiContratto" or another descriptive field, this shall not be recognized by our systems.

The purchase order identification number of the Enel Company is always composed of 10 alphanumeric characters. Therefore, attention should be paid to enter the data in the specific block:

Correct example of compilation: the order has been entered in the right block

```
<DatiOrdineAcquisto>
<RiferimentoNumeroLinea>1</RiferimentoNumeroLinea>
<IdDocumento>4500001164</IdDocumento>
<NumItem>00010</NumItem>
<DatiOrdineAcquisto>
```

Example of incorrect compilation: the purchase order has been entered in the contract block

```
<DatiContratto>
<RiferimentoNumeroLinea>1</RiferimentoNumeroLinea>
<IdDocumento>4500001164</IdDocumento>
<NumItem>10</NumItem>
</DatiContratto>
```

Example of correct compilation: the purchase order and the contract have been entered in the right positions

```
<DatiOrdineAcquisto>
<RiferimentoNumeroLinea>1</RiferimentoNumeroLinea>
<IdDocumento>4500001164</IdDocumento>
<NumItem>00010</NumItem>
<DatiOrdineAcquisto>
<DatiContratto>
<IdDocumento>8400126611</IdDocumento>
</DatiContratto>
```

## Stamp duty

If stamp duty is required, the relevant data shall be entered in the specific block "DatiBollo" [2.1.1.6]:

- ☐ [2.1.1.6.1] Virtual Stamp YES
- ☐ [2.1.1.6.2] Stamp Amount 2.00 (optional)

Please note, for invoices not exceeding Euro 77.47 stamp duty does not apply.

```
<DatiBollo>
<Bollo Virtuale>SI</Bollo Virtuale>
<ImportoBollo>2.00</ImportoBollo>
</DatiBollo>
```

If the contractor fills out the field specified above without entering a detail line for the amount of the stamp duty, equal to 2 Euros, the amount of the stamp duty shall be considered as charged to the contractor.

Otherwise, if the contractor enters the detail line, adding the relevant amount of such tax in the invoice total, the stamp duty shall be considered as charged to the customer.

A correct example of the position of the line is detailed below:

```
<DettaglioLinee>
<NumeroLinea>2</NumeroLinea>
<Descrizione>Bollo</Descrizione>
<Quantita>1.00</Quantita>
<PrezzoUnitario>2.00</PrezzoUnitario>
<PrezzoTotale>2.00</PrezzoTotale>
```

```
<AliquotaIVA>0.00</AliquotaIVA>
<Natura>N1</Natura>
</DettaglioLinee>
```

## VAT System

In general, due to their inclusion in the Vat Group, the Italian Companies of the Enel Group fall within the scope of the ordinary VAT scheme. However, contractors are recommended to read the list of the Enel Companies belonging to the Enel Group on the We Buy portal (<https://globalprocurement.enel.com/it/documenti/gruppo-iva>).

As a result of the foregoing, only electronic invoices issued under the ordinary VAT system may be accepted, and any other VAT system shall not be accepted, therefore resulting in the rejection of the invoice and the refusal of its payment.

Criteria for the compilation of the VAT system [2.2.2.7] field

**Enter letter I** (ordinary VAT) **S**

Correct summary example

```
<DatiRiepilogo>
<AliquotaIVA>22.00</AliquotaIVA>
<ImponibileImporto>241067.66</ImponibileImporto>
<Imposta>53034.89</Imposta>
<EsigibilitaIVA> I</EsigibilitaIVA>
</DatiRiepilogo>
```

Incorrect summary example

```
<DatiRiepilogo>
<AliquotaIVA>22.00</AliquotaIVA>
<ImponibileImporto>241067.66</ImponibileImporto>
<Imposta>53034.89</Imposta>
<EsigibilitaIVA> I</EsigibilitaIVA>
</DatiRiepilogo>
```

## Tender Identification Code (CIG) / Unique Project Identifier (CUP)

If specified in the contract, CIG/CUP codes shall be entered in the following fields:

If specified in the contract, CIG/CUP codes shall be entered in: **DatiContratto** [2.1.3], under section **CodiceCUP** [2.1.3.6] and/or **CodiceCIG** [2.1.3.7], respectively.

Alternatively, these codes may be entered in the following fields: **Dati Ordine d'acquisto** [2.1.2] under section **CodiceCUP** [2.1.2.6] and/or **CodiceCIG** [2.1.2.7], respectively.

If the CUP and/or CIG code have been provided by ENEL, but were not entered in the invoice according to the instructions specified above, ENEL may not pay the invoice; therefore, such invoice not specifying the CUP/CIG shall be canceled by a credit note and subsequently re-issued with the inclusion of such data.

Furthermore, if these codes are entered into other fields of the invoice, they shall not be recognized by our systems. - CIG identification number for Enel Companies is composed of 10 alphanumeric characters, whilst the CUP is composed of 15 alphanumeric characters.

## Delivery Note (DDT)

In the case of supplies of goods certified by delivery note (DDT), the details of the DDT, as well as the date of the delivery note, shall be entered in the invoice. In particular, the details shall be entered into the following fields:

**DatiDDT** [2.1.8] under section **NumeroDDT** [2.1.8.1] and **DataDDT** [2.1.8.2], respectively.

The field [2.1.8.3] **RiferimentoNumeroLinea** shall only be filled out if the invoice relates to more delivery notes, to be specified in the relevant detail lines to which the DDT refers.

Example of input of the data relating to the entire invoice and, thus, to all the detail lines:

```
<DatiDDT>
<NumeroDDT>999</NumeroDDT>
<DataDDT>2018-11-09</DataDDT>
</DatiDDT>
```

Please note, do not enter other data before the DDT number.

Example of incorrect compilation:

```
<DatiDDT>
<NumeroDDT>document 999</NumeroDDT>
<DataDDT>2018-11-09</DataDDT>
</DatiDDT>
```

## Receipt Data

As regards supplies of services and/or works, the payment authorization identification number certifying the approval of a given work progress report (SAL) or of a service completion, shall always be entered. This code is composed of a ten-digit number. Data shall be entered into the XML format in the block "DatiRicezione":

**<DatiRicezione>** [2.1.5] with positioning detail [2.1.5.2]

Example of correct input of the data "DatiRicezione":

```
<DatiRicezione>
<IdDocumento>1000002142</IdDocumento>
</DatiRicezione>
```



## General Contract Conditions Italy

E-8.2<sup>th</sup> edition, valid as of 18/05/2022

### Attachments

This refers to the possibility, available in the document (from 2.5.1 to 2.5.5) to attach files in PDF format or any other format allowed by the XML document, in order to facilitate the registration of the invoice. PDF attachments include, without limitation, a hard copy of the invoice, the delivery notes, etc.

Please note: if the attachment includes one or more data already entered in the XML format, the former shall not be considered as substitutes, if different, of the latter, which shall be the data officially valid.



## General Contract Conditions Italy

E-8.2<sup>th</sup> edition, valid as of 18/05/2022

### Annex “JOINT AND SEVERAL LIABILITY”

#### Annex no. 2 List of Contract Resources

Key
1 - Mandatory fields, both for Italian and foreign employers
2 - Mandatory fields only for Italian employers
In the case of foreign employers, for each resource at least one of the following fields shall be completed: <b>Gross Monthly Salary Amount</b> or <b>Social Security Contribution Amounts</b>

Last Name <sup>1</sup>	First Name <sup>1</sup>	Employee's Tax Code <sup>1</sup>	Percentage of time worked on the contract <sup>1</sup>	Foreign Employer? <sup>1</sup>	Employer's Tax Code <sup>1</sup>	Type of employment contract <sup>2</sup>	Job level and position <sup>2</sup>	National Collective Labor Agreement (CCNL) <sup>2</sup>	Hiring date <sup>2</sup>	INPS Company ID or other social welfare funds <sup>2</sup>	INAIL Local Insurance Position (P.A.T.) <sup>2</sup>	Gross Monthly Salary Amount <sup>1</sup>	Social Security Contribution Amounts <sup>1</sup>	Insurance contribution amounts due <sup>2</sup>	Provision for employee termination indemnity <sup>2</sup>



**ANNEX NO. 3 ("SELF-CERTIFICATION OF SALARY AND SOCIAL SECURITY COMPLIANCE")**

**Self-certification of salary and social security compliance**

(Sect. 2 and 47 of Presidential Decree no. 445 of December 28<sup>th</sup>, 2000).

The undersigned \_\_\_\_\_, born in \_\_\_\_\_, on \_\_\_\_\_,  
T.C. \_\_\_\_\_, in his/her quality as the legal representative of \_\_\_\_\_, with registered  
office in \_\_\_\_\_ as contractor/subcontractor under the contract<sup>1</sup> no. \_\_\_\_\_, entered into  
with \_\_\_\_\_, on \_\_\_\_\_,  
aware of the criminal sanctions applicable in the case of untrue statements and falsification of documents,  
as referred to in sect. 76 of Presidential Decree no. 445 of December 28<sup>th</sup>, 2000<sup>2</sup>.

**DECLARES**

- That the salaries were regularly paid, in accordance with the contractual obligations set out in the applicable National Collective Labor Agreement subscribed by the main trade union associations, and in the territorial and/or company supplementing industry agreements, applicable at the time and in the location where the works are performed;
- That the procedures for the assessment and the payment of the social security and insurance contributions were properly accomplished;
- That the provision for employee termination indemnity (including if distributed, upon the employee's request, to supplementary social security funds) was regularly established, for the workers employed in the performance of the contract referred to above for the following period<sup>3</sup> \_\_\_\_\_.

Date and place:

*Signature of the Contractor/subcontractor*

**Processing of personal data**

*In accordance with the applicable law on personal data protection, please note that the information provided shall be processed by Enel/the Contractor in compliance with the provisions of the Contract/subcontract and for the purposes specified therein. Pursuant to the aforementioned regulations, You have the right to access your data by requesting to Enel/the Contractor their correction, integration or, if applicable, erasure or block.*

<sup>1</sup> Please, specify the identification number of the contract.

<sup>2</sup> Sect. 76, par. 1 and 2, Presidential Decree no. 445 of December 28<sup>th</sup>, 2000; Whoever provides untrue statements, produces or uses false documents in the cases set out by this Consolidated Law, shall be punished in accordance with the provisions of the criminal code and of the relevant special regulations; the submission of a document containing information which is no longer true, is equivalent to the use of a false document.

<sup>3</sup> Please, specify the period (month/year) in relation to which this self-declaration is made.



**ANNEX NO. 4 “SELF-CERTIFICATION OF REGULAR EMPLOYMENT”**

**SELF-CERTIFICATION OF REGULAR EMPLOYMENT OF THE RESOURCES  
EMPLOYED IN THE CONTRACT**

(Sect. 2 and 47 of Presidential Decree no. 445 of December 28<sup>th</sup>, 2000).

The undersigned \_\_\_\_\_, born in \_\_\_\_\_, on \_\_\_\_\_,  
T.C. \_\_\_\_\_, in his/her quality as the legal representative of \_\_\_\_\_, with  
registered office in \_\_\_\_\_ as contractor/subcontractor under the contract<sup>1</sup> no. \_\_\_\_\_,  
entered into with \_\_\_\_\_, on \_\_\_\_\_, aware of the criminal sanctions applicable in the  
case of untrue statements and falsification of documents, as referred to in sect. 76 of Presidential Decree  
no. 445 of December 28<sup>th</sup>, 2000 <sup>2</sup>.

**DECLARES**

That the workers currently employed in the performance of the contract, as specified in our data entry  
on Enel Joint and Several Liability System for the month of<sup>3</sup> \_\_\_\_\_, are employed under a  
regular employment contract.

Date and place

*Signature of the contractor/subcontractor*

***Processing of personal data***

*In accordance with the applicable law on personal data protection, please note that the information provided shall be processed by Enel/the Contractor in compliance with the provisions of the Contract/subcontract and for the purposes specified therein. Pursuant to the aforementioned regulations, You have the right to access your data by requesting to Enel/the Contractor their correction, integration or, if applicable, erasure or block.*

<sup>1</sup> Please, specify the identification protocol of the contract

<sup>2</sup> Sect. 76, par. 1 and 2, Presidential Decree no. 445 of December 28<sup>th</sup> 2000; Whoever provides untrue statements, produces or uses false documents in the cases set out by this Consolidated Law, shall be punished in accordance with the provisions of the criminal code and of the relevant special regulations; the submission of a document containing information which is no longer true, is equivalent to the use of a false document.

<sup>3</sup> Please, specify the period (month) in relation to which this self-declaration is made.

**ANNEX NO. 5 TECHNICAL ANNEX****1 Technical annex****1. CONNECTION OF JOINT AND SEVERAL LIABILITY SYSTEM IT PLATFORM.**

The provision of the documents on Joint and Several Liability shall be made through an IT platform called SRS (Joint and Several Liability System).

This IT platform is the point of interaction between the third-party Contractor and Enel's unit in charge of carrying out the inspections on Joint and Several Liability; therefore, this platform allows the Contractor to upload the documents to be provided to Enel and to receive the feedback on the inspections.

To access the system the Contractor shall register to the Portal and be authorized to use the application, as detailed below.

**1.1. ACCESS TO SRS APPLICATION.**

Access credentials to log into the SRS shall be notified by Enel, whilst the instructions to register to the SRS system through the web portal (<https://www.enel.intesa.it/ENELRS>) are included in a specific document ("*SRS User Manual, Contractor*"), available for download on the portal at the first access to the system. The manual shall be integrated by a "*Contractor's Guide*", available on the portal, focused on the material and operational issues.

ENEL has made available the e-mail address [srs@enel.com](mailto:srs@enel.com) for access problems or issues with the use of functionalities.

**1.2. IT EQUIPMENT REQUIREMENTS.**

For a proper use of the application, the Contractor shall be equipped with a workstation capable to run a Windows 7 or higher operating system, or equivalent alternative operating systems in terms of performance (MacOS, Linux etc.)

The use of a browser (Chrome or Firefox) sufficiently updated and a fast Internet connection is recommended.

IT equipment requirements, before the issue of the authorization to operate on the SRS system, may be subject to inspection by ENEL's qualified personnel.

**1.3. COSTS TO BE BORNE BY THE CONTRACTOR.**

The cost for the purchase of the IT stations equipment shall be entirely borne by the Contractor.

The Contractor shall also bear the costs for the configuration of such equipment and the ADSL service fee for the access to the SRS application. If, for the proper operation of the IT equipment, Enel intervention is required (e.g., for the installation of software or patches), the Contractor shall cooperate with Enel for the performance of the relevant configuration/installation procedures.

**1.4. COSTS TO BE BORNE BY ENEL.**

ENEL shall bear the costs for the purchase of the licenses to use the application programs and the technical and application support services



**GDPR Annexes (from ANNEX 1 to ANNEX 4)**

### **Description of the Processing of personal data**

With reference to art. [*specify the relevant art. of the Contract*] of the General Contract Conditions [*select the reference*] of the agreement (lettera d'ordine) no. [*insert number of the agreement*] and in particular to the appointment of the company [*specify the name of the company appointed as the Data Processor*] as the Data Processor, we hereby declare that such processing of data shall be carried out on the following categories of data and data subjects.

#### **A. Categories of Data**

- Personal details<sup>1</sup> ☐
- Sensitive data<sup>2</sup> ☐
- Judicial data ☐
- Economic and financial personal data<sup>3</sup> ☐
- Data related to Contracts with Customers<sup>4</sup> ☐
- Contact details<sup>5</sup> ☐
- Profiling data ☐
- Data related to identification documents<sup>6</sup> ☐
- Geolocation data ☐
- Statistical data ☐
- Other categories of personal data (please, specify) \_\_\_\_\_ ☐

#### **B. Categories of Data Subjects**

- Business partners ☐
- Contractors ☐
- Customers, Prospects ☐
- External third parties ☐
- Minors ☐
- Enel employees ☐
- Enel Managers ☐
- Shareholders ☐
- Other companies managers ☐
- Other categories of data subjects (please, specify) \_\_\_\_\_ ☐

<sup>1</sup> E.g.: first name, last name, sex, date of birth, place of birth, tax code, etc.

<sup>2</sup> E.g.: political opinions, religion, ethnicity, health data, sexual orientation, etc.

<sup>3</sup> E.g.: current account or credit card number, etc.

<sup>4</sup> E.g.: POD- PDR-

<sup>5</sup> E.g.: address or e-mail, mobile or telephone number

<sup>6</sup> E.g.: identity card, passport, driving license, health insurance card (CNS), etc.





## Annex 2 GDPR

### SELF-DECLARATION

on the Appointment of the Authorized Persons for the Processing of Personal Data pursuant to  
sect. 29 of EU Regulation 2016/679 (GDPR)  
(Presidential Decree no. 445 of December 28<sup>th</sup>, 2000)

Messrs.  
ENEL

The undersigned (full name).....  
born in .....(province.....) on.....  
resident in ..... (province.....) street name .....street no.....  
In his/her quality as the legal representative of the Company.....  
with registered office in.....(province.....) street name..... street no. ....  
Tax Code.....VAT no.....  
with reference to the Contract no. ....

as the Data Processor, aware of the criminal sanctions referred to in sect. 76 of Presidential Decree no. 445  
of 28.12.2000, for untrue statements and falsification of documents, under his/her own responsibility

### DECLARES

- a) that the employees/associates employed in the performance of the activities under the contract referred to above, have been appointed as "Authorized Persons" for the processing of personal data, pursuant to sect. 29 of GDPR, and that such appointment meets the minimum requirements set out in the final section of this declaration;
- b) that the Sub-Processors employed in the performance of the activities under the contract referred to above, have appointed their employees and associates as "Authorized Persons" for the processing of personal data, pursuant to sect. 29 of GDPR;
- c) that a copy of such appointments is available for Enel at the premises of his/her company.

### ATTACHES

The list of the Authorized Persons who shall be authorized to directly or indirectly operate on Enel's systems;

### UNDERTAKES

to keep the documents submitted up-to-date, before the commencement of the relevant activities (in the case of new employees/associates) or within five working days from the termination date (in the case of termination of the employment relationship or completion of the activities by the employees/associates).

Date .....

Signature .....

## Annex 2 GDPR

The list below provides the minimum information and instruction applicable to the processing of personal data by the Authorized Persons.

In particular, the following requirements shall apply:

- The processing of personal data shall be carried out lawfully and correctly;
- Personal data shall only be collected and recorded for purposes related to the activities carried out and only during the working hours and, in any case, for no longer than the time required;
- Without prejudice to the foregoing, in the exceptional case that the processing of the personal data is carried out outside the working hours, the Authorized Person shall ensure to log off from the working session, so that access credentials are required for future log-ins;
- The constant verification and updating of data shall be ensured;
- The constant verification of the accuracy and relevance of data shall be ensured;
- The collection of consents, if applicable, shall be subject to the provision of proper information to the data subjects and to their consent, which shall be granted freely, specifically and in writing or, however, in a suitable documented form;
- In the case of interruption of the work, either temporary or continued, the Authorized Person shall ensure that the data processed may not be accessed by unauthorized third parties, by performing a specific log off;
- The log-in credentials shall be confidential and, as such, they shall only be used by the Authorized Person;
- Utmost confidentiality shall be ensured during each processing operation.

In particular, the Authorized Persons shall:

- a) only access to personal data on a strict need-to-know basis for the performance of the tasks assigned and for the time strictly required;
- b) not leave the corporate documents unattended or exposed to unauthorized third parties, with particular reference to those documents containing sensitive and judicial data; maintain the required confidentiality of such data, implementing - including in accordance with the Company's instructions - suitable measures to prevent any unauthorized person to access the data referred to above;
- c) not disclose the data received, except in the cases allowed by the law or by the contract, and maintain due confidentiality on the information collected throughout the performance of the activities, including after their completion;
- d) not carry out any massive download of personal data without the prior notification and authorization of the Data Controller or Processor;
- e) keep with due care and diligence the physical documents handed over for the development of the work activities, containing sensitive personal data and data on criminal background checks in lockable cabinets or drawers, and follow the procedure laid down (record his/her name, the access time and date, as well as the document withdrawal/return time and date in the relevant register) for the access to archives where the data referred to above are stored;
- f) implement and strictly comply with the requirements set out by the Data Controller or the Data Processor as regards the suitable technical and organizational measures to ensure a security level appropriate to the risk (pursuant to sect. 32 of GDPR);
- g) in particular, to carry out the data processing with electronic or automated means, comply with the specific authorizations/qualifications, as well as with the storage methods and media provided by the Data Controller or the Data Processor;
- h) inform the Data Controller of any security breach involving the personal data processed, especially as regards sensitive and/or judicial data.

Annex 3 GDPR

**List of Sub-processors**

COMPANY	PRODUCTS OR SERVICES	CATEGORIES OF DATA SUBJECTS AND CATEGORIES OF PERSONAL DATA PROCESSED	COUNTRY AND ADDRESS	SUITABLE GUARANTEES AND EXCEPTIONS FOR THE INTERNATIONAL TRANSFER OF PERSONAL DATA

### SELF-DECLARATION

(to be completed only if the suitable guarantee for the transfer is represented by the Standard Contractual Clauses)

Messrs.

ENEL

The undersigned (full name).....

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

resident in ..... (province.....) street name ..... street no.....

In his/her quality as the legal representative of the Company.....

with registered office in.....(province.....) street name..... street no.....

Tax Code.....VAT no.....

with reference to the Contract no. ....

as the Data Processor, aware of the criminal sanctions referred to in sect. 76 of Presidential Decree no. 445 of 28.12.2000, for untrue statements and falsification of documents, under his/her own responsibility

### DECLARES

- **For contracts concluded from September 27<sup>th</sup>, 2021**

- that a prior Data Transfer Impact Assessment ("DTIA") has been carried out in relation to the transfer of personal data to be performed under the Contract and that all the required additional security measures, if applicable, have been implemented;
- that the Standard Contractual Clauses have been duly entered into with the Sub-processors involved in the activities under the Contract, if any;
- that the DTIA is, and shall be, regularly updated and reviewed, in order to verify if any change to the specific circumstances of the transfer and/or if any regulatory development of the laws of the country of destination of the transferred data which may affect the security level of transfer, have occurred;
- that a copy of the duly signed SCC and the DTIA carried out shall be made available, upon ENEL's request.

- **For contracts concluded before September 27<sup>th</sup>, 2021**

- that a DTIA shall be carried out in relation to the transfer of personal data to be performed under the Contract and that all the required additional security measures, if applicable, shall be implemented **within December 27<sup>th</sup>, 2022**.
- that the Standard Contractual Clauses shall be entered into with the Sub-processors involved in the activities under the Contract, if any, **within December 27<sup>th</sup>, 2022**.
- that the DTIA is, and shall be, regularly updated and reviewed, to verify if any change to the specific circumstances of the transfer and/or if any regulatory development of the laws of the country of destination of the transferred data which may affect the security level of transfer, have occurred;
- that a copy of the duly signed SCC and the DTIA carried out shall be made available, upon ENEL's request.

Date .....

Signature .....



## Annex 4 GDPR

with VAT number  
CONTRACT REF. No. \_\_\_\_\_

**Subject:** **AUTHORIZATION REQUEST FOR THE APPOINTMENT OF THE SUB-PROCESSOR PURSUANT TO SECT. 28 OF THE EU REGULATION 2016/679 (HEREINAFTER “GDPR”)**

The Company *[insert the name and VAT number of the company appointed as Data Processor]* in its quality as Data Processor appointed by *[insert the name of the Data Controller]*, in its quality as the Data Controller

### WHEREAS

- to carry out specific processing activities connected with the performance of the Contract referred to above, the services of external third parties are required;
- for these purposes, the Company *[insert the name and VAT number of the company appointed as Sub-processor]* has been identified;
- pursuant to sect. 28 of GDPR, this company shall be appointed as the data sub-processor.

### NOW, THEREFORE

The Company *[insert the name and VAT number of the company appointed as Data Processor]* requests to *[insert the name of the Data Controller]*, in its quality as the Data Controller, the authorization to appoint the Company *[insert the name and VAT number of the company appointed as Sub-processor]* as the Data Sub-processor, using for these purposes the template drafted by the Data Controller and attached hereto.

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

The Data Processor

\_\_\_\_\_

For acceptance

\_\_\_\_\_





**General Contract Conditions Italy**  
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**DECLARATION OF CONFIDENTIALITY**  
**ANNEX 10**

**DECLARATION OF CONFIDENTIALITY**

**CONTRACT No.** ..... **DATED** .....

**SUBJECT:** .....

The undersigned:

(full name of the declarant)

☐ Natural person (only tick if the applicable Contract was not concluded with a Company)

(only tick if the applicable Contract was concluded with a Company)

☐ Owner

of

(Business name of the Company)

☐ Legal Representative

**DECLARES:**

- that the list of all the persons who, within the framework of the Contract referred to above, may access to ENEL's premises and/or access and process data and information of the ENEL Group is the following:

1) Mr./Mrs.....

(Full name)

2) Mr./Mrs.....

(Full name)

- that each of the persons specified above has signed the specific individual confidentiality clause attached hereto;
- that the contact person in charge of keeping the list specified above up-to-date at any time, is Mr./Mrs. ....  
e-mail ..... Tel. .... Fax .....

No. \_\_\_ individual confidentiality clauses are attached hereto.

Date .....

The Declarant

.....  
(Stamp and Signature)



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**ANNEX 10**

**INDIVIDUAL DECLARATION OF CONFIDENTIALITY**

**CONTRACT No.** ..... **DATED** .....

**SUBJECT:** .....  
.....

The undersigned .....

born in ..... ( province..... ), on .....

tick if the applicable contract was concluded with a Company

☐ employee

☐ consultant

} of the Company .....

in relation to the Contract referred to above, undertakes to:

- refrain from disclosing or disseminating to third parties the information collected, the relevant studies carried out, as well as the confidential data and information, as defined in the General Conditions and in the Contract, provided by ENEL for the performance of the Contract referred to above, and to use such information only for the purposes of such Contract, except if the undersigned has to fulfill legal obligations or orders from Public Authorities to which a legitimate refusal may not be made;
- read and properly fulfill the requirements for data security, specified in art. 22.16 of the General Conditions, and, as regards the use of any IT systems provided by ENEL, to keep with the utmost diligence all the paper and/or electronic media received or developed during the performance of the activities.

The confidentiality obligations shall apply **for the period** specified in art. 22 of the General Conditions or, if different, for the period set out in the Contract, including in the case of withdrawal, termination of expiry, either direct or indirect, of the contractual relationship with ENEL.

For acceptance

Signature

.....

Date: .....



Declaration pursuant to special part “D” “Crimes against the individual”

### HUMAN RIGHTS STATEMENT (Legal Person/Natural Person)

The Company .....represented by its legal representative ..... *[for legal persons]* /  
The undersigned ..... *[for natural persons]*<sup>7</sup> aware that any false statement shall  
entitle Enel to terminate the Contract and to request compensation for damages,

#### DECLARES:

to have been/not to have been<sup>8</sup> involved, in the last 5 years, in investigations for legal proceedings relating to the crimes referred to in sect. 25-quinquies, 25-duodecies and 25-terdecies of Legislative Decree. n. 231/2001, which are relevant for the Company’s Organizational Model.

The undersigned Company/The undersigned<sup>9</sup> undertakes to promptly notify to Enel any change in the information provided in this statement. Furthermore, aware that Enel may request at any time to prove the contents of this statement, undertakes to provide all the relevant documents.

In witness thereof,

---

<sup>7</sup> Strike out what does not apply.

<sup>8</sup> Strike out what does not apply.

<sup>9</sup> Strike out what does not apply.