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## 1 SCOPE.

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

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

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

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

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

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

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

## 2 DEFINITIONS.

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

- **Affiliate:** in relation to any person, any other person, who: (a) directly or indirectly controls, or is controlled by, or is under common control with, such person; or (b) directly or indirectly beneficially owns or holds fifty percent (50%) or more of any class of voting stock or other equity interests of such person; or (c) has fifty percent (50%) or more of any class of voting stock or other equity interests that is directly or indirectly beneficially owned or held by such person, or (d) either holds a general partnership interest in such person or such person holds a general partnership interest in the other person. For purposes of this definition, the word "controls" means possession, directly or indirectly of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities or otherwise.
- **Completion Term:** period by which the Contractor commits to complete the Scope of Contract, as set forth in the Agreement.
- **Duration:** period of validity of the Contract set forth in the Agreement.
- **Delivery Date:** Date set forth in the Contract or in the purchase order or service order for delivery of materials, works or services by Contractor.
- **ENEL Group:** Enel S.p.A. and its Affiliates.
- **Execution Date:** date on which the Contract enters in full force. Unless otherwise provided for in the Agreement, such date corresponds to the date of signature by both Parties.
- **Final Acceptance:** acceptance by ENEL of the completion of Scope of Contract, which takes place after eventual defects or deficiencies identified during commercial operations have been remedied.
- **Final Acceptance Date:** date when the Warranty Period ends upon Final Acceptance.
- **Governmental Authority:** any and all supranational, foreign, national, federal, state, county, city, municipal, local or regional authorities, departments, bodies, commissions, branches, directorates, agencies, ministries, courts, tribunals, judicial authorities, legislative bodies, administrative bodies, regulatory bodies or taxing authorities or any department, municipality or other political subdivision thereof. **ICMS:** Tax on the circulation of goods and services of Interstate and Intermunicipal Transport and Communication.
- **INSS:** the Brazilian Social Security Institution.
- **Inspection Program:** a set of inspections, tests, trials, proofs and/or surveys defined in the technical specifications of ENEL, and/or in the technical specifications of the materials, equipment and components, and/or

by the Law (if applicable), which shall be performed by Contractor before they are sent to ENEL, and/or before the delivery of the works or services.

- **IPI:** Tax on Industrialized Products
- **ISS:** Municipal Tax on Services.
- **Law:** all legislation, statutes, ordinances, codes, rules, orders, decrees, regulations, normative acts, judgments, injunctions, permits, licences, authorizations of any legally constituted Governmental Authority, as the same may be amended, modified or repealed, that are applicable to the Contract and in force in Brazil.
- **PIS:** the Social Integration Program.
- **Provisional Acceptance:** conditional acceptance by ENEL of the delivery of Scope of Contract, which need to be verified or confirmed under operational conditions within an agreed period. Such acceptance arises from the last of the following conditions having occurred or having been declared by ENEL: (a) completion of the Scope of Contract, (b) no defects exist, (c) all defects have been remedied; (d) the activities under the Scope of Contract have been realized and accepted for commercial use, if applicable, and (e) the Contractor has delivered all required documents to ENEL.
- **Provisional Acceptance Date:** date when the Warranty Period starts based on the Provisional Acceptance.
- **Prudent Industry Practices:** in connection with the performance of the services / supplies / works, those practices, methods, specifications and standards of safety, performance, dependability, efficiency and economy locally and internationally recognised by members of the applicable industry as good and proper, and such other practices, methods or acts which, in the exercise of reasonable judgment by those reasonably experienced in the applicable industry in light of the facts known at the time a decision is made, would be expected to accomplish the result intended at a reasonable cost and consistent with Law, reliability, safety and expedition. Prudent Industry Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to be a spectrum of good and proper practices, methods and acts.
- **Quality Control Plan:** a document issued by Contractor specifying the processes, procedures and resources associated with the quality of the materials and equipment that will be applied to meet the requirements of the Contract.
- **Quality Management System:** it is a Contractor's quality control system and consists of the set of actions, activities and techniques necessary to provide sufficient reliability that the material, equipment, work or service covered by the Contract will satisfactorily comply with the conditions required by ENEL and, if applicable, by the Legislation and technical standards.
- **Scope of Contract:** materials, equipment, works and services defined in the Agreement under a specific scope clause and/or in the Technical Specifications, which ENEL will acquire from the Contractor under the Contract.
- **Shipping Notification:** A Document issued by Contractor when all procedures agreed upon have been completed, informing ENEL when the total or partial shipment of the equipment or material covered by the Contract will be carried out.
- **Subcontractor:** Person having a direct contract with the Contractor for performing portions of the Scope of Contract related to the provision of works and services, including the Person's employees and representatives.
- **Subsupplier:** Person supplying to the Contractor, either directly or indirectly, materials and/or equipment (there included part thereof) required for the performance of the Scope of Contract, including the Person's employees and representatives.
- **Third Party:** any Person other than a Party.
- **Contractor:** any individual or legal entity (even grouped) that executes with ENEL a contract for works, services and/or supplies.
- **Electronic signature:** a set of data in electronic format, linked to or logically associated with other electronic data, used as a method of proving authorship that, when applicable and in accordance with Law, allows the identification of the identity of the signatories, the source and authenticity, legal validity and integrity of a given electronic document or a set of electronic documents.
- **Economic guarantee:** a financial guarantee at first demand that the Contractor delivers to ENEL, according to the clause 19 of these General Conditions, for guaranteeing the exact fulfilment of contractual obligations and the payment of damages caused by the breach of Contract for the amount and the period established under the Contract.
- **Final Acceptance Document:** document (e.g. a report) confirming the final receipt and acceptance of purchased materials or equipment, the works or services and the expiration of the Warranty Period.

- **ENEL's Global Procurement Portal:** ENEL Portal which Contractors can access in order to operate with ENEL on-line.
- **Provisional Acceptance Document:** document (e.g. a report) which records:
  - 1) the successful outcome of inspection and testing activities with regard to particular equipment or material received by ENEL; this document also records any necessary modifications or corrections of deficiencies that are found during the inspection and testing; or
  - 2) the successful outcome of a work progress examination, the exact performance or completed correction of the service, and compliance with technical standards and contractual clauses relating to the various phases of activities under the Contract.
- **Subcontract:** contract which the Contractor entrusts the performance of part of the Scope of Contract to Subcontractors.
- **Taxes:** any taxes, duties, levies, contributions or any other charge in general, as determined in accordance with Law and levied by the relevant Governmental Authority, applicable to the Contract at any time during its performance.
- **Contract:** the set of all contractual documents as specified below, that regulate, in writing, the obligations of the Parties and the acquisition of materials or equipment and/or the performance of a given works or the provision of a given service:
  1. **Agreement:** the document that includes the name and identifying data of the Parties, specifies the scope and the duration of the Contract that provides the economic, administrative and regulatory terms and that lists and refers to all of contractual documents that form the Contract.
  2. **Particular Conditions:** a document that provides the specific terms applicable to a given Contract;
  3. **Technical-Economic documents:**
    - **Technical Specifications:** the document that contains the technical requirements related to the Contract;
    - **Consideration or Price List:** the document that provides the economic consideration to be paid for the specific services rendered by the Contractor, which may be grouped per category;
    - **Any additional documents:** other documents related to a specific Contract (e.g. description of the works and interventions; graphic and descriptive design print-outs; time schedule, etc.).
  4. **Health, Safety and Environmental terms, and Health, Safety and Environmental Essential terms** (hereinafter jointly "**HSE Terms**"): the documents that govern the Parties obligations in connection with health, safety and environment matters of the Contract. The HSE Terms are available on the ENEL Global Procurement Web page.
  5. **General Conditions:** as defined under Clause 1.1
- **Warranty Period:** period of time for the duration of which the Contractor has to ensure the proper functioning of the products/works, or that the products/works are flawless and fit for their use.

### **3 LANGUAGE.**

3.1 The original version of these General Conditions is in Brazilian Portuguese and shall prevail in case of conflicts between its translations into other languages. The original version of the remaining contractual documents shall be that indicated in the Contract or in each of the contractual documents.

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

### **4 EXECUTION.**

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

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

4.3 In case of agreements executed by ENEL with the Contractor for the benefit of two or more companies belonging to the ENEL Group, the Contract shall be considered as executed by and between the given companies of the ENEL Group that will actually receive the services, works or supplies and the Contractor or its subsidiaries or associated companies or permanent organisations located in the same Country as the ENEL Group company.

## **5 INTERPRETATION AND HIERARCHY.**

5.1 In the case of conflict or incompatibility among the contractual documents, the priority and prevalence shall be determined according to the following order:

1. **Agreement;**
2. **Particular Conditions** (if any);
3. **Technical-Economic documents**
4. **HSE Terms;**
5. **General Conditions.**

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

5.3 Without prejudice to clause 30 "GOVERNING LAW", should any doubts and/or conflicts arise on the interpretation of a Contract, it shall be amicably resolved by the Parties, in accordance with the scope and purpose of the Contract and in compliance with the same.

5.4 A Party cannot waive any right, authority or privilege provided in the Contract unless such waiver is explicitly declared in writing to the other Party. The waiver of a right, authority or privilege shall not imply a waiver of any future right, authority and claim even if they have the same nature.

5.5 In the event of any provision of the Contract found to be null and void or voidable, such nullity or annulment shall not affect the remaining clauses, terms or provisions, which will remain in full force and effect. The Parties, taking into account the scope of the Contract and by a mutual agreement, shall seek to amend the invalid provision in such a way that it complies with its original purpose as much as possible.

5.6 Any omission or tolerance of the Parties in demanding the faithful compliance with the terms and conditions of the Contract, as well as the failure to exercise any rights provided for under the Contract or under the annexes thereto, or under the law in general, shall not constitute novation or waiver, nor shall it affect the right of the party to demand fulfilment thereof at any time.

5.7 The Contract constitutes the entire agreement of the Parties with respect to the subject matter herein and supersedes any prior agreement or understanding between the Parties, with the exception of any future written agreements executed by the Parties.

## **6 COMMUNICATIONS.**

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

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

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

## **7 ECONOMIC CONDITIONS.**

### **7.1 Price.**

7.1.1 The price of the Contract is the consideration agreed for the acquisition of materials and/or equipment and/or for the performance of works or services, and it takes into account the total value of the Contract. It includes everything necessary for the full performance of the contractual services, and everything that has to be provided or performed by the Contractor, including all costs, expenses or charges saved what is due for services and items that have been explicitly excluded and the taxes imposed by the Law. All prices shall be listed in the Contract in the manner provided for therein.

7.1.2 In case of performance of any work or services, the Contract price shall be deemed as including all the direct and indirect expenses that are necessary for the performance of the contracted scope, including, but not limited to, unless expressly agreed upon otherwise, costs and/or expenses with:

- Direct and indirect labor.
- Machinery and related staffing.
- Machinery amortization.

- Permanent and consumable materials.
- Transport of people, materials and means, to and from the work site.
- Installation and authorization of services.
- Maintenance costs.
- General costs and industrial benefits such as meals.
- Taxes, fees, contributions, and any other duties applicable or that may apply to the contracted scope, and the relevant invoice(s),
- Expenses regarding programming, acknowledgement and tests, material control, execution control, checks, receipts and other analysis, which shall be borne by the Contractor.
- Complete execution of all units of the contracted scope according to the Technical Specifications and other contractual documents.
- Construction, demolition, and removal of works, surveillance or storage auxiliary facilities, and those carried out in compliance with the regulatory standards of the ministry of labor and others applicable standard for prevention of risks of work related accidents.
- Expenses relative to any financial guarantee, insurance or any other guarantees, as applicable.
- Staffing costs shall include tools required according to staff expertise areas, as well as equipment required for protection, safety and proper execution of works.

7.1.3 Incidental costs to the scope of transportation, per diem rates or staffing maintenance by the Contractor shall not be accepted.

7.1.4 Prices shall be divided (e.g., prices for services, prices for materials and taxes payable), according to the provisions of the Law.

7.1.5 The Contractor shall be responsible for any additional costs resulting from the Contractor's failure to comply with the contracted conditions, including, but not limited to, the conditions of delivery and shipment, such as freights, shipments and/or other expenses.

7.1.6 There shall be no payment for materials, equipment and/or services not included in the Contract, except upon presentation of the price for the additional materials, equipment and/or services by the Contractor, and if previously accepted, in writing, by ENEL, which must be formalized by means of an amendment thereto, if such materials, equipment and/or services become part of the object of the Contract.

7.1.7 The estimated quantities of the services provided for under the Contract and the Annexes thereto may be extended, modified, reduced or cancelled by ENEL during the course of the Contract, without this granting Contractor the right to discuss, reimbursement, credit or change the price of each contracted activity, subject to the provisions of Clause 7.1.7.

7.1.8 The Contractor undertakes to accept increases, modifications and reductions to the scope agreed upon in the Contract, maintaining the prices agreed therein, provided that, together, they do not represent an increase or reduction of over twenty percent (20%) of the Contract price. In this event, the new time for delivery shall be mutually agreed by both Parties, by means of a detailed and grounded proposal issued by the Contractor and accepted by **ENEL**.

7.1.9 In case the increases, modifications and reductions proposed by ENEL higher than twenty percent (20%) of the Contract price, the Contractor shall have the option to accept or refuse them; however, in case they are refused, ENEL shall be entitled to terminate the Contract, as set forth in the clause 16.3.2. "k" of the General Conditions, without giving rise to any indemnity right to the Contractor.

7.1.10 In case it is necessary to carry out a work, service, or acquire a material or an equipment unit not foreseen under the Contract prices table, the related price shall be defined between ENEL and the Contractor, according to the motivated proposal, based on the costs breakdown of other similar units to which there is a per unit price.

7.1.11 The negotiation of the price shall be carried out before the execution of such unit, which must be formalised by means of an amendment.

7.1.12 When it is not possible to set a negotiated price or in cases where ENEL deems necessary, the price shall be set according to the tables that the Contractor shall include in its proposal, which shall include terms of equal content to the ones set forth under clause.

7.1.13 The execution of works by management shall be performed by means of previous written execution order by ENEL, which must be formalized by means of an amendment.

## 7.2 Modification of Prices.

Prices are considered fixed and non-adjustable, unless expressly stated otherwise in the Contract. Any changes in prices or contractual adjustments shall only be allowed to be made if provided under the Contract. When the Contract provides for any adjustment, it shall take place annually, based on one hundred percent (100%) of the variation of the official index as chosen in the Contract, calculated in the twelve (12) months immediately preceding the month of adjustment, or one hundred percent (100%) of the variation of the official index that replaces it, formalized by means of a Letter to be issued by ENEL. Therefore, the Contract shall detail the values of the relevant indexes and corresponding adjustment formulas, if any.

## 7.3 Invoicing.

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

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

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

7.3.4 In case the Contract allows for invoices in multiple currencies, each invoice shall be issued in respective currency of each country.

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

7.3.6 Invoices shall be delivered to ENEL in electronic format through ENEL systems, which ensure integrity of data and univocal attribution of the document to the issuer. Contractor shall fill in all the mandatory data required in the ENEL's systems for invoice record and its official receipt by ENEL. If any mandatory field has not been duly completed by Contractor in the ENEL's system, the invoice shall not be received by ENEL.

7.3.7 In case ENEL system is not available or the Law does not allow electronic invoicing, invoices shall be delivered to ENEL in PDF format and as final option in hard copy (original) at the address set forth in the Agreement.

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

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

7.3.10 The invoices (or "bills of sale") shall be complemented with: the relevant proof of the Contractor's registration before INSS specifically for the activities related to the scope of the Contract; the relevant proof of the Contractor's registration before municipality for the collection of the ISS if the charge is applicable; as well as relevant evidence of collection and/or payment of the corresponding tax and/or social security liabilities.

7.3.11 In addition, the invoices shall include:

- Order or Contract number and authorization number given to Contractor by Enel;
- Any tax levied on the operation, such as: ISS; IPI and ICMS, in case of acquisition of materials;
- Due date;
- Specification of services and/or materials acquired by means of their respective identifiers;
- Name and number of CNPJ (Brazilian National Register of Legal Entities) of the ENEL Group Company performing the purchase and/or receiving the services;
- Value per unit of the services, materials or items of equipment;
- Total value of the services, materials or equipment;
- Specification of all tax deductions and withholding taxes.
- Bank details for payment (to the payments in foreign currency and **Contractor** located abroad, shall be indicated the swift code, IBAN and the country of receipt of payment, that cannot be a tax haven established under normative instruction of the Federal Revenue of Brazil nº 1.037/2010 and further amendments to).



7.3.12 In case ENEL identifies any mistakes, flaws or discrepancies in the invoices or bills of sale, as well as any failure to comply with legal and contractual liabilities by the Contractor, an invoice shall be rejected in Enel Systems and the payment term shall be interrupted and being performed only after the Contractor has issued a new invoice in accordance with the requirements provided under the Law and clause 7.3.18. Contractor will need to get a new authorization number by ENEL to re-submit an invoice.

7.3.13 The invoice reviewed by the Contractor shall have the same term for payment as the invoice originally sent, as from the date of receipt thereof.

7.3.14 ENEL shall not be responsible for any financial or bank expenses or costs necessary to issue invoices.

7.3.15 Under no circumstances shall the Contractor or its subcontractors be authorized to issue any securities against ENEL or against any other entity belonging to ENEL Group, neither shall the Contractor sign any lookalike contracts or perform any commercial arrangements whatsoever that could have a similar effect against ENEL or against any other entity belonging to ENEL Group, including the assignment of credits rights against ENEL or against any other entity belonging to ENEL Group. If such happens, the Contractor shall be responsible for bearing all expenses, losses and damages resulting from the breach of the provisions of this clause.

7.3.16 In the same invoice, the following items shall be separated:

- a. Any works contracted by management as a complement to the Contract.
- b. Any increase already billed through the application of adjustment formulas provided for under the Contract. In this case, it is necessary to include justifications related to the value of indexes applied, as well as details of the relevant adjustment formula.

7.3.17 Payments to any companies, whether national or foreigner, providing services or materials involving any kind of transfer of technology, know-how, technical assistance, intellectual property of any nature or any other type of service/supply requiring any specific registration, shall be subject to the specific proceedings set forth under the Contract and the law, the Contractor being aware that it may involve procedures within official bodies, such as, for example, the National Institute of Industrial Property (INPI – *Instituto Nacional da Propriedade Industrial*) or the Central Bank of Brazil (BACEN – *Banco Central do Brasil*).

7.3.18 In case it is necessary to perform the registration with such official bodies, the Contractor shall only be allowed to issue the mentioned invoice/bill of sale after such official bodies have published the approval of the application for registration.

7.3.19 In case the procedures referred to above cause any delay that is not due to the sole fault of the party responsible for the registration thereof, the resulting delay on invoicing and payment shall not be attributed to ENEL, and shall not give rise to the accrual of any interests, penalties, updating or monetary adjustment.

7.3.20 It is hereby agreed that, in case any invoice is issued without following the procedure above, ENEL shall not be bound to pay it, and the Contractor shall cancel the invoice issued and replace it with a new one, according to the procedure described in this clause, bearing all incurred costs, including those related to taxes, which may be payable by reason of cancellation of the invoice issued in breach of the provisions in this clause, as well as in relation to the issue of the new invoice as replacement.

#### **7.4 Payment Conditions.**

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

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

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

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

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

7.4.6 In case of a delayed payment by ENEL, if such a delay is imputable to ENEL, default interest shall be payable to the Contractor in accordance with the provisions of the Contract and Law. The invoices shall be paid within the period set forth under the Contract, after ENEL's analysis and previous approval of the fulfillment of the contractual conditions; in case the term for payment is not expressly specified in the Contract, it shall be the first day of massive payment after ninety (90)



calendar days as from the date of registration of the Invoice by ENEL, or the invoice date of approval, if later than the registration date.

7.4.7 The import invoices shall follow customs rules, and particularly the provisions under the Federal Revenue Service (Ministry of Finance) decree nº 6759/09, art. 557.

7.4.8 All payments made prior to the **Provisional Acceptance**, pursuant to the provisions of the Contract, shall be considered advance payments of the final price. In case where a financial guarantee for the fulfillment of the Contract is not provided, ENEL shall have the right to withhold ten percent (10%) of the Contractor's invoicing, according to item 19 of this General Conditions.

7.4.9 In the event any errors, failures or divergences in the collection documents are found, the payment period shall only be counted as from the date of resubmission, by the Contractor, of the relevant accurate and orderly bills of sale/invoices, without the application of interest, penalties, updating, and monetary adjustments.

#### **7.5 Payments Deferment.**

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

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

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

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

### **8 TAX.**

8.1 The taxes levied on the subject matter of the Contract shall be applicable under the terms of the legislation in force and at the time of the taxable event that has given rise to the tax liability. In the event of any changes to the tax legislation, the information contained in the tax document shall be altered in order to comply with the legislation in force at the time.

8.2 All taxes levied or that may be levied on the subject matter of the Contract shall be paid by the relevant taxpayer or person responsible for it, pursuant to the tax legislation, and the Party responsible for the payment of a certain tax shall keep the other free of any responsibilities, demands and actions of any nature in relation to said tax.

8.3 The taxes, when subject to any withholding, shall be withheld in accordance with the Law, so that the payments to be made to the Contractor are always made at its net value.

8.4 If, during the term of the Contract, any new Taxes are created or there is any change to the tax legislation that materially changes the tax burden of the Contract (for more or less), the value of the Contract, as the case may be, shall be adjusted proportionally, by means of an amendment thereto detailing the corresponding change.

8.5 The Parties mutually undertake to fulfil all obligations, to deal with all the paperwork and to deliver all documents necessary for the proper payment of taxes, including withholdings and other legal obligations applicable to the Contractor, in compliance with the procedures set forth by Law. Similarly, the Parties undertake to cooperate in order to obtain exemptions or other tax benefits applicable to the Contract. If, due to a lack of diligence or any other cause imputable to the Contractor, ENEL loses an entitlement to a tax benefit, it may discount the amount of the tax benefit it has not been able to take advantage of from the amount due to the Contractor.

8.6 If, at any time, ENEL or the Contractor benefits from any tax benefits that imply any reductions, or tax exemptions, or, in case there is the extinction of the taxes, such events shall be informed to the other Party and shall imply proportionally in the readjustment of the value of the Contract, by means of an amendment to the Contract detailing the impact of the corresponding reduction.

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

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

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

**8.10 Taxes applicable to imports and other customs expenses.**

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

- a) The Contractor shall pay all taxes and charges applicable to goods in the Countries of origination of those goods and those applicable in the Countries through which said goods have transited until final delivery, plus all the taxes charged in the Country of destination which are payable as a consequence of the economic benefits obtained from selling them.
- b) The Contractor shall also pay the expenses and import taxes or equivalent in the Country of destination, as well as other official customs charges on the imported materials and/or equipment, unless otherwise agreed with ENEL.

8.10.2 The only exception to the previous paragraph shall be the Brazilian taxes described in the following sub-items (i), (ii) and (iii), considering that, according to Brazilian legislation, ENEL is the legal taxpayer and shall pay taxes directly and bear the costs of the relevant payment thereof:

**(i) Importation of services.**

The following Brazilian taxes on the import of services shall be borne by ENEL: ISS, PIS, Cofins ("Social Security Financing Contribution"), CIDE ("Contribution for Intervention in the Economic Domain") and IOF ("Tax on Financial Operations"). Withholding tax (IRRF) shall be withheld by ENEL and deducted from the amount to be paid to the Contractor.

**(ii) Imports of equipment of foreign origin.**

The following Brazilian taxes on imports of equipment of foreign origin shall be borne by ENEL (not included in this concept: customs and other import expenses): II ("Tax on Import"), IPI, PIS, Cofins, ICMS and AFRMM ("Freight Additional for the Renewing of the Merchant Marine").

**(iii) Local purchase of products.**

The differential of ICMS tax rate on the delivery of goods by any national company shall be borne by ENEL.

Therefore, the Brazilian taxes described in sub-items (i), (ii) and (iii) above shall be borne by ENEL and shall not be included in the Contract price.

**8.11 Taxes applicable to purchases of goods and services rendered in Brazil.**

In the case of supply of goods and performance of services by any Brazilian company, the Contractor shall be responsible for payment of all taxes due, in accordance with current legislation, except for the differential of the ICMS interstate rate, which shall be borne by ENEL. In this case, all applicable taxes shall be established in the Contract to quantify the total price: ICMS, ISS, PIS, Cofins and IPI.

**9 PERFORMANCE.**

**9.1 Introduction.**

9.1.1 ENEL reserves the right to monitor Contractor's performance of all obligations under the Contract, in accordance with the terms and conditions set forth therein. ENEL undertakes to provide, upon request of the Contractor, all necessary information for the performance of the Contract activities. If data provided by ENEL result to be insufficient or incomplete, the Contractor undertakes to point out any missing information - before the start of the services or work, and/or prior to the manufacture of material and equipment - for ENEL to promptly provide them.

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

9.1.3 ENEL reserves the right, during the performance of the Contract, to request the replacement of the Contractor representative(s) mentioned under the clause 9.1.2., at its sole discretion. In such case, the Contractor shall be obliged to appoint different representatives within ten (10) working days from the request, unless otherwise provided for in the Contract.

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

9.1.6. **Contractor** represents and warrants that:

- (i) It has full knowledge and domain of the Scope of Contract, of the site where they will be provided, of the neighboring regions and access routes, and of all other factors and conditions that may influence the cost and term of performance, exclusively paying for all the complementary investigations it deems necessary for the definition of the cost and term of performance of the Contract.
- (ii) Pursuant to the foregoing above, Contractor shall not be entitled to any complaint, indemnity, additional payment claim, exchange variation, or claim to characterize extraordinary service, including for the purpose of justifying delays or extending contractual terms, for any allegation of design errors, due to any difficulties or disorders of any nature, including in relation to the conditions existing at the service performance site, namely geological, hydrological, meteorological, environmental, topographic conditions of the soil and subsoil, and security.
- (iii) It holds the professional documentation issued by the relevant authority that enables it to exercise the activity it develops, and that its company has all the necessary registrations, authorizations and licenses that are necessary from the competent bodies for its operation and performance of the object of Contract, which, as stated hereby, are covered by its corporate object, undertaking to maintain such registrations, authorizations and licenses in force during the term of the Contract.

9.1.5 For the execution of services related to the works, as well as for the acquisition of materials required to the performance thereof, the provisions of these General Conditions and the Contract shall be fully complied with, particularly the guidelines of the Brazilian Technical Standards Association (ABNT – *Associação Brasileira de Normas Técnicas*), with the strict fulfillment of the laws and requirements of federal, state and municipal authorities, releasing ENEL from any responsibility in case the Contractor or its Subcontractors fail to fulfill any legal requirements.

9.1.6 The Contractor shall place, on a visible site at the work site, a sign of the company informing the name of the Technical Manager and his/her registration number in CREA (Regional Council of Engineering, Architecture and Agronomy).

9.1.7 The Contractor shall provide the registration of Annotation of Technical Responsibility (ART – *Anotação de Responsabilidade Técnica*) related to the works and/or services under the Contract, in the CREA of the region where such works and/or services shall be carried out, according to the terms of the applicable legislation, and send a copy of this document to ENEL prior to the beginning of the performance of the Contract.

9.1.8 The Contractor shall request to ENEL, in due course and in advance, licenses under its sole, exclusive and direct responsibility, so that the performance of the works or services is not affected and the commencement of the services/machinery operation is not prevented, the costs necessary to obtain these licenses being the Contractor's responsibility.

9.1.9 If such request is not performed in due time and according to the aforementioned paragraph, the Contractor shall be subject to the sanctions set forth under the Contract, as well as shall be liable for any resulting damages that may be caused, whether directly or indirectly, to ENEL.

9.1.10 The Contractor shall register with the relevant authorities all equipment used in the performance of the services, if legally required, particularly, but not limited to, in relation to the environment, the Contractor being solely responsible for all damages and losses caused to ENEL.

9.1.11 The Contractor shall provide its employees, at its sole and exclusive responsibility, with all Personal Protective Equipment (PPE) and Collective Protective Equipment (CPE) of compulsory use, pursuant to current legislation, used in the performance of the Contract.

**9.2 Inspections and Tests.**

9.2.1 Anytime throughout the Duration of the Contract and subject to a reasonable advance notice issued within a maximum of ten (10) working days' notice, the Contractor shall give access to personnel of ENEL and/or, in compliance with Clause 22 "CONFIDENTIALITY" of the General Conditions, by Third Parties discretionally designated by ENEL for that purpose (with the exception of Contractor's competitors), to its workshops and warehouses and shall cause its Subcontractors to do the same, in order to verify the performance of the Scope of Contract, including manufacturing and testing phases as well as progress of process cycle.

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

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

9.2.4 In alternative to the physical access to workshops and warehouses, upon ENEL's request, the Contractor and its Subcontractors shall allow and facilitate the performance of remote inspections/tests. The connection system (e.g. video

conferencing, smart glasses, webcam, etc.) shall be made available by the Contractor or its Subcontractors and enable the video streaming of inspections/tests, documentation revision and interaction among local and remote participants.

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

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

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

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

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

9.2.10 If ENEL does not perform any required or previewed inspections/tests it shall not constitute any limitation to the Contractor's liabilities under the Contract, even if Contractor's breach is ascertained at a later stage throughout the Duration of the Contract.

9.2.11 According to clause 9.1.5, if as result of tests/inspections ENEL requires the replacement or restoration of certain defective equipment or works, such replacement or restoration shall be done at the sole Contractor's expenses and no cost arising therefrom shall be borne by ENEL. The defective equipment, or works, or services shall be clearly identified and the Contractor shall not be allowed to use or deliver them in the following performance of the contractual activities, unless the ascertained defects have been properly settled and such use or delivery has been authorized by ENEL.

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

### **9.3 Delivery and Acceptance.**

#### **9.3.1 Introduction.**

9.3.1.1 The Contractor shall deliver whole or part of the Scope of Contract in accordance with the schedule specified in the Contract. If a Delivery Date is not specified, the Completion Term shall be the date established in the purchase order or service order to its conclusion, unless otherwise provided for in the Contract.

The Delivery Date or the Completion Term shall not be postponed nor extended, unless for reasons attributable to ENEL or as a consequence of Acts of God or Force Majeure Events according to Clause 17 ("ACTS OF GOD AND FORCE MAJEURE").

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

9.3.1.3 Without prejudice to clause 9.3.1.1, the Contractor shall timely communicate to ENEL the actual date of delivery of whole or part of the Scope of Contract and request the Provisional Acceptance. The Contractor shall alternatively notify any circumstances which have caused or may cause a delay to the delivery deadlines or terms set forth in the Contract. In case of expected delay, the Contractor shall indicate the expected new date of delivery, to be confirmed later on with specific communication to ENEL.

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

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

9.3.1.6 Under no circumstances, even in case that a dispute resolution is pending with ENEL, the Contractor is allowed to voluntary suspend or slow down the delivery of the Scope of Contract. In case of breach to such obligation, ENEL reserves

the right to terminate the Contract, without prejudice to its full right to compensation for any damages it has eventually suffered.

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

### **9.3.2 Materials and Equipment.**

9.3.2.1 Unless differently provided for in the following clauses, delivery of materials and equipment shall be managed in accordance with Incoterms. The delivery of materials and equipment shall take place at the location specified in the Contract and in accordance with Incoterms set forth in the Contract.

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

9.3.2.3 Transport to destination and unloading shall take place under the Contractor's full responsibility. If the type of material requires it, the Contractor shall obtain from the competent authorities any transit permits, licenses, authorisations or police protection in order to transport the materials; the Contractor shall bear all costs related to any work this may entail, such as: transit deviations, bridge buttresses, signs, etc.

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

9.3.2.5 All delivered materials and equipment shall be adequately protected by Contractor in packages that guarantee total protection and security, duly identified and labeled for their correct and easy acceptance at destination, indicating, in a legible way, the locations of deliveries thereof, the numbers of requests for supply formulated by ENEL and Contractor's corporate name. The Contractor shall accompany those materials and equipment with a respective receipt document indicating the information specified in the Contract.

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

9.3.2.7 At each delivery, the Contractor shall also send all the final technical documentation, as well as protocols and tests set forth under the Technical Specifications, under the Contract and, as the case may be, under the relevant technical standards.

9.3.2.8 In addition to the aforementioned documentation, the Contractor shall certify, in case it is required by ENEL, that the drawing, raw materials, materials and brands and types of components are identical to those that resulted in the approval, if the case may be.

9.3.2.9 In order to carry out the delivery, the Contractor shall send to ENEL, at the attention of its contact person or person in charge of the receipt appointed in the Contract, in good time, the Shipping Notification including the following information:

- Contract reference number.
- Number of volumes sent, informing the material they hold. In case these are the last volumes contracted, it shall be expressly informed.
- Data related to the means of transportation used and/or the transporting company, including the information and telephone of the contact person.
- Date and place where the equipment or materials are made available.
- Likewise, the Contractor undertakes to immediately communicate ENEL of any circumstances that change the delivery conditions agreed upon.

### **9.3.3 Works and Services.**

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

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

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

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

9.3.3.5 If the outcomes of the tests are not satisfactory, ENEL may point out in the Provisional Acceptance Document the defects encountered and establish a mandatory term for the Contractor to remedy such defects. Once this deadline has elapsed, additional checks shall be carried out, and the results thereof reported in the Provisional Acceptance Document. In case of satisfactory outcomes, the Provisional Acceptance is intended to be completed, if not, ENEL has the right to terminate the Contract in accordance to clause 16.3.

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

9.3.3.7 During Final Acceptance Meeting, ENEL shall draft a Final Acceptance Document in which attesting the full compliance of the delivery with Contract requirements after verifying the works and services in operation. The absence of Contractor Representatives shall be considered equivalent to the full acceptance of the contents of the Final Acceptance Document.

9.3.3.8 If the Contractor disagrees on certain technical or financial aspects pointed out by ENEL during the Final Acceptance Meeting, it shall ensure they are reported in the Final Acceptance Document, specifying the reasons for this disagreement. Any disagreements shall be settled amicably, in good faith, between the Parties, and in case of fail to reach an agreement, the matter shall be settled according to Clause 30 ("JURISDICTION").30

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

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

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

9.4.1.2 Notwithstanding the above the Contractor authorises ENEL to take possession of the materials and equipment, in whole or in part, as soon as they become part of works and/or services or are in placed an installation owned by ENEL, and to use them in ENEL'S works and/or services or installations, unless such authorisation is limited by ENEL for justified reasons. Where such authorisation is given, ENEL may use or include the materials and equipment in its development processes and may make use of the results of these processes. In any case the Contractor, up to the time the risk is transferred to ENEL, must have an insurance in place with adequate coverage for the materials and equipment, even if they are already in the possession of and used by ENEL.

##### **9.4.2 Works and Services.**

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

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

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

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

#### **9.5 Quality.**

9.5.1 In the Contract performance, the Contractor guarantees that the quality of goods, services and works object of the contract, fully satisfy the purpose pursued by the Parties upon the signing of the Contract itself. The Contractor guarantees in the contract performance the compliance with the quality requirements indicated in the Technical documents part of the Contract itself and he is responsible for maintaining commercially acceptable quality control standards in the



production of a product or in the performance of the service or work, including production standards required by any local government entity and good manufacturing Practices.

9.5.2 Contractor shall be solely responsible for quality control, regardless of the tests, controls and evidence that ENEL performs or requires, whether directly on its own behalf or through third parties. These tests, controls and evidence shall not release Contractor from any responsibility, including those related to defects, whether latent or not.

9.5.3 Before beginning the process of manufacturing the material or equipment, Contractor shall submit, upon ENEL's request, and for its approval, a Quality Control Plan (in accordance with ISO 10.005 or any equivalent thereto), where the Inspection Program shall be complied with.

9.5.4 Once the Quality Control Plan is submitted by Contractor, ENEL shall have a period of fifteen (15) business days to object it, always for justifiable reasons, and Contractor shall modify it with the due diligence, making the necessary corrections at its own cost and in accordance with the conditions established in the Contract or requested by ENEL.

9.5.5 During the performance of the Contract, Contractor shall conduct the activities established in its Quality Management System (according to ISO 9001 or any equivalent thereto), observing the technical criteria set out in the Quality Control Plan approved by ENEL, in the strictest and most rigorous way to prove compliance with that obligation. Subject to the "CONFIDENTIALITY" Clause provided for in these General Conditions, ENEL may carry out audits and/or inspections necessary under Clause 9.2.

9.5.6 If the results of the audits and/or inspections show any inconsistencies, technical non-compliances and/or violations of the contractual provisions, ENEL shall require the replacement or repair of the materials, equipment and manufactured components, as well as the reperformance of the services and/or works, at Contractor's expense and without any change to the contractual terms agreed upon by the Parties. If ENEL requires the replacement of certain materials, equipment and components, they shall be clearly identified and Contractor shall be prevented from using them for the performance of the contractual activities.

9.5.7 Upon completion of the performance of the Contract, Contractor shall deliver to ENEL's approval a final quality control report, the content of which shall be consistent with that provided for in the Contract and the Quality Control /Plan approved by ENEL.

9.5.8 ENEL may require that Contractor to register before notary and/or local technical-administrative council and/or Governmental Authority, responsible for certifying and/or registering (as applicable) the technical documentation necessary for the manufacture of the materials and equipment covered by the Contract. This documentation will be available to ENEL, which will be able to use it in cases where the intention is to proceed with the discontinuation or withdrawal of the material or equipment catalog, or in situations of insolvency of Contractor, its subcontractors or the Contractor's suppliers.

9.5.9 If Contractor fails to comply with the quality standards required for each type of service or supply, ENEL may, at its sole discretion, determine that Contractor develop, at its exclusive expenses, an action plan, which shall be previously approved by ENEL, aiming at the fulfillment of the quality standards, subject to the applicable penalties. This hypothesis shall not be considered as a novation of the obligations initially contracted, but rather a mere liberality by ENEL. ENEL may, also at its sole discretion, depending on the severity and extent of the failure to comply with safety and/or quality standards, determine the immediate termination of the Contract, without any indemnity being due to Contractor.

9.5.10 Compliance with quality control conditions shall not mean that the scope of the Contract has been fully implemented and approved by ENEL, and shall not release Contractor from any responsibilities, including those related to defects, whether latent or not, of the services, works, materials and equipment.

## **9.6 Bonus.**

9.6.1 ENEL reserves the right to request, at any time, the Contractor to anticipate the delivery of whole or part of the Scope of Contract, by sending a specific written request to Contractor. In exchange of such anticipation ENEL may, at its own discretion and judgment, award to the Contractor an economic bonus ("Bonus"). Unless otherwise established in the Contract, the Contractor shall communicate in writing, its eventual acceptance of the new deadline requested by ENEL.

9.6.2 It is understood that ENEL's request to anticipate the delivery shall not imply, implicitly or not, any recognition that a Bonus is due, even specifically accepted by the Contractor.

9.6.3 As aforementioned the payment of a Bonus relies exclusively on the sole discretion and judgment of ENEL, who will take in consideration, but not exclusively (i) Contractor's achievement of the new Delivery Date/Completion Term (ii) full compliance with all its legal and contractual obligations, among the others as far as labour, health and safety are concerned. In no case a Bonus shall be considered to be paid if ENEL has applied penalties in accordance with the Contract.

## **9.7 Records and Audit.**

9.7.1 The Contractor shall maintain books and accounts with respect to the Scope of Contract in accordance with generally accepted accounting principles and practices consistently applied. In addition, the Contractor shall maintain a system of internal accounting controls appropriate for its operation. During normal business hours and upon forty-eight (48)



hour notice, the Contractor shall grant ENEL access to Contractor's records, books, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, and any other data relating to the Scope of Contract.

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

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

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

## **10 SUBCONTRACTING.**

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

10.2 With regard to works, services and supplies, the Contractor can subcontract up to the percentage of the total amount of the Contract indicated therein. The Subcontracting activities shall not exceed the percentage of thirty per cent (30%) of the total amount of the Contract.

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

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

- Enel's written previous approval;
- in the bidding for the Contract, the competitors must indicate in their proposals, also in case of variations, the works/part of works or the services or supplies/part of services or supplies that are object of the subcontracting;
- the subcontracting agreement shall necessarily contain the Subcontractor's acceptance of all contractual, legal, labor, confidentiality, security and other conditions, contractually undertaken by Contractor before ENEL, and it shall be submitted to ENEL before execution of the Scope of Contract is started, without prejudice to the provisions of clause 10.9 below;
- while submitting the subcontracting agreement to ENEL, the main Contractor has to transmit to ENEL the certification proving that the Subcontractor meets all the requirements for the performance of the subcontracted activities along with a declaration that states the compliance with general requirements stipulated by **Law**;
- only one round of subcontracting is permitted; therefore subcontracted activities may not be executed or performed using any further level of subcontracting, unless required by the Law and upon the prior written consent of **ENEL**.

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

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

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

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

10.9 Under no circumstances will the existence of any contractual relationship or joint and several liability of any nature between the Contractor's Subcontractors and ENEL be characterized, the Contractor always remaining as the sole and exclusive responsible for all activities of such Subcontractors towards ENEL. The use of Subcontractors shall not exclude or limit the fulfillment of contractual, legal and tax liabilities arising from Contractor's compliance with the Contract; including,

but not limited to, any obligations arising from occupational accidents and accidents of any other nature, as well as labor and social security charges, the redress of any losses and damages and losses caused to ENEL by any subcontractors, their agents, advisors and workers of any losses and damages caused to ENEL and third parties, by any subcontractors.

10.10 ENEL shall not be liable to any Subcontractor, nor to its employees, for any judicial or extrajudicial proceeding of any nature which include direct or indirect labor claim but not limited to. The Contractor undertakes before ENEL to use its best efforts to prevent the filing of any judicial or extrajudicial proceeding or labor claim. Consequently, the Contractor shall be liable towards ENEL and shall indemnify and hold it fully harmless in relation to any proceeding, whether judicial or extrajudicial, labor claims or procedure proposed against ENEL by any Subcontractor, or its staff. This hypothesis shall cover all damages and losses with the amount payable by ENEL as a result of any judicial or extrajudicial proceeding, or labor claim, as well as expenses or costs of any nature incurred by ENEL as a consequence thereof. Contractor's failure to comply with the provisions herein shall be considered a breach, and giving ENEL the right to terminate the Contract, without prejudice to the possibility of ENEL applying the contractually penalties, as well as suspend any payments or withhold any amounts due to the Contractor, or to take any other applicable legal measure.

10.11 According to the provisions above, ENEL may, at any time, inspect and monitor the works or manufacturing carried out by the subcontractor, and the fulfilment of their obligations. The Contractor shall guarantee and provide ENEL with all collaboration required to inspect the Subcontractors documents, reports, free access to their factories, workshops or facilities, etc.

10.12 ENEL reserves the right to reject or request the replacement of subcontractors and its employees at any time and Contractor shall comply with it without the right to any indemnification.

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

11.1 The Contractor shall perform the Contract on its own account. The assignment of the Contract to a third party is allowed only upon ENEL's explicit authorization and in compliance with the Law.

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

11.3 ENEL shall be released from any and all payments or obligations towards third parties, for securities placed in collection, discount, bond or other modality of circulation or guarantee by Contractor, backed by the rights arising from the Contract and, under no circumstances, shall ENEL accept such securities, which shall be immediately returned to the individual/entity that has submitted them. Contractor also irrevocably and irreversibly waives the right to issue trade acceptance bills, as set out in Art. 2 of Law No.5474/68, as a result of billing for the supplies and services provided under the Contract. In any event, ENEL shall not be responsible for any bank charges/additional amounts or any other charges/additional amounts, not expressly provided for in the Contract.

11.4 Contractor shall be responsible for redressing ENEL in case of any loss and damage, which ENEL suffers as a result of the failure to comply with the provisions of Clause 11.2 above, as well as in case of any protest of trade acceptance bills issued in breach of the express prohibition contained above, without prejudice to the other penalties provided for in these General Conditions and/or the Contract, as well as the incidence of a non-compensatory fine equivalent to one hundred percent (100%) on the value of the discounted or endorsed security.

11.5 ENEL reserves the right to reject assignees who ENEL considers as not appropriate, without the need to indemnify the Contractor.

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

11.7 Contractor agrees, by accepting the General Conditions, that ENEL may assign the Contract and/or its collection rights or payment obligations resulting therefrom to any third party, upon written notice to the Contractor thirty (30) days in advance.

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

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

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

12.3 Furthermore, the Contractor is fully responsible for:

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

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

12.5 During the term of the Contract, without prejudice to the other obligations undertaken in the Contract or its Annexes, the Contractor shall:

- a) Plan, conduct and perform the services under the Contract, strictly and fully in accordance with the provisions of the Contract and its annexes, with the legal determinations and complying with the rules established by ENEL.
- b) Fully meet the service levels of agreement and quality of work and service; quality, quantity, validity and brand of materials and equipment, on a case by case basis (also promoting the immediate change of materials that are defective or in disagreement with the requests made by ENEL, including as to the deadlines and conditions for performance of the contracted subject matter, maintaining these conditions throughout the validity of the Contract.
- c) Schedule to perform the services in accordance with the timetables made available in the Contract and relevant annexes, strictly complying with the terms agreed upon and being responsible for all losses and damages that ENEL may incur, directly or indirectly, as a result of the delays in the service performance due to the exclusive fault of the Contractor.
- d) The Contractor shall clarify any problems or questions that may arise for the performance of the services before the beginning thereof. The Contractor's silence shall make it fully comply with the provisions of the timetable, without any right to claim or shutdown the service under the Contract, and being responsible for all losses and damages, whether direct or indirect, caused to ENEL and/or third parties due to the breach of this obligation, giving ENEL the right to withhold payments due to the Contractor for such losses and damages.

12.6 Provide, whenever requested, complete clarifications on the development of the services, aiming at any measures that may be of interest to the inspection with a view to the proper performance of the works, making available to ENEL the documents and materials in use for the performance hereof in any phase.

12.7 Present, whenever requested by ENEL, full details of any material used in a given service. Failure to comply with ENEL's request shall allow it to challenge or reject the service, without any indemnity rights being granted to the Contractor.

12.8 The Contractor shall replace, in two (2) business days or in any other period set forth in the Contract, the materials and equipment that are not in accordance with the agreed and required conditions, are inadequate, or of poor quality. These materials and/or equipment may remain in ENEL's possession until they are replaced by the Contractor, and ENEL shall have the right to use the rejected material and/or equipment until such time as the Contractor supplies the new one.

12.9 The Contractor shall be responsible for the dimensioning of the materials and equipment, and complement, when requested by ENEL, as well as for the quantity of tools and equipment, if there is evidence of the insufficiency of the same for the fulfilment of the contractual deadlines. The expenses incurred for this complement shall be the responsibility of the Contractor.

12.10 The Contractor shall provide all trained, qualified and certified labor, equipment and tools necessary for the performance of the services, as well as perform the mentioned services in accordance with the Contract and its Annexes, subject to the Good Engineering and Construction Practices, the rules or standards of ABNT, or, in their omission, any international technical standards applicable and previously agreed upon between the Parties, always respecting the Network Procedures of ONS – National Electric System Operator, ANEEL's resolutions, the laws, decrees, ordinances and any other standards applicable and in force on the date of execution of the Contract.

12.11 The Contractor, provided that it is required by ENEL, according to the nature of the Contract, shall submit weekly, or in any other term set forth in the Contract, a progress report of the works/services, containing at least the following information: physical progress by activity (in percentages), control of the work timetable, purchase status of the main inputs, photographic record of the main activities and work histogram in the period.

12.12 The performance of modifications to the services under the Contract that are not authorized, agreed or specified in the Contract, Amendments, and Annexes thereto, and to the rules for construction, installation and maintenance services, that are not authorized or expressly agreed with ENEL, or provided for under technical standards, authorizes ENEL to reject the material or equipment supplied, or work or service unduly carried out, and order its demolition or removal thereof and the new construction, maintenance or rework of the service by the Contractor or by third parties (provided they are approved

by ENEL), at the Contractor's expense, without prejudice to the possibility of applying the penalties provided for in the Contract and its annexes, or adopting appropriate measures for the application of losses and damages arising therefrom, plus court costs, interest and monetary adjustment.

12.13 In the Contracts, where necessary, according to legal and/or ENEL's requirements, the Contractor shall provide, before starting the performance of the referred contract, the registration of ART for the Services in the relevant Council for the service to be performed. The Contractor shall bear all costs and fees relating to the correct filing of ART, including, but not limited to, the payment of the corresponding billing document.

12.14 The Contractor shall inform ENEL, or whoever it indicates, in the shortest possible term, not exceeding five (5) consecutive days, of the occurrences resulting from the performance of the services that may give rise to any measures to be taken by ENEL before the Government, public service concessionaires and funding agents, for the protection and continuity of these public services, if they become affected by the works and services.

12.15 The Contractor shall settle, in a timely manner, any and all commitments that may be made to third parties, including Subcontractors, in order to prevent such commitments from constituting liens or encumbrances of any nature on the supplies, works and/or services, in which case it shall be fully responsible for the reimbursement of any damages caused to ENEL.

12.16 The Contractor shall provide and maintain vigilance for the protection and safety of the place where the works and/or services are provided until compliance with the contracted object is verified, without prejudice to any vigilance that ENEL may exercise, it being understood that the vigilance to be performed by the Contractor will not lead to any regulatory state power or allow the use of firearms.

12.17 The Contractor shall provide, promptly, the release of any service fronts, avoiding delay in the performance of works and/or services and/or supply, as well as take responsibility for any increase in contracted costs, when, by valid determination of the competent authority, the services and/or works are embargoed or have their performance suspended, for reasons attributable exclusively to the Contractor, its Subcontractors or agents.

12.18 The Contractor shall answer, investigate, resolve and inform, within the period and urgency defined by the inspection, any complaints generated by ENEL's customers and which are related to the listed deficiencies, negligence and poor service in the development of any work or service attributed to the Contractor.

12.19 The Contractor shall replace or repair goods of ENEL or of third parties that have been damaged by any actions or omissions of the Contractor, always under the supervision of the Contractor, and ENEL may withhold from any payment due to the Contractor the amounts necessary to cover expenses for repairs and compensation for any damage caused.

12.20 The Contractor is fully responsible for observing and fulfilling all that is necessary to perform the contractual services and, in any event, for everything that is indicated as its responsibility in the Contract, in particular, for the following: use specialized professionals in sufficient numbers to satisfy the needs of the services within the period agreed in the Contract, according to the qualification and specifications provided in the Contract and its Annexes, including obtaining and bearing the costs corresponding to all licenses, certificates and permissions that are specifically and expressly under the responsibility of the Contractor, as set forth in the Contract to Annexes, or as defined by laws, rules/regulations.

12.21 The materials, tools and equipment removed by the Contractor for the performance of the works and services and that belong to ENEL shall be returned within no later than two (02) business days, after the end of the Contract and/or validation of the inventories in the site defined by ENEL. The Contractor shall have an adequate place for the storage of materials, tools and equipment, pursuant to the terms and conditions set forth in the Contract and/or the annexes hereto.

12.22 ENEL shall be released from any responsibility for thefts occurred at the site or in the transfer process, the Contractor being liable for any losses and damages caused to the materials, tools and equipment as a result of its respective custody, storage and maintenance, from removal until return thereof.

12.23 In case of loss or damage of any material, tool or equipment, ENEL may choose to: (i) demand the replacement thereof from the Contractor; (ii) demand full payment of the value thereof; or (iii) deduct the total value of the referred materials, tools or equipment from any sum of money payable to the Contractor.

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

13.1 The Contractor, under its sole responsibility, shall comply with the Law and regulations required by the Governmental Authorities in relation to the Contract.

13.2 The Contractor shall be liable for the proper fulfilment of its legal and fiscal obligations, as well as for its contractual responsibilities towards its contractors and Subcontractors.

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

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

13.5 Failure by the Contractor to comply with this clause shall be regarded as a serious breach and shall entitle ENEL to terminate the Contract for breach of the Contractor.

13.6 In reason of set out above, Contractor shall be responsible, civilly and criminally, directly or indirectly, solely and exclusively, in the pre-judicial, judicial and administrative spheres, for all losses and damages, claims, indemnities, direct and/or indirect damages, penalties, fines, judicial, extrajudicial or administrative awards, , and any other costs and expenses incurred, arising from any actions and/or omissions, whether intentional or not, on its own behalf and/or on behalf of its employees, , agents, contractors and/or subcontractors, third parties or the environment, as a result of the performance of the object of the Contract, releasing ENEL from any and all liability in this regard, giving ENEL the right to withhold any payment due to the Contractor for all losses and damages incurred.

13.7 If any judicial or extrajudicial dispute is initiated, whether in or out of Court, as well as any acts arising from administrative authorities or regulatory agencies against ENEL, as a result of the performance of the Contract and therefore, under the direct or indirect responsibility of the Contractor, due to any action or omission of the Contractor or its subcontractors, ENEL shall be entitled to withhold from any outstanding payments or future payments, or from existing guarantees, an amount equivalent to that which is being claimed, including social security contributions and income tax, and shall return them to the Contractor, with monetary adjustments, after a decision dismissing the fact or determining the exclusion of ENEL from the list of defendants becomes final and unappealable. In this case, the Contractor shall also reimburse ENEL for the fees paid to its attorneys, especially in the preparation of petitions and travel to hearings, and by its representatives, in addition to the judicial and administrative expenses and the cost incurred to produce evidence, except in cases of default or loss of procedural deadlines by ENEL, without prejudice to any action of recoupment, among other judicial or extrajudicial measures.

13.8 If the Contractor is a Consortium, the Contractor shall be responsible and guarantee that it has been set up in accordance with the standards required by ENEL and that it meets the requirements set out in articles 278 and 279 of Law N° 6404/76, as amended, the instrument of incorporation of which is valid for at least the same or, preferably, longer than six (6) months as compared to the term of the Contract, being therefore legally capable of complying with the obligations taken under the Contract until ENEL formalizes the discharge of the obligations assumed, under penalty of application of sanctions and even termination of the Contract.

13.9 The Parties agree that, if the Contractor is a Consortium, the contracted Consortium Members shall be jointly liable to ENEL for all obligations undertaken, including, but not limited to, their respective obligations and tax credits related to their operations, as well as their respective labor and social security obligations.

13.10 The Parties agree that, even if the Contractor is a Consortium, each of the Consortium Members shall invoice directly to ENEL the amounts related to the services provided by it, respecting the proportions of its participation in the referred Consortium, as well as the terms and maturities established in the Contract and in the Annexes thereto.

13.11 The Parties agree that, regardless of the constitution of the Consortium, the breach of Contract by the Contractor, the Consortium or any of the individual Consortium Members shall entitle ENEL, at its sole discretion, to terminate the Contract, by operation of law, without any right to compensation for the Contractor, the Consortium or any of the Consortium Members.

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

##### **14.1 The Contractor shall warrant:**

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

14.2 The Warranty Period for materials and equipment, as well as for the contracted works and services, shall extend throughout the period set forth in the Contract or, if such period is not specified, for five (5) years in case of Civil Construction Works, and one (1) year for the other services, materials and equipment supplied, as from the date of signature of the Provisional Acceptance document. If there is no specific provision set forth in the Contract and/or in case the Provisional Acceptance document is not signed, the period shall be counted as from (i) ENEL's consenting with the material delivery, or (ii) as from communication by Contractor of completion of the contracted work or service, which includes the delivery by Contractor of the necessary documentation for the processing of the administrative authorization to start-up the work, if



applicable, and ENEL's written agreement that the services or work are in compliance with the Contract, the technical standards and the Law. Such materials and equipment shall withstand any and all climatic conditions in the locations where they are installed.

14.3 The Warranty Period set forth in the clause above considers, cumulatively, that: (i) all equipment and services provided shall be new, of adequate quality and shall be free from design faults, material defects and performance faults, whether such faults and defects are visible or hidden; (ii) all services shall be in strict compliance with all ENEL's Technical Specifications, as attached to the Contract, as well as any other stipulations of the Contract and Annexes; (iii) the contracted services and works shall be in compliance with all laws, technical standards, permits and good engineering and construction practices; and (iv) in the case of sending equipment and components for the correction of any problems by the Contractor, all costs, including transportation and the relevant insurance, shall be under its responsibility.

14.4 It shall be at the discretion of ENEL's supervision to challenge and have demolished or replaced services and supplies/facilities of equipment that are poorly performed or performed in disagreement with the projects and technical specifications. The expenses arising from these demolitions, replacements or re-performance of services shall be for the exclusive account of the Contractor.

14.5 The performance of the inspection, as well as any action taken in relation to this inspection as described in the above item, by the Contractor shall not release the Contractor of its responsibility for the services and materials under the Contract, and the Contractor shall remain responsible during the Warranty Period, therefore, for full compliance with all obligations undertaken, including of health, safety and environmental requirements.

14.6 If, upon expiration of the Warranty Period, ENEL's main facilities that are the object or part of the object of the Contract are not operational for at least six (6) months, the Warranty Period shall automatically be extended until the completion of such six (6) months, at least. If the materials or equipment provided by the Contractor are repaired or replaced, the initial warranty shall be deemed as interrupted, and the warranty period initially agreed upon shall be counted in full. Under no circumstances shall it result in any additional costs to ENEL.

14.7 Once the Warranty Period has expired and the Final Acceptance has taken place, ENEL may, for its sole benefit, whether directly on its own or by means of third parties, freely change or modify the materials or equipment from under the Contract, or the constructions executed or facilities installed, including when they are protected by licenses, patents or other means of industrial property on behalf of the Contractor, always preserving the confidentiality as agreed upon.

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

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

- a) replace (or, to the extent provided for in the Contract, repair), as soon as possible in order to minimize the impact on ENEL business and in any case, within the timeframe set forth in the Contract (or, in the absence of a specific deadline in the Contract, correction of the defects shall not exceed the same timeframe originally agreed for delivery of the equipment or material or for the performance of the service or work resulted as defective), all defective materials and equipment, services or works that do not comply with the warranties established in Section 14.1 hereof. The Contractor shall obtain ENEL's approval, which cannot be unreasonably withheld or denied, prior to implementing any remedy action. To the extent option to repair is set forth in the Contract and the material is not reparable, in accordance with Contractor's reasonable opinion, such defective materials and equipment shall remain in storage at ENEL's facilities until they are replaced, at ENEL's sole discretion, without prejudice to ENEL's right to use the rejected materials until they are replaced.
- b) replace all supplied materials and equipment in the event of any serial defects, thereby justifying the solution adopted to prevent those defects being produced in the remaining materials or equipment that need to be supplied. A serial defect is considered to exist when the percentage of defective materials and equipment covered by the Contract exceeds the percentage established in the Contract, or if it is not specified, when the percentage exceeds 10% of the total quantity of the same materials or equipment to be supplied under the Contract;
- c) return the equipment/sites made available by ENEL in the same condition in which they were made available;
- d) indemnify ENEL from any claim made by third parties pursuant to Clause 13 of these General Conditions.

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

14.11 Without prejudice to clauses 14.8 and 14.9, let. a), if the Contractor fails to comply with the obligations referred to in this clause, ENEL shall be entitled to adopt – upon previous communication to the Contractor – any appropriate measure independently, or by recurring to third parties' assistance, at the Contractor's expense, debiting the costs arising therefrom or by offsetting them from future payments due to the Contractor or by using any other reasonable remedies to collect such amounts. The Contractor shall also be obliged to compensate ENEL for any damages or losses it has suffered, as provided for in the Contract. In particular, if Contractor fails to implement remedy actions within the aforementioned timeframes, ENEL may apply a penalty for the delay according to the Contract.

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

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

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

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

## **15 PENALTIES.**

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

15.2 The application of penalties shall not exonerate the Contractor from its obligations and liabilities under Section 16 "THE CONTRACTOR'S WARRANTIES".

15.3 If ENEL does not apply any penalty, it does not imply a waiver by ENEL of the application of similar penalties, or of those that subsequently originate from the same cause.

15.4 In case no other penalty for delay, breach, irregular, unsatisfactory or insufficient performance of any of the Contractor's obligations has been defined, there shall be a fine of 1.5% (one point five percent) of the Contract total price per week of delay during the first four weeks, and 4% (four percent) as from the fifth week, and in both cases it shall be calculated *pro rata die* (proportionally to the days elapsed).

15.5 In case, during the Warranty Period, ENEL is deprived from the availability or use of the contracted materials or equipment, of the works or facilities installed, due to any defect, flaw, or damage, produced or detected on them, which are not attributable to ENEL, or, due to any deficiencies in the performance, or any other work needs to be carried out to correct such deficiencies, in accordance with the Guaranteed Commitment, the Contractor shall suffer the penalty set forth under the Contract, and in case such penalty is not defined in the Contract, the Contractor shall suffer a fine for arrears of one tenth percent (0.1%) of the total Contract value per day of unavailability or impediment to use, notwithstanding the application of any other penalties provided for under the Contract, as well as collection for losses and damages and additional compensation.

15.6 In the event of failure to supply or supply of products with defects or in disagreement with the provisions of the Contract and the relevant conformity rules, the Contractor shall pay ENEL, as penalty of a non-compensatory nature, the full amount of the request for the Products which gave rise to the defaults, without prejudice to the obligation to reimburse ENEL for any and all losses and damages suffered and to supply or replace the product in accordance with what was requested.

15.7 Unless otherwise defined in the Contract, the sum of penalties shall not exceed fifteen percent (15%) of the total Contract value. In case it exceeds this limit, ENEL shall be entitled to terminate the Contract, without prejudice to the application of the penalty, according to the applicable Law.

15.8 The collection of penalties shall not deprive ENEL of its option to transfer to the Contractor all the additional costs and expenses incurred and/or that it may be obliged to pay to third parties, as a direct result of the delay or breach produced by the Contractor. The application of the penalties provided shall not release the Contractor from proper fulfilment of the Contract in its totality, and the Contractor shall: (i) eliminate all technical deficiencies detected; (ii) pay the applicable penalties; (iii) remedy, at its own expenses, any deadlines not met, and replace materials and equipment, redo or repeat, as needed, any works or services under the Contract, upon ENEL's request.

15.9 The fine provided for in this clause does not include compensation to ENEL for any loss or damage that may be evidenced, under the terms of the law, as well as compensation for the expenses with procedural costs and attorneys' fees, if ENEL resorts to legal proceedings.

15.10 The procedure to collect any penalties resulting from the Contract shall be carried out according to the information in these items.



- a) ENEL shall communicate to the Contractor, in writing, by means of a notice, any penalty owed, detailing the breached item and the value thereof. The Contractor shall provide any evidence it finds adequate for its defense within fifteen (15) calendar days as from the date of receipt of the notice. If the notification is sent by electronic means, the date on which the e-mail was delivered shall be taken into account for the purposes of starting the period.
- b) The Contractor's silence and/or failure to provide a response will imply a waiver of its right to adversarial proceedings and full and fair hearing.
- c) After the aforementioned period, in case the Contractor fails to provide any response, or if it does, but the evidence provided does not prove the exclusion of its responsibility, ENEL may discount the corresponding value to the penalty applied from the next due payment.
- d) In case such discount is not applied, the corresponding amount shall be executed from the guarantees provided, or collection shall be made by any other means under the Contract, the applicable legislation or these General Conditions, without prejudice to the indemnity for losses and damages that may occur on behalf of ENEL.
- e) Once the financial guarantee is executed, the Contractor shall replace it with the same amount as prior to the execution.
- f) While this replacement is not performed, ENEL shall withhold the residual amount resulting from the difference between the total guarantee amount and the penalty value.
- g) In case the initial guarantee amount is not enough to cover the value of the penalties, ENEL shall offset from any outstanding payments until reaching the sum necessary to cover the total penalty amount, and the guarantee replacement shall remain unchanged, as previously defined.

15.11 After the investigation of the breach and if the penalty is due, the Parties recognize as unquestionable all the fines and penalties applicable by virtue of the Contract, ENEL being authorized to discount such amounts directly from the credits due to the Contractor, the Contract being valid a judgment debt enforceable out of court, with the terms of art. 784, III, of the Code of Civil Procedure being applicable, without prejudice to the other withholding cases provided for in these General Conditions, the Contract and its Annexes.

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

### **16.1 Suspension.**

16.1.1 The performance of the services may be suspended, totally or partially, in the following cases: a) by determination of the Governmental Authority; and b) by any of the affected Parties, in the occurrence of Act of God or Force Majeure, as provided in Item Section 17, which are evidenced to prevent the performance of the services or the supply of materials.

16.1.2 Regardless of the cases described above, if, for any reason, ENEL considers it necessary, at any time and at its sole discretion, or is obliged to temporarily suspend all or part of the performance of the Contract, ENEL shall send a written communication to the Contractor, stating the reasons thereof and providing an estimate of the duration of the aforesaid suspension.

16.1.3 In compliance with the provisions of HSE Terms, any risk situation or unsafe behavior of the Contractor shall determine the suspension of the performance of the Contract and the restoration of proper health, safety and environmental conditions.

16.1.4 The suspension shall be effective as of the date stated in the notification by ENEL. The Contractor shall, from such date, cease the performance of the Contract and store and properly maintain materials, equipment, works and services under the Scope of Contract, taking all necessary measures to protect them against deterioration, loss or damage, regardless of their stage of completion, without prejudice to all the obligations that derive from Law and / or are established in the Contract. It shall also, in the event of partial suspension, reallocate to other fronts within the site of the works or services, resources mobilized on the fronts suspended by ENEL. The Parties shall maintain, throughout suspension, all their responsibilities and obligations as set forth in the Contract.

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

16.1.6 If the services or supply are suspended by ENEL without the occurrence of any fault on the part of the Contractor, except for Acts of God or Force Majeure events under Section 17, or determination of the Governmental Authority, direct documented cost incurred by Contractor as effect of a suspension (including storage costs) shall be payable by ENEL upon submission of Contractor's invoice. In this case: a) all costs and expenses directly incurred by the Contractor, provided they are previously approved and duly justified, in compliance with the instruction provided for in the Clause above; and b) payment for all services performed so far, as well as those the interruption of which is not demonstrably possible, which

have not yet been paid under the Contract, to the extent of what has already been demonstrably performed, regardless of completion thereof

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

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

#### **16.2 Withdrawal.**

16.2.1 ENEL may withdraw from the Contract at any time, no matter what stage of the work, activities and projects is reached. The withdrawal shall be communicated in writing with acknowledgment of receipt, at least thirty (30) days in advance or within the term defined in the Contract. The activities duly carried out by the Contractor prior to the cancellation date will be paid by ENEL in accordance with the contractual prices. ENEL shall reimburse the Contractor, upon review of the related satisfactory evidence provided by the Contractor that have been interrupted the activity and for those that have not been performed. To this end ENEL shall reimburse the lower amount between (i) the one equal to the investments incurred by the Contractor in relation to those activities not fully amortized, for orders that have become irrevocable and (ii) the one equal to the actual economic prejudice suffered by the Contractor.

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

#### **16.3 Termination.**

16.3.1 Regardless of the possibility of applying a non-compensatory fine for breach of the contractual clauses and conditions, the Contract may be terminated by ENEL, upon prior written notice to the Contractor, for breach or irregular compliance with any clause or condition of the Contract, if, within fifteen (15) calendar days from the receipt of the notification, the Contractor fails to remedy the total or partial breach of the obligations thereunder, or does it in an unsatisfactory manner. The Parties agree that this termination shall not give rise to any indemnity right for the Contractor, which will receive payments only and exclusively for the services provided and goods delivered up to the moment of termination.

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

- a) the death of the Contractor, in the case of a natural person, or a change in the Contractor's capacity that prevents, or modifies the performance of the Contract substantially.
- b) the dissolution, transformation, reduction of capital or significant changes in the governing bodies of the Contractor, in the event that said changes have a negative impact on the performance of the Contract, or in the event that said changes on the part of the Contractor contravene the provisions from "GLOBAL COMPACT" and "CODE OF ETHICS" clauses.
- c) the reduction of capacity or economic / financial solvency, including insolvency proceedings or bankruptcy or insolvency declarations, or any other type of legal difficulty, or of any other nature that impedes or significantly affects the correct fulfilment of the obligations of the Contractor.
- d) the unjustified interruption, or suspension, or delays, total or partial, by the Contractor of the performance of the Contract.
- e) the impossibility of the Contractor to obtain certificates on time and the necessary approvals for the correct performance of the Contract in relation to its own products or activities, or any loss thereof while the Contract is in force.
- f) the inability to perform or the breach by the Contractor and / or its Subcontractors or a Third Party appointed by the Contractor of the contractual activities or any of the requirements in accordance with the Law.
- g) failure to comply with the obligations related to intellectual property, confidentiality and the processing of personal data, in accordance with the Contract and Law applicable to the Contract.
- h) the verification at any time, after the signing of the Contract, of any omission or lack of veracity of any information or statement offered by the Contractor in relation to compliance with legal, economic, financial, technical or contractual conditions.

- i) the incorrect performance of the Contract for reasons attributable to a Subcontractor or to any person named by the Contractor and / or the non-payment of compensation for damages caused to any person.
- j) any other breach by the Contractor that could impede or materially and adversely affect the satisfactory performance of the Contract, or any other reason specified in the Contract as a reason for termination.
- k) the refusal or inability of the Contractor to execute any activities under the Contract, including, but not limited, to supply materials, equipment or labor in the quantity and quality specified in the Contract and its Annexes.
- l) the refusal of the Contractor to resume the performance of activities under the Contract that ENEL (for any reason) has ordered to suspend, when ENEL itself has indicated its resumption.
- m) the performance by the Contractor of acts that are harmful to the image of ENEL.
- n) the actions, omissions, behaviours or situations related to the Contractor that may pose a risk to the reputation of ENEL and that lead to the deterioration of the trust of ENEL in the honesty and integrity of the Contractor, and in its reliability for the performance of activities in accordance with the provisions of the Contract.
- o) the loss of even one of the requirements established for the homologation (if they were required), in relation to the conclusion and compliance of the Contract. In the event that the Contractor does not inform ENEL of the situations described above and without prejudice to the latter's right to terminate the Contract, ENEL may suspend payments due to the Contractor to comply with the contractual obligations with third parties arising from the correct and complete performance of the Contract by the Contractor.
- p) The practice of any actions, by the Contractor, which result in commercial discredit or proven reduction of the level of quality of the services provided;
- q) Failure to comply with ENEL's determinations regarding the performance of the Contract or verification of technical incapacity, negligence, imprudence, malpractice or bad faith of the Contractor, its employees, agents or Subcontractors;
- r) Repeated failures in the performance of the Contract;
- s) Failure to evidence compliance with social security, labor, tax or fiscal obligations;
- t) In case of total subcontracting of the object of the Contract, assignment or transfer, total or partial, of the credits or obligations arising therefrom it by the Contractor, without the prior and express authorization of ENEL;

16.3.3 Contractor's failure to offer the contractual guarantees, within the term and conditions set forth in the Contract and its Annexes; In case the sum of the value of the penalties applied to the Contractor exceeds 15% (fifteen percent) of the total/estimated value of the Contract.

16.3.4 In the cases described above, ENEL may terminate the Contract immediately or assign the Contractor a cure period to remedy the contractual breach. If Contractor fails to remedy such breach within the cure period, the Contract is automatically terminated, without prejudice to ENEL's right to claim compensation for any loss or damage suffered.

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

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

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

16.3.7 The Contract may also be terminated in the event of failure to comply by the Contractor or any of its Subcontractors with one or more requirements of current Law on occupational safety and health, as well as of the rules contained in the Contract and its annexes on safety and health of the Enel Group, or if the Contractor, including, but not limited to, incur in one or more of the following circumstances, and the Contractor shall not have any right to indemnification due to this termination:

- a) Failure to complete, sign, prepare, update or deliver documents related to occupational health and safety, within the term and in the manner defined in the Contract and in accordance with the legislation and regulations in force;
- b) Use, during the performance of the Contract, regardless of how ENEL proves such use, inadequate professionals or professionals not authorized by ENEL in accordance with the requirements established in the Contract and its annexes or in the legislation and rules in force;
- c) Failure to comply, regardless of how ENEL proves it, with any requirement related to the protection of Occupational Safety and Health in the use of work equipment and PPE's (Personal Protective Equipment) and CPE's (Collective Protective Equipment), regulations on temporary and mobile works, health and safety signaling,

manual handling of loads, and any other provision of the legislation and regulations in force, including the applicable special rules;

- d) Violation, regardless of how ENEL proves it, of any other provisions for the protection of occupational safety and health expressly provided in the Contract and its annexes;
- e) Perform or apply bad practices in industrial safety and risk prevention, including, but not limited to, the lack of training of professionals in these subjects in accordance with the applicable technical rules;
- f) Wilful or faulty act or omission (negligence, recklessness or inability) capable of causing the risk of a serious or fatal accident to the professionals of the Contractor or its subcontractors during the development or performance of the Contract. Due to the relevance that Occupational Safety and Health have for ENEL and the adoption of measures aimed at preventing accidents with its own personnel or of third parties related to its activity, this paragraph also applies in the case of any action or omission by the Contractor or any of its controlled companies, parent companies or companies subject to common control, in any other contractual relationship with ENEL or with any other Enel Group company that is capable of causing a serious or fatal accident to the professionals of the Contractor, of subcontractors, employees of any of the Enel Group companies or third parties during the development or performance of any such contractual relationship.

16.3.8 The occurrence of any of the situations below shall also constitute grounds for immediate termination of the Contract by ENEL, regardless of prior notification:

- a) suspension of the services by determination of the Governmental authority. If it is proven that such suspension occurred due to the exclusive fault of the Contractor, it shall also be liable for any increase in the costs of the services and for any damages incurred by ENEL as a result of such suspension;
- b) Bankruptcy, dissolution, or judicial or extrajudicial reorganization or liquidation, required or homologated;
- c) If Contractor does not notify ENEL, within seventy-two (72) hours, from the requisition or homologation of the bankruptcy and judicial or extrajudicial reorganization or liquidation.
- d) Any amendment to the corporate charter or modification of the purpose or structure of the company, such as merger, spin-off or takeover of the Contractor that impairs the regular performance of the Contract, in the exclusive judgment of ENEL;
- e) Reasons of public interest, of high relevance and broad knowledge that impair or prevent the regular performance of the contracted object;
- f) Occurrence of Acts of God or Force Majeure, regularly proven, preventing the performance of the Contract. When only partial performance of the Contract is possible, ENEL may decide between partial fulfillment and termination of the Contract.

16.3.9 In case of termination of the Contract for any reason, the Contractor shall immediately cease the services, undertaking to suspend any and all contract and not assume new commitments in relation to the object of the Contract, starting the demobilization of all equipment and personnel engaged in the Contract, and shall submit to ENEL a full report of the services performed up to the date of termination. After the approval of the report, ENEL shall pay the full value of the services performed and accepted, taking automatic possession of the equipment, materials and/or services already delivered.

16.3.10 In the cases provided for in the items above, ENEL may, if it does not exercise its right to terminate the Contract, stop or suspend the payment of pending invoices, until the Contractor fully complies with the contractual condition breached, without prejudice to the application of the corresponding fine and/or the execution of the economic guarantees provided by the Contractor, as provided for in the Contract and its annexes.

16.3.11 Notwithstanding the provisions of this clause above, the Parties understand and agree that, in case of violation, by the Contractor, of the Ethical Rules and/or Anti-Corruption Law, ENEL shall have the right to terminate the Contract, immediately and unilaterally, upon simple written notice to the Contractor, without any charge and without the need for judicial measures, according to the terms of article 474 of the Civil Code.

16.3.12 If ENEL becomes aware through the Contractor, third parties or any other means of investigations relating to the involvement of the Contractor, its employees, directors, correspondents, consultants and subcontractors, during the execution of the Contract, in crimes committed against the national public administration or foreign, crimes of corruption, including extortion and bribery, money laundering, as well as other crimes governed by Laws 12.846/2013, 12.529/2011, 8.429/1992 e 9613/1998, ENEL, as its sole discretion, may terminate the Contract and demand the payment of indemnity for losses and damages effectively proven, in accordance with the terms established in the paragraph above if, once notified, the Contractor does not present an answer or, when presenting, it is not satisfactory. The Contractor, therefore, may notify ENEL within 72 hours of knowledge of the events mentioned in the previous paragraph. This notice must describe the facts in detail.

16.3.13 The dissolution, transformation, capital reduction, as well as any changes to the shareholder structure of the Contractor shall be preceded by communication to ENEL, which shall have the option, in any of these cases, at its sole

discretion, to terminate the Contract, upon thirty (30) days prior notice, without any compensation due to the Contractor as a result of such termination.

16.3.14 Without prejudice to the event of termination and/or suspension as provided for in these General Conditions, in the Contract and the annexes hereto, the Contract may be terminated and/or suspended, also immediately, upon determination of ANEEL. In this case, no type of indemnity or compensation shall be payable to the Contractor.

16.3.15 In case of any intervention by the Granting Power or by ANEEL in the Companies of ENEL, in accordance with the applicable legislation and/or regulation, the Contract may be terminated, upon prior notice, or remain in effect for at least one (1) year, at the sole discretion of the Granting Power or ANEEL. In any case, no type of indemnity or compensation shall be payable to the Contractor.

## **17 ACTS OF GOD AND FORCE MAJEURE.**

17.1 An "Acts of God or Force Majeure Event", unless otherwise provided for by Law, shall mean the reasonably demonstrated occurrence of any act or event beyond the reasonable control of, and not the result of the fault or negligence of, the Party affected that prevents the affected Party from performing its obligations under the Contract, in full or part, and which such Party is unable to prevent, avoid or overcome with the exercise of the best reasonable efforts.

17.2 The burden of proving an Acts of God or Force Majeure Event shall be on the Party claiming the occurrence of same.

17.3 The Parties may not invoke Acts of God or 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, human resources, consumables and/or performance of services (including site facilities) 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 an Acts of God or Force Majeure event;
- e) the status of the site where the contractual activities are carried out, which is known and accepted by the Contractor at the time of execution of the Contract;
- f) Contractor's or its Subcontractors' technical, economic or financial difficulties, including insolvency, liquidation, bankruptcy, reorganization, closure, dissolution or any similar event.
- g) wear, breakage or failure of equipment used in the performance of services, or defects in the quality of the material or installation of any part of the work or services, except if the breakage is exclusively due to events of Acts of God or Force Majeure.
- h) any action by any Governmental Authority that a party could have avoided if it had complied with the applicable law.
- i) increases in the price of fuel, supplies, works, raw materials or any equipment.
- j) public disturbance, boycotts, sabotage, or blockades that have been proven to be caused by or arising out of the Contractor's actions or omissions, including those arising out of any security failure at the site of services or works.
- k) failure by the Contractor or its Subcontractors to obtain any authorizations, except if arising exclusively from Acts of God or Force Majeure events.

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

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

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

17.6 In case of a Force Majeure Event, the fulfilment of the affected tasks will be suspended during the course of the Force Majeure Event, without claims of compensation of any of the Parties. Contractual obligations not affected by Force Majeure Event must continue to be executed according to the terms and contractual terms in force before the occurrence of said cause. If the Acts of God or Force Majeure Event affects the agreed Delivery Date, then such Delivery Date shall be extended on a day-for-day basis in accordance with the number of days of delay caused by such Acts of God or Force Majeure Event, unless otherwise agreed by the Parties.

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

## **18 LABOUR LAW OBLIGATIONS.**

18.1 The services under the Contract shall be performed by the Contractor with full responsibility and technical-operational independence, in a non-exclusive character and/or no economic dependence between ENEL and the Contractor, as well as with no subordination of any nature and/or personality between ENEL and the Contractor's employees and/or service providers.

18.2 Contracting shall not create, in any event, an employment relationship between ENEL and the Contractor's employees, representatives or subcontractors, which may be from time to time assigned to exercise the activities related to the subject matter of the Contract subject matter at ENEL's premises; therefore, such employees, representatives or subcontractors shall remain as subordinates, both in terms of hierarchy and function, to the Contractor, which shall be solely responsible for the payment of salaries, labor expenses and social security, taxes and any other costs related to such employees.

18.3 Contractor shall provide a person in charge (Contractor's Representative) to manage the services under the Contract, guide its team on all the defined guidelines and perform intermediation with the responsible person of ENEL (ENEL's Representative), who shall be appointed to follow up the performance of the services.

18.4 The Contractor's Representative only to provide the information necessary for the regular performance of the contracted services.

18.5 The representatives of the Parties shall hold meetings, as many as requested and previously scheduled, to align the needs of the contracted services, as well as to control the progress of the objectives set.

18.6 The Representative of ENEL, under no circumstances, shall be obliged to control the activities provided for the performance of the contracted services, and there is no relationship from his/her part with any of the employees of Contractor, who will be under the exclusive command of the Contractor.

18.7 The Contracted Party shall present a work team obligatorily wearing a uniform, identified (wearing a visible badge), and composed of professionals of proven suitability and qualification compatible with the role to be performed, holders of training certificates issued by an official accredited educational institution.

18.8 The uniforms, badges and vehicles used by the employees of the Contractor shall be characterized with the logo of the Contractor and with the description "At the service of ENEL".

18.9 The Contractor shall forward to ENEL a list of all personnel assigned to provide services, updating it whenever there are hires, layoffs or changes in the personal record of any of its employees during the term of the Contract, which includes name, level of education and professional qualification, activity performed and time of experience in the specific activity, in addition to proving the certification in courses of Training and/or Recycling of Electricians in cases of Construction and Maintenance of Electrical Network, when applicable.

18.10 The Contractor shall establish internal policies to prevent moral and sexual harassment, also taking all appropriate measures to prevent discriminatory practices of any kind, bearing in mind the respect for diversity and protection of the provisions provided for in Article 5 of the Federal Constitution. The practice of discriminatory conducts by the Contractor or by any of its agents may give rise to the termination of the Contract.

18.11 The Contractor shall be responsible for the conduct of its employees or subcontractors during working hours, making sure that they maintain due respect and courtesy in the relationship with colleagues and third parties.

18.12 The Contractor shall be solely and exclusively, directly and regressively liable for the payment of any expenses arising from the contracting of its employees, contractors and/or subcontractors, including, but not limited to: salaries, additional benefits, vacations, extraordinary payments, insurance against labor related accidents, contributions and/or expenses due to social security, FGTS and PIS, withholding income taxes, and any other labor, contribution or tax expenses that are or may be levied directly or indirectly on the cost of the services rendered, also being responsible for any labor defaults that



may be incurred, and no joint and several liability between Contractor and ENEL shall apply, exempting ENEL from any responsibility for any accidents in the supply of materials and/or equipment, labor claims and/or contributory actions, including those on behalf of ENEL, since they are different companies and there is no employment relationship between ENEL and the Contractor's employees, representatives and/or subcontractors, as indicated above.

18.13 The Contractor shall comply with all federal, state and municipal laws, ordinances and regulations related to/arising from the Contract. Thus, it shall release ENEL from any and all liability for any accidents in the rendering of services, supply of materials, as well as performance of works, labor claims and/or social security assessments, even on behalf of ENEL, as they are distinct companies, and there is no employment relationship between ENEL and the Contractor's employees, agents and/or subcontractors, as indicated in these General Contract Conditions and in the Contract, as well as in the applicable legislation.

18.14 The Contractor shall meet all contractual clauses set forth under the Collective Bargaining Agreements of Class Unions, and shall be fully responsible for any charges resulting from these services, providing the relevant evidence of payment, within the periodicity as previously defined by ENEL.

18.15 When applicable, the following documents shall be submitted to ENEL:

- a) All documentation evidencing the compliance with tax, labor, social security, severance fund and land obligations, including proof of payment of salaries of employees involved in the performance of services, together with the invoice(s)/bill(s) of sale for services rendered;
- b) The Work and Social Security Employment Booklet of its employees and the employment contracts, the latter exceptionally at the time of hiring;
- c) Proof of payment of wages and salaries, book and/or time card, authenticated copy of the paid social security payment form, duly unfolded, and respective payroll, as well as proof of payment for termination of employment contracts (TRCT – Document of Termination of Employment Contract) and respective releases of unemployment insurance forms, proving the regular compliance with their labor and social security obligations;
- d) Copy of the documents of annual discharge signed before the Union of the category with the employees of the Contractor;
- e) Copy of the monthly report of labor related accidents mandatorily submitted to the Social Security Authority and of all the pertinent documents, its severity and consequences;
- f) Proofs of payment of all taxes and respective clearance certificates issued by INSS and CEF, every six (06) months; and
- g) Copy(ies) of the ART(s) referring to the Contract, duly approved by CREA.

18.16 The Contractor shall present the documents required by Enel even when they are requested after the completion of the services performed.

18.17 If the Contracted Party fails to present the documents required by ENEL, and fails to comply with the observations made by ENEL within the determined period of time, or incurs in breach of labor and social security obligations, it may suffer the following sanctions, without prejudice to the specific penalties established in the Contract and its Annexes:

- a) Withholding of guarantees or suspension of payments of the invoices of any Contract of the Contractor or of any affiliated companies or that belong to the same economic group of Contractor with ENEL, in an amount necessary to the compensation for any losses that ENEL may suffer due to the breach of contract by Contractor;
- b) Suspension of the process of return of guarantees; and/or
- c) Termination of the Contract.

18.18 The Contractor shall pay any fine that may be applied to ENEL by the Relevant Authorities, or any other inspection authority, for finding any employee in an irregular situation, and this will be deducted, at ENEL's choice, from the value of the Bills of Sale/invoices to be paid or from the guarantee provided, and may also be charged in court, for which reason the Contractor, hereby recognizes such fine as an unquestionable and enforceable debt, under the terms of civil procedural law.

18.19 The Contractor shall perform the services in compliance with ENEL's general Safety standards, the legislation and regulations in force, including the Regulatory Standards of the Ministry of Labour and Employment, on labor relations, safety, hygiene and occupational health, observing the specific recommendations made by ENEL in this regard, and shall, including guiding and inspecting its agents and/or employees as to the fulfillment of the referred general rules, legislation or regulation, including regarding the requirements for entry and exit of people and vehicles in the premises of ENEL, under penalty of suspension of work and/or termination of the Contract, without any burden to ENEL.

18.20 The Contractor is aware of ENEL's general safety rules, undertaking to comply with them and have them complied with, by its agents and employees, including in relation to the requirements for entry/exit of people and vehicles into and out of any premises of ENEL.



18.21 The Contractor, whenever using the physical space of third parties, due to the need to perform the services, shall strictly comply with all safety and occupational health standards and other local standards in force, regardless of those provided for in the Contract.

18.22 The Contractor shall not use the premises of ENEL to conduct training or meetings; except in exceptional cases, upon authorization.

18.23 The Contractor shall be fully responsible in case of any accidents, whether they are labor related accidents with its employees/agents/subcontractors, when performing the services, as well as accidents with third parties, bearing all costs necessary to repair the material and non-pecuniary damage suffered, from the first treatment to full recovery of the injured person, including costs arising from legal proceedings filed as a result of the accident. It shall also notify the INSS of the aforementioned accidents by the first business day thereafter or immediately in case of death.

18.24 The Contractor shall communicate to ENEL's representative, in the form and methodology indicated in the Safety and Occupational Health Guidelines for Contracted Companies, any accidents with injury, as well as fatal accidents that may have occurred with third parties and with the employees engaged in the performance of the services hereunder, so that an expert opinion may be provided by the labor safety accredited technician of ENEL.

18.25 The public disclosure of the accident by the Contractor shall not be permitted.

18.26 The Contractor shall appear in court in any labor claims that arise on behalf of ENEL (as well as any companies of the group, including but not limited to, subsidiaries, parent companies, affiliates, companies under the same common control) as a defendant, which are filed by employees/agents/subcontractors/shareholders of the Contractor due to the services object of the Contract, defending itself in court, including in its defenses the absence of its liability under the plaintiff(s) in question, being fully responsible for the burden arising from any conviction imposed on ENEL, as well as for the payment (including by offering assets as guarantee for any possible enforcement) and/or full refund of amounts resulting from the said conviction, as to the principal, monetary adjustment, interest, fines, attorneys' fees, court costs, other convictions and success fees, also undertaking to make the payment (especially in cases in which the guarantee is not accepted by the court, whether as a condition for the appeal, or for any possible enforcement by the Contractor, on behalf of ENEL) or refund to ENEL the costs of any appeal deposits.

18.27 Where the exclusion of ENEL as the defendant in such claims is not granted, the Contractor shall:

- (i) pay in full, or if applicable, reimburse ENEL, in cases where it is able to reach a settlement with the plaintiff (s);
- (ii) bear any and all costs arising from the defense and any ruling that ENEL may have/suffer, as already mentioned, either by means of discount of withholdings, pending invoices/bills of sale, or by means of action for recourse, such choice being at the discretion of ENEL. As long as proceedings continue without the total exclusion of ENEL as the defendant, including any unfulfilled settlements, ENEL shall be allowed to withhold the contingent amounts until the proceeding is fully completed, by any of the parties, when it will be checked whether there will be reimbursement or return of the amounts withheld;
- (iii) provide all necessary material for the defense of ENEL, and all other necessary information that ENEL may request, depending on the case (this item applies from the moment the defense is prepared, as it must be prepared up to the time of the initial hearing).

18.28 All the above-mentioned procedures shall be applied to any judicial or extrajudicial proceedings, administrative proceedings in general, notifications, among other procedures, in which ENEL (as well as any companies in the group, including, but not limited to, subsidiaries, parent companies, affiliates, companies under the same common control), may be sued due to the Contract, regardless of the nature (including, but not limited to, those of civil and criminal nature).

## **19 ECONOMIC GUARANTEES.**

### **19.1 Common provisions.**

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

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

19.1.2 The financial institution issuing the guarantee shall be a bank, an insurance company or a financial intermediary authorized to operate in surety business by relevant authorities, with the creditworthiness defined in the Contract. In case the issuer's creditworthiness deteriorates, the Contractor shall provide within sixty (60) calendar days, upon ENEL's request,

the guarantee replacement issued by a financial institution or an insurance company approved by ENEL. In case of failure to provide the guarantee, ENEL may, in accordance with the Law, withhold and suspend payments due to the Contractor.

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

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

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

## **19.2 Performance Guarantee.**

19.3 If provided for in the Agreement and unless a different percentage is defined therein, the Contractor shall obtain and deliver to ENEL a first demand guarantee for an amount of 10% of the Price or, at ENEL's discretion, equivalent to one (1) monthly invoice, in the modality of Letter of Guarantee (bank guarantee, with the following wording: "In order to ensure accurate, complete and appropriate fulfillment of the Contract), as a guarantee for the exact, on-time and regular performance by the Contractor of its obligations under the Contract, including the obligation to pay any amount due to ENEL, such as Penalties ("Performance Guarantee"). For sake of clarity, the Performance Guarantee shall also cover the warranty obligations of the Contractor before the delivery of the Warranty Guarantee.

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

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

19.6 ENEL, at its sole discretion, may choose to replace the Contract financial guarantee by a ten percent (10%) withholding of each invoice until completing ten percent (10%) of the contracted work or service amount. Such withholding aims to ensure accurate and perfect fulfillment of all obligations undertaken under the Contract or under any other contract executed between ENEL and the Contractor, or between the Contractor and any other company of ENEL's Economic Group, or between ENEL and any company of the same Economic Group of the Contractor, and shall be returned by ENEL upon formal request of the Contractor, provided that all contractual obligations are met, including the one regarding item 18.14. above, in case of any legal claim in course at the time of termination of the contract, net of any contractual penalties that may be applicable. The guarantee value to be reimbursed shall be added to any profits from financial investments, under conservative risk profile, performed by ENEL, net of withholding taxes that may be levied on financial revenues and investments, pursuant to the legislation in force, as well as contractual any applicable contractual penalties, pursuant to the provisions of the legislation and the Contract.

19.7 Alternatively, ENEL may, at its sole discretion and at any time, contract an external guarantee custody service, transferring any amounts withheld for the creation of guarantees to a custody agent of renowned competence, who shall invest such resources on behalf of the Contractor in the financial market, using a financial instrument commonly used in the market, with a conservative risk profile and standardized to all ENEL's Contractors. Updated balances of the guarantee shall remain constrained by the custody agent until ENEL informs its release conditions. The guarantee shall be returned net of all applicable taxes to the type of financial investment used by the custody agent, and of any applicable contractual penalties, pursuant to the provisions of the legislation, provided that all contractual obligations are met.

19.8 In the event of any use of any guarantee external custody alternative as indicated under the previous sub-item, profitability of the financial investment performed by the custody agent, under its sole responsibility, may be different from the profitability obtained so far from financial investments directly performed by ENEL, and the Contractor shall not be entitled, in any of these cases, to seek financial differences from ENEL due to any profitability variation or any financial losses that may occur due to the management of the custody agent or financial investment managers performed to update the guarantee value, under the terms of this clause.

19.9 The cost undertaken by ENEL to contract the external guarantee custody service shall be transferred, prorated, to the Contractor, in the form of discounts to invoices payments or in the form of deduction of the value equivalent to this proportional cost from guarantee balances already established, without this deduction implying any reduction to ENEL's obligation to constitute the full amount of the guarantee as provided for under these Global General Conditions or the Contract.

19.10 The bank guarantee to be provided shall be from a top-notch financial institution with risk rating updated by, at least, two first class rating agencies (Standard and Poor's, Moody's and/or Fitch), with rating equivalent to or higher than AA under national scale, containing a text informing that the guarantor shall waive the benefits set forth under articles 827 and 828, I, 835, 836, 837, 838, I and III, of the Brazilian Civil Code, and 794 of the Brazilian Code of Civil Procedure, the full contents of which shall be previously approved by ENEL, with values and terms agreed upon, as set forth under the Contract.

19.11 The financial guarantee constituted by the Contractor shall be effective as soon as the Contract is in force, including if any contractual obligations are pending, and shall be returned upon written request by the Contractor, and only after ENEL discounts or withholds any value payable in virtue of the Contract.

19.12 In the event that, exceptionally, the replacement of the guarantee with a surety insurance is accepted, which will depend on prior and express authorization in addition to the requirements inherent to exceptionality, the financial guarantee to be offered by the Contractor may, after prior approval by ENEL, be replaced with a Guarantee Insurance. This policy shall be issued by a first class insurance company previously approved by ENEL, with activities in Brazil, ruled by the standards of the Private Insurance Superintendence (*Superintendência de Seguros Privados – SUSEP*), provided that it follows the model, wording and coverage previously established by ENEL, with the following subject matter: *“The purpose of contracting this insurance policy is to guarantee the accurate, complete and appropriate fulfilment of Contract nº xxxx, and the relevant charges and liabilities, including any labor and social security liability, fines and penalties, throughout the validity term thereof and up to the accurate and full compliance therewith.”* The policy shall be previously approved by ENEL and signature thereof shall be presented before the effective date of the Contract.

#### 19.13 Advance Payment Guarantee.

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

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

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

#### 19.14 Warranty Guarantee.

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

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

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

## 20 INSURANCE.

20.1 The Contractor and its Subcontractors shall acquire and maintain in full force and effect, prior to the commencement of their activities and throughout the term of the Agreement and performance of their transactions, the insurance listed below. All insurance policies shall be contracted through first class insurers and legally authorized to issue insurance policies in the country where the services will be performed. Such policies shall have, but not be limited to, the indicated minimum compensation limits and coverage.

20.2 Such limits and coverage were previously defined in the risk matrix presented by Enel's Insurance area.

20.3 Contractor's insurance:

- (a) Personal Accident and Life Insurance: The Contractor shall have and maintain for its employees, subcontractors and agents, Personal Accident and Life Insurance covering losses resulting from injury, illness, disability or death of employees, with minimum limit of twenty-eight salaries, being the minimum guaranty per employee of R\$ 100.000,00. The insurance shall be kept in force during the entire period of performance of the services hereunder, whether for permanent or temporary, national or foreign employees.
- (b) Automobile Insurance: The Contractor shall have and maintain Civil Liability Vehicle Insurance (RCF-V) for the vehicles used for the performance of the contract, covering damages to third parties arising from the use of own, rented, borrowed or leased vehicles. The insurance shall cover losses arising from injury or material damage, the minimum coverage per occurrence limit of which shall be defined by ENEL. The Contractor shall also be liable for any damage occurred to such vehicles or to any goods and objects left or stored inside them.
- (c) General Civil Liability Insurance: The Contractor shall hold and maintain at its own expense civil liability insurance on a claim basis with coverage extended to subcontractors, with a compensation limit of the value established by ENEL. The policy shall cover material, personal and/or moral damages occurred to third parties at the site of performance of the services and related to the performance of services hereunder. The civil liability policy shall have coverage consistent with the activities to be performed by the Contractor, including: operations/works, employer, products, financial losses, performance of services at Third Party's sites, civil cross liability, design error, foundations, contingent risks with additional transport of employees, accidental and sudden pollution, finished works, equivalence of the owner of the work to a Third Party and moral damages. The following clause shall be included in the policy: In cases of any joint actions, Enel shall become co-insured in the policy of the Contractor.

- (d) Professional Civil Liability (E&O): The Contractor shall have and maintain professional civil liability insurance on a claim basis for the entire term of the contract with additional coverage of 2 years after the expiration hereof, covering consequential losses due to the negligence, omission, errors or omission of the Contractor, its engineers, consultants, its subcontractors or equivalent thereto, or any subcontractors in connection herewith, as well as any defects or design errors (if they are part of the scope of the contract) and coverage extent for loss of profits and/or financial losses, with a compensation limit of at least the value established by ENEL.
- (e) Contractor's Assets/Equipment: The Contractor shall be responsible for contracting insurance covering the equipment, components, tools and assets of its property or responsibility that will be used in the performance of the activities that are part of the services hereunder, whether or not they are at the site of performance of the contract. This insurance shall also have additional coverage for damage to third parties, in addition to the coverage for aggravated theft/robbery. If it is not contracted, the Contractor shall relieve the Contracting Party from any liability in case of incidents.
- (f) Cargo Insurance: In cases where the Contractor is contractually responsible for the transport, it shall contract transport policies with a limit in the total replacement value of the transported goods (including, in the case of imported goods, the total cost for taxes). The policies shall cover the entire route of the goods until they are delivered at the site of performance of the contract. The policies shall contain coverage for storage periods (in airports, ports, customs warehouses, etc.), as well as coverage against damage caused during loading and/or unloading of the goods and lifting. Such insurance shall be required from its subcontractors, if any.

The Contractor shall check and require that the carriers contracted to perform the transport have contracted the compulsory insurance of RCTR-C.

In the case of imported equipment/goods, an international transport policy with the same coverage extension and limit as described above shall be contracted.

- (g) Civil Liability Insurance – Aircraft Accidents: in cases where there is any need for the use of air transport services, civil liability insurance shall be contracted with coverage for injury and material damage, including coverage to passengers, with a minimum limit of R\$ 1,000,000.00 (One million reais);
- (h) Mandatory insurance that guarantees and supports the risks inherent to the services provided hereunder, in accordance with the Brazilian law.
- (i) If the Contract provides for the storage of materials by the Contractor on ENEL's premises, the latter may request, and the Contractor shall be obliged to stipulate, in addition to the previously mentioned insurance, insurance for theft and other damage that can be caused to the stored materials, for the entire duration of the Contract.

20.4 Deductibles: Contractor shall be responsible for the payment of any deductible or insurance withholding amount related to any of the insurance policies detailed in this Section.

20.5 Cancellation of the policy/amendments: Contractor shall not modify or cancel the insurance policies indicated in this Section. The Contracting Party shall be immediately involved and notified of any need to this effect.

20.6 Proof of contracting: Contractor shall prove the contracting of the policies mentioned in this Section, as well as provide evidence that all premiums were duly paid within the due date. The analysis of the Contractor's policies and/or quotations by Contracting Party cannot be interpreted by the Contractor as Enel assuming responsibility for the accuracy of the policies and/or certificates and/or quotations; this means that even if Contracting Party considers that a document is correct and it is not, or is insufficient to cover related claims, the responsibility for the losses to which they refer remains with the Contractor.

20.7 All measures to keep the policies in effect, during the entire term of the contract, shall be the responsibility of the Contractor, which shall make available to the Contracting Party, within no later than 15 days after execution of the contract, an original certificate issued by the insurer proving the contracting of the policies and, within no later than 30 days after execution of the contract, a copy of the said policies as required in the contract.

20.8 Additional insured party: any and all liability insurance, except for the employee insurance (life, social security and any equivalent thereto), shall include the Contracting Party as co-insured. This requirement shall not be applicable to the Professional Civil Liability policies.

20.9 Right to insure: if Contractor fails to comply with the requirements of this Section, maintaining the referred insurance policies, the Contracting Party shall have the right, but not the obligation, to provide and maintain such policies, which shall have their premiums paid by the Contractor.

20.10 Notice of incidents: Contractor shall notify the Contracting Party, as soon as possible, and within no later than 7 (seven) days, of any event which may give rise to a claim or incident and make available to Loss Adjuster all documents requested for settling of claims, as per Loss Adjuster request.

20.11 Additional expenses: in cases where the Contracting Party have any additional expenses with insurance related to any delays caused by the Contractor and/or its subcontractors, the Contractor shall reimburse the Contracting Party for such expenses.

20.12 Coverage limits: the requirements related to this Section shall not release Contractor, which have full and internal information regarding the risk of its business, from contracting, if it deems necessary, higher limits of coverage than those indicated in this Section.

20.13 In the event of failure to compensate under the insurance policy: In the event that the Contractor fails to maintain the policies required in this Section, any funds that could be reimbursed under a policy shall be paid by the Contractor.

20.14 Nothing in this Section shall limit the obligations or liability under the contract. Any amounts not reimbursed by insurance companies shall be paid by the Contractor.

20.15 The above policies must include a provision obliging the insurance company to pay ENEL directly as beneficiary. The limits of the insurance policy must cover damaging events subject to claims received within the period of performance of the Contract and/or after the Warranty Period.

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

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

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

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

## **21 INTELLECTUAL PROPERTY.**

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

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

21.3 The Parties agree that, as for ENEL's products, samples or technical specifications as well as intellectual property information that are delivered by ENEL to the Contractor in order to perform the Contract, the Contractor: (i) may not in any way copy, publish, distribute, reproduce, process, translate, modify, adapt, develop, decompile, dismantle, subject to reverse engineering operations (or, in any case, subject to operations intended to extract the source codes) – in full or in part - any such ENEL products, samples or technical specifications (ii) may not make any derivative works, objects, items, products, samples or technical specifications; (iii) shall not use such ENEL's products, samples, technical specifications or intellectual property information for any purpose other than due Contractor's performance under the Contract, and (iv) shall ensure that the aforementioned prohibitions are complied with also by the other persons involved and possibly to be involved in the performance of the Contract by the Contractor, (v) shall not disclose, and shall cause its employees, as well as persons indicated on item (iv) herein, to not disclose it to any third party without ENEL's prior written consent and shall keep it confidential pursuant to clause 22 "CONFIDENTIALITY" below.

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

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

21.6 If, as a result of a dispute or of any claim by the owners, right holders, authors, licensees of the rights referred to in this clause and/or any other parties, Enel is obliged to totally or partially modify the materials to be supplied under the Contract, they must be modified as soon as possible at the Contractor's expense, without this resulting in a deterioration of the quality of the supply, operating characteristics or warranties. If the above occurs, a new process for the approval of prototypes shall be carried out, where this is prescribed for the type of supply in question and before the materials are supplied. The Contractor shall indemnify ENEL for any associated direct and indirect costs and expenses, including but not



limited to transportation costs, costs for testing, certification, custom clearances, receipt of any permits/authorizations or documents, procurement of any replacing or additional materials/items, and other costs and expenses.

21.7 All amounts shall be paid to ENEL within thirty (30) calendar days from receipt of the respective extrajudicial notification from ENEL.

21.8 If legal action is taken against ENEL by a third party for the infringement of any intellectual property rights provided by the Contractor or anyhow related to this Contract the Contractor shall, at ENEL's request, be required to provide coverage (as indicated in clause "ECONOMIC GUARANTEE") in regard to the total value of the claims, within ten (10) calendar days. The Contractor shall release ENEL from any liability for infringements of intellectual property rights that may occur and undertakes to do everything necessary to hold ENEL harmless with regard to any claims or lawsuits against it, and also undertakes to bear and compensate ENEL for all losses and damages, whether direct or indirect, arising from claims or by subpoena, including attorney's fees, charges, costs, experts' fees incurred by Enel to defend its interest. For the sake of clarity, attorney's fees include the fees paid by Enel to the law firm it engages and also the fees determined by court to be paid by the losing party to lawyers of the winning party (In Brazil the latter is denominated "Honorarios de sucumbencia" which is different from Attorney's fees).

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

21.10 ENEL shall own all of the documents, drawings, plans, computer programs, data, information, as well as copies, translation, derivative works thereof and the related intellectual property, it provides to the Contractor for the performance of the contractual obligations. The Contractor shall use them solely for the purposes of executing the Contract and must return them to ENEL, at all times taking appropriate precautions in relation to the processing, use and transfer of data to ensure security and non-disclosure, pursuant to clause "CONFIDENTIALITY" below.

21.11 The intellectual property rights and methodology resulting or deriving from the developments, or works or services, or other activities performed by the Contractor in executing the Contract, and the records that are created belong to ENEL, without giving the Contractor any right to increase the price specified in the Contract for any contractual items, as well as any right to claim any additional payment or remuneration in this respect. Therefore, and the Contractor hereby undertakes to provide all necessary subsidies for ENEL to provide the respective registration with the relevant authority, under the terms provided for in the legislation in force, especially those provided for in Articles 49 and 50 of Law No. 9610/199.

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

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

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

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

## **22 CONFIDENTIALITY.**

22.1 The term "Confidential Information" refers to economic and financial documents, data and information that regards, but is not limited to, business strategies, information about products and/or production processes (design, study and development), means and costs of production, sales information, development strategies and customer management, any kind of data about clients subject the provision under the Clause 23 "PROCESSING OF PERSONAL DATA", suppliers and their technical or commercial profile, documentation regarding technical and economic offers in public and private tenders, data about tests and/or the functioning of plants, equipment, machines and products, business analysis, market researches, business and marketing plans other statistical data that are relevant for the business, internal organization procedures, ideas of advertising and new trademarks not yet used in the market, prices, features, concepts, prototypes and layouts of new products or services not yet launched on the market, etc. It also applies to technical documents data and information,

referring for instance, but not limited to patentable inventions, patents, patent applications, licenses, source code of any kind of software, its principles and the related algorithms; discoveries, algorithms and formulas; new production processes and methods; new methodologies for testing plants, equipment, machines and products, results of activities of Research and Development (R&D). In addition, it applies to any other information

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

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

22.3 It will not be considered confidential the information that

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

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

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

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

22.7 Each of the Parties:

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

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



22.9 Both Parties guarantee that Confidential Information will not be disclosed during the performance of the Contract and for a period of five (5) years after it has expired, except when another term is agreed in the Contract or when it is required by law or by a competent Authority. Notwithstanding the foregoing, in the case of Confidential information qualified as "strictly confidential" by ENEL, the obligations of confidentiality and non-use set forth in this clause shall survive the termination of the Contract for any reason whatsoever unless otherwise provided by the disclosing Party, and shall be valid until the receiving Party is able to demonstrate that said Confidential information has become generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question for any cause different from its disclosure by the receiving Party.

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

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

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

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

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

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

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

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

- l) in order to prevent the disclosure of information to unauthorized persons, attention shall be paid to printed documents, removable hard drives, removable storage and video screens.

22.16 If at any time during the Contract, the performance of the Scope of Contract requires or involves the Contractor gaining access to and/or using any application available on Enel's systems and/or Enel's IT infrastructure ("Enel Systems"), this entire Section 22.15 applies to the Contractor. Upon the request of Enel, at any time and for any reason, the Contractor shall participate in and implement the Enel's dual factor authentication system (the "Multifactor Authentication System"), as a mandatory requirement to access and/or use any Enel Systems. The Contractor undertakes that, for the Contractor to participate in and implement the Multifactor Authentication System, (i) a smartphone and a working SIM card (also personal or for mixed-use) are required; (ii) each smartphone used for the purposes of the Multifactor Authentication System must be associated exclusively with the personal identity of the specific employee, agent, Subcontractor, representative or other personnel of the Contractor who will access and/or use the Enel Systems on behalf of the Contractor; and (iii) the Contractor shall satisfy all of the foregoing requirements at its sole risk, cost and expenses. Enel does not bear any charge (financial or other) for the supply of the smartphone and shall not be responsible or liable to the Contractor or any Third Party for any damages, claims or losses, direct or indirect, arising out of or connected with the failure and/or defective functioning or unlawful use of any smartphone that is used for the Multifactor Authentication System by the Contractor's employees, agents, Subcontractors, representatives or other personnel.

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

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

For all definitions concerning personal data, reference is made to terms and definitions made in EU Regulation 2016/679 (hereafter GDPR), Law No. 2018/13.709 – Brazilian General Data Protection Act (hereafter LGPD), as well as to the implementing legislation and any other current legislation in force.

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 will be 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.

In this respect, it should be noted that:

- the Data Controller is Enel Group Company that follows as the Contracting Part in the Contract, 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 (hereafter 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;
- 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), and also Article 17-22 of the LGPD (confirmation of the existence of personal data processing; access to personal data; correction of incomplete, inaccurate or outdated personal data; anonymization, blocking or alteration of personal data that you believe is being used unnecessarily, excessively or non-conformity; portability of your personal data to third parties; replacement of authorized personal data with your consent; information from public and private entities with which Enel uses the shared use of your personal data; information on the possibility of not using consent and on how the information revocation of consent, without limit established by the applicable legislation), where applicable, by contacting the Data Controller;
- Data Subject are entitled to lodge a complaint to the competent Data Protection Authority, using Data protection National Authority (ANPD) in the website <https://www.gov.br/anpd/pt-br> ;
- The Data Controller has appointed the Data Protection Officer (DPO) pursuant to Article 37 of the GDPR and Article 41 of the LGPD, whose contact details can be found on the Data Controller's website.

#### **23.2 Appointment of the Supplier as Personal Data Processor**

Upon signing of the Contract, and for its entire duration, the ENEL, as Data Controller, appoints the Supplier, who accepts, as Personal Data Processor, pursuant to and for the purposes of Article 28 of GDPR and Article 39 of the LGPD.

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

### **23.2.1 Duties and instructions**

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

- a) It must only process personal data according to ENEL instructions, as documented in Attachment GDPR/LGPD 1 specifying type of data processed and the categories of Data Subjects;
- b) It will have to appoint Authorized Persons ("Authorized Persons") to carry out its data processing operations in IT or paper files, including simple data visualization;
- c) It must ensure that Authorized Persons comply with GDPR and LGPD obligations and ENEL instructions and maintain integrity and confidentiality of the personal data during the execution of the Contract and do not to communicate them to third parties, unless expressly authorised to do so by ENEL and except for the cases expressly envisaged by the law. ENEL reserves itself the right to request the Supplier to provide the list of Authorized Persons for data processing in order to comply with obligations under the GDPR/ /LGPD or other legal requirements or for reasons of national security or public interest;
- d) It must adopt all the security measures as set forth in Article 32 of the GDPR and Article 46 of LGPD, other applicable laws and regulations and, as well as all other preventive measures dictated by the experience designed in order to avoid personal data processing not allowed or not compliant with the purposes for which the data are processed; it must also ensure effective collaboration in implementing these measures in the notification and communication of any personal data breach and in assessing the data protection impact assessment when requested by ENEL;
- e) On express request by ENEL, it will have to provide the list of countries and data centers where personal data are processed on behalf of ENEL;
- f) It may transfer personal data to a third country or to an international organization located outside the European Union only in the cases envisaged and under the conditions defined by the GDPR and LGPD, unless otherly required by law of the European Union or the national law to which the Supplier is subject. In this case, the Supplier undertakes to inform promptly ENEL about this conflicting legal obligation unless forbidden from doing so for relevant reasons of national security or public interest;
- g) Bearing in mind the nature of the processing, the Supplier undertakes to support ENEL in deploying its own appropriate technical and organizational measures, to the extent to which this is possible, in order to let ENEL to fulfil it's duty to respond data subject's request to exercise their rights;
- h) It must assist ENEL in ensuring compliance with the duties set forth in Articles 32 to 36 of the GDPR and Articles 46 to 51 of the LGPD, in consideration of the nature of the processing and its role as Data Processor;
- i) It must, on ENEL's request, erase and/or return all the personal data once the execution of the services relative to the processing have been completed and it should erase also the existing copies, unless the law of the European Union or its member States or National Law envisages that personal data have to be stored; proof of accomplished erasure has to be provided to ENEL;
- j) When Supplier has appointed a Data Protection Officer pursuant to Article 37 of the GDPR and Article 5, VIII and 41 of the LGPD, this must be communicated to ENEL competent Data Protection Officer;
- k) It must provide ENEL with all the information necessary to demonstrate compliance with the requirements of the GDPR and LGPD by participating in the review activities, including the inspections, carried out by ENEL or by another party appointed by the same;
- l) In case of actual or suspected personal data breaches, It must promptly notify ENEL within twenty-four (24) hours of becoming aware of the event and without any unjustified delay;
- m) It must cooperate with ENEL by making freely available all necessary information in order to allow compliance with Articles 33 and 34 of the GDPR and Article 48 of LGPD, including up-to-date and valid certifications;
- n) According to Article 30 of the GDPR and Article 37 of LGPD, it must keep a data record of the processing activities carried out on behalf of ENEL, which must be exhibited upon request of ENEL when subject to legal obligations under articles 33 and 34 of the GDPR and Article 48 of LGPD.
- o) The Contractor is also obliged to demonstrate that it complies with the data protection legislation in force, authorizing in advance the Contracting / Enel to perform audits at its premises to prove compliance.

23.2.1.2 It is forbidden to the Contractor to process personal data for purposes other than the execution of the Contract. In particular, where it is not necessary for the execution of the Contract, it is forbidden for the Contractor to make, by way of example but not exhaustive, to massively extract personal data, also through the use of "RPA - Robotic Process Automation" (or "automata"), unless previously authorized by the Contractor.

**23.2.2 Compensation and Liability**

Pursuant to Article 82 of the GDPR and Article 42 of the LGPD, the Supplier will be liable for damages caused by the processing if it has failed to comply with the duties and obligations aforementioned or has acted in a different or contrary way to ENEL's instructions.

The Supplier will also be liable in the first place with ENEL and its data subjects if any Data Processor appointed by the Supplier to execute data processing pursuant to the Contract fails to fulfil its obligations with the GDPR and LGPD or the Supplier's instructions.

In the event of further damages incurred by ENEL as a result of the conduct of the Supplier or one of its Data Processors, ENEL reserves the right to request further compensation that will be proportionate to the damages suffered.

ENEL or the Supplier are exempt from all liability if they can prove that the damaging event is in not in any way ascribable to them.

The Parties declare and agree that any penalties provided by law are and always will be additional and complementary to any other penalty provided by this agreement.

**23.2.3 Duration**

The above-mentioned appointment as Data Processor will be automatically revoked to the Supplier upon expiration of the contractual relationship or on its termination for any cause, without prejudice to compliance with all the dispositions of the Article 23.2.1 above concerning processing still in progress even as regards the fulfilment of contractual requirements.

**23.2.4 Other Data Processors (or Sub Data Processors)**

If, for specific processing activities, the Supplier intends to involve in the execution of the Contract Data Processors, these must be appointed as Sub Data Processors pursuant to Article 28 paragraph 4 of the GDPR (hereinafter indifferently Other Processors or Sub Data Processor). The Sub Data Processors must comply with the same obligations that the Contract carries out on the Data Processor.

Upon signing of the Contract the Sub Data Processors are thereby authorized (Attachment GDPR/ LGPD 5) to process personal Data.

If the Supplier, for recognizable and reasonable reasons, intends to entrust services to Sub Data Processors other those included in the first list referred to in Attachment GDPR/ LGPD 5, it must request prior authorization to Enel for such appointments, using template in Attachment GDPR/ LGPD 6 or equivalent form ENEL has the right to issue a general authorization valid for the entire duration of the Contract for allowing all Sub Data Processor to process its personal data or can issue specific and individual authorizations, depending upon the nature of the services and the duties defined forth in Article 28 of the GDPR.

The Supplier declares that the Sub Data Processors will process personal data in Brazil or countries belonging to the European Union or countries that ensure adequate protection of personal data under the GDPR and LGPD. The Supplier undertakes to provide details, specifying the location (region and town), of its Data Centers where personal data will be processed by Sub Data Processors.

If Sub Data Processors process data in the United States, if subject to US law, the Supplier is obliged to ensure and comprove it before the conclusion of the contract the lawfulness of the international data transfer, the validity any certifications required by the Adequacy Decisions of US legislation on the part of the European Commission or by National Authority for itself and its Sub Data Processors.

If an Sub Data Processor belong to the Supplier's multinational group which has adopted the binding corporate rules pursuant to Article 47 of the GDPR and Article 33 c of LGPD, these constitute adequate Assurances with regard only to that Sub Data Processor.

Should the Sub Data Processors intend to process personal data in countries considered inadequate in relation to the GDPR and LGPD, the Supplier undertakes to have the Sub-processor sign the standard contract clauses defined by the decision of the European Commission in force at the time when the Contract is established. To this end, ENEL confers to the Supplier, as Data Processor established in the European Union or in Brazil, a specific mandate with representation so that it can sign the above-mentioned Standard Contract Clauses.

During the Contract Term, Supplier shall render the Services to ENEL in compliance with the Laws affecting the Services and shall require its subcontractors to observe the afore-mentioned legislation. ENEL shall make Supplier aware of any applicable Law and/or regulatory requirements relating to the Services that are applicable to the ENEL; any modification to the Services due to such changes shall be carried out by Supplier at its own expense. For the avoidance of doubt, in no case whatsoever will Supplier, through its action or fail to act, hinder, impede or obstruct ENEL's compliance with the Laws affecting the Services. For the purposes of the Contract, among other bodies of law, Brazilian data protection laws and regulations shall constitute laws which affect the Services.

**24 SUPPLIER PERFORMANCE MANAGEMENT.**

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

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

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

## **25 VALUE ENGINEERING AND GAIN SHARING<sup>1</sup>.**

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

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

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

25.4 Value Engineering proposals shall include

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

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

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

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

25.8 Upon approval of a Value Engineering proposal, the Contractor shall submit a Change Order request in accordance with the provisions of clause 7.1, which shall be formalised by means of an amendment.

## **26 GOVERNANCE.**

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

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

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<sup>1</sup> Not applicable in case Gain Sharing is prohibited according to Applicable Law.

of the Parties. Each Party may periodically change its representatives in the Review Group in its sole discretion, notifying the other Party of the change.

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

26.1.3 The Review Group is chaired by a Representative of ENEL.

## **26.2 Decision process.**

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

## **26.3 Responsibility.**

26.3.1 The responsibilities of the Review Group include:

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

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

26.3.3 The Chairman of the Review Group is responsible for sending the agenda of all meetings within two calendar days' in advance, or within a reasonable shorter period if the matter requires urgent measures and for preparation of the final minutes of each meeting.

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

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

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

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

## **28 GLOBAL COMPACT.**

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

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

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

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

Two: Any business must ensure that they do not take part in human rights violations.

### **b) WORK.**

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

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

Five: Any business must support the elimination of child labour.

Six: Any business must support the elimination of discriminatory practices in employment and education.

### **c) ENVIRONMENT.**

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

Eight: Any business must support initiatives to promote greater environmental responsibility.



Nine: Any business must encourage the development and dissemination of technologies that respect the environment.

d) **CORRUPTION.**

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

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

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

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

**29 CODE OF ETHICS.**

**29.1 Ethical Standards**

29.1.1 The ENEL Group, when conducting its business and managing its relationships refers to the principles contained in its own "Ethical Standards". The documents listed below constitute the set of Enel's Ethical Standards. These documents, as well as their respective updates are available on the website [www.enel.com.br](http://www.enel.com.br), in the item "suppliers", sub-item "documents", and are an integrating part of the Contract, and shall be complied with as if their texts were under the Contract:

- a) Global Compliance Program of ENEL Group;
- b) ENEL Ethical Code;
- c) Commitment of Sustainability;
- d) Corruption Zero Tolerance Plan;
- e) Criminal Risk Prevention Model;
- f) Performance Protocol when Dealing with Civil Servants and Public Authorities; and
- g) Gifts and Hospitality Policy ENEL Brazil Policy nº413
- h) Anti-bribery Enel Brazil Policy

29.1.2 The Contractor hereby expressly states having access to the documents described and made available under this clause, adhering to the contents thereof and undertaking to fully comply with them, as well as with any future updates thereto, as well as ensures that its Subcontractors, Sub-suppliers, third parties engaged by the Contractor and its whole supply chain do the same.

29.1.3 In case the Contractor has no access to the Internet, fails to locate, or finds any difficulty to access any of the annexes described herein, it shall contact the representative appointed in the Contract, in order to receive those annexes through electronic media or printed media (hard copy).

29.1.4 Failure to request any attachment, according to the clause above, shall be constructed as clear knowledge and acceptance of such document terms by the Contractor.

29.1.5 In case of any questions and conflicts between the Ethical Standards and the Contractor's Code of Ethics, provided that it has been submitted to ENEL, the most restrictive provision shall always prevail.

29.1.6 The Contractor represents and warrants as follows:

29.1.7 It does not employ and/or use, and undertakes not to employ and/or use, during the term hereof, any child labor in the performance of the Contract, as well as does not hire and/or maintain any relationships with any other companies providing services to it (partners, suppliers and/or subcontractors) that use, exploit and/or, by any means whatsoever, employ child labor, in accordance with the provisions of ECA - Child and Adolescent Statute, Law No. 8069/90, and any other legal and/or regulatory rules in force;

29.1.8 It will comply with and will ensure that its employees, officers, correspondents, consultants and subcontractors respect and comply with the provisions in the set of Ethical Standards of ENEL, as well as the guiding principles of the Anti-Corruption Law: Laws No. 12,846 and August 1, 2013, No. 12.529/2011, No 8.429/1992 and No. 9613/1998, as amended

from time to time, or any equivalent legislation that may replace it (hereinafter collectively referred to as the “Anti-Corruption Law”);

29.1.9 It is engaged, by itself or by any of its employees, officers, correspondents, consultants and subcontractors, engaged, in whole or in part, in the performance of the Contract, in fighting against any practice of acts of improbity, whether directly or indirectly, as well as any form of corruption, including extortion and bribery, whether under or outside the Contract (wherever the Services are rendered), and refrain from any act that characterizes any failure to comply with the Ethical Standards and/or Anti-Corruption Law, including, but not limited to, the acceptance, solicitation of bribes, promises, offers, gifts, facilitation payments, favors and/or treats with the purpose of obtaining any kind of advantage, whether in the Private or Public Administration scope.

29.1.10 If the Contractor becomes aware of the practice of any acts that may characterize failure to comply with the provisions of the Ethical Standards and/or Anti-Corruption Law, it shall, in addition to seeking all legally applicable measures to remedy such acts, inform them to ENEL, through the following channels: by sending an email to the ENEL Ethical Channel (<https://secure.ethicspoint.eu/domain/media/pt/gui/102504/index.html>), or by sending a letter to the following Internal Audit address – Avenida das Nações Unidas, no. 14.401 – 17º to 23º floor - Group 1 to 4 - Tower 1B, São Paulo – SP – CEP 04794-000.

29.1.11 Any failure to comply with the obligations undertaken in this clause, whether by action or omission of any of its employees, officers, correspondents, consultants and subcontractors engaged, in whole or in part, in the performance of the Contract which may pose any risk to the reputation and/or image of the ENEL and/or its affiliates, or which may reduce and/or undermine the confidence of the ENEL in the Contractor's honor, integrity and credibility for the performance of the activities under the Contract, at the sole discretion of ENEL, without prejudice to the application of the penalties provided in the Contract or in the annexes, shall entitle ENEL to the immediate and unilateral termination of the Contract, and to demand the payment of compensation for any damages caused, without prejudice to any sanctions provided for by law or hereunder, by means of a simple notice in writing to the Contractor, without any of charge and with no need for any judicial measures, pursuant to Art. 474 of Law No. 10,406/02.

29.1.12 If ENEL becomes aware through the Contractor, third parties or any other means of investigations relating to the involvement of the Contractor, its employees, directors, correspondents, consultants and subcontractors, during the execution of the Contract, in crimes committed against the national public administration or foreign, crimes of corruption, including extortion and bribery, money laundering, as well as other crimes governed by Laws 12.846/2013, 12.529/2011, 8.429/1992 e 9613/1998, ENEL as its sole discretion, may terminate the Contract and demand the payment of indemnity for losses and damages effectively proven, in accordance with the terms established in the paragraph above if, once notified, the Contractor does not present an answer or, when presenting, it is not satisfactory. The Contractor, therefore, may notify ENEL within 72 hours of knowledge of the events mentioned in the previous paragraph. This notice must describe the facts in detail.

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

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

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

## **29.2 Conflict of interest.**

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

29.2.2 For the entire Duration of the Contract, the Contractor undertakes to behave in a way designed to avoid conflicts of interest from arising. Whenever this might result in a situation which could generate any conflict of interest – subject to the right of ENEL to terminate the relationship – the Contractor undertakes to promptly give written notice to ENEL and to

comply with the reasonable instructions of the latter, which will be dictated upon consultation and assessment of the requirements justifiably represented by the Contractor.

29.2.3 During the performance of the Contract, the Contractor agrees to allow ENEL to verify the level of compliance with the requirements as for the current article. ENEL will have the right to solve the Contract for reasons attributable to Contractor when it is justifiably and enough certain that Contractor or its suppliers violated the aforesaid principles.

29.2.4 The Contractor (in case of an individual), by signing this Contract, states that:

1. S/He does not perform, within ENEL group companies, any top management functions (director, senior manager with strategic responsibilities), is not an employee of the company nor an auditor to ENEL Group, nor is he/she a relative up to second degree, spouse or partner, child and/or step child or dependent (by natural or civil relatedness) of such members.
2. S/He has no family members / relatives up to second degree / spouse / partner / husband, children or stepchildren / related by blood ties or affinity, or from natural or civil relationship, within ENEL Group companies;
3. S/He has not performed, both the Contractor and their relatives (spouse or partner or first-degree relatives), for the last 24 months, any positions in the Public Administration or Entities in charge of public services directly related to the activities performed by any of ENEL Group's companies (grant of concessions, controlling activities, etc.).

29.2.5 The Contractor (in case of an entity<sup>2</sup>), by signing this Contract, states that:

- a. S/He is not a member of Senior Management or of the Management Boards or of the Audit Committee, nor an executive with key responsibilities at ENEL Group's companies, nor is a relative up to second-degree, spouse or partner, child and/or step child, or a dependent (by natural or civil relatedness) of the members mentioned above.
- b. S/He is not employed at any of ENEL Group's companies, nor is a relative up to a second-degree, spouse or partner, child and/or step child, or dependent (by natural or civil relatedness) of the mentioned employee.
- c. S/He has not performed, both the individual and their relatives (spouse or partner or first-degree relatives), for the last 24 months, any positions in the Public Administration or Entities in charge of public services directly related to the activities performed by any of ENEL Group's companies (grant of concessions, controlling activities, etc.).

29.2.6 Contractor undertakes to inform ENEL of any change that may occur subsequently and while performing and in the active condition of Contractor, with respect to the information declared before execution hereof.

### **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 behaviour will determine the suspension of work and the restoration of Health, Safety and/or environmental conditions. In ENEL the protection of people's health and safety and their psico-physical integrity is not only a legal obligation but also a moral responsibility towards its employees and suppliers.

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

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

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

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

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

### **29.4 Integrity Clause.**

- a) With the presentation of the proposal and/or acceptance of the Contract, the Proponent/Contractor<sup>3</sup> declares:

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<sup>2</sup> Public bodies, companies listed in the stock market, bank institutions and companies controlled by them are not bound to this statement

<sup>3</sup> The Legal Representative of the Company **in his/her own name, on behalf of** (a) the holder and technical director, in case of an individual company; (b) the associates and the technical director, if it is a general partnership; (c) the associate members and technical director, if it is



- It follows the commitments undertaken by ENEL SpA and by the companies that it controls whether directly or indirectly (hereinafter “ENEL”), the Code of Ethics, the Plan of Zero Tolerance to Corruption (ZTC), the Human Rights Policy, to respect any equivalent principles in the conduct of its business and while managing relationships with third parties.
- <sup>4</sup>It is not aware of the existence of administrative, civil and/or criminal proceedings, such as administrative impropriety, tax crimes, crimes against public administration, crimes against property, crimes against personal liberty, public order, environmental crimes, among others.
- <sup>5</sup>It is not be subject to administrative, civil and/or criminal investigations regarding any fact, matter, illegal administrative criminal conduct, civil and/or constitutional conduct, such as tax crimes, crimes against public administration, crimes against property, crimes against personal liberty, public order, environmental crimes, among others.
- It follows and authorizes that – for the purpose of evaluating the professional conduct of the Company itself and the Company in question, according to the second and third point of this letter a) – ENEL may independently acquire more information, at any time, considering the necessary existence of fiduciary duties with the Company involved.
- It is duly constituted and organized in accordance with the applicable laws in Brazil and is authorized to perform the activities provided for under the Contract.
- The execution and performance of the Contract does not conflict with any law applicable to the Bidder/Contractor, as well as its articles of association and charter.
- There are no pending lawsuits and/or lawsuits of which it is aware of that may adversely affect the execution or performance of the Contract.

b) The Proposer/Contractor undertakes to promptly inform and provide any relevant documentation to ENEL:

- 1) In case of recognition of the existence of any administrative, civil and/or criminal proceedings as referred to in the second point of a) above;
- 2) In case of the existence of any administrative, civil and/or criminal investigation, as referred to in the third point of a) above.

ENEL reserves the right to analyze, at its sole discretion, the above mentioned information, for the purpose of evaluating the professional conduct of the Proponent/Contractor and of the Company in question.

## 29.5 International sanctions and export control decisions.

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

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

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a limited company; (d) managers with representation power and the technical director and of the sole individual shareholder or majority shareholder in the case of companies with less than four members, or of any other type of company or consortium, **of the Company in which his/her position is exercised** and, if applicable, **on behalf of the Parent Company** and (e) the holder and the technical director, in the case of an individual company; (f) the associates and the technical director, if it is a general partnership; (g) the associate members and the technical director, if it is a limited company; (h) managers with representation power and of the technical director and of the sole individual shareholder or majority shareholder in the case of companies with less than four members, or of any other type of company or consortium, **of the Parent Company**.

<sup>4</sup> On its own behalf and on behalf of the people listed in note 2.

<sup>5</sup> On its own behalf and on behalf of the people listed in note 2.

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

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

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

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

### **30 GOVERNING LAW.**

30.1 The Contract and any disputes or claims arising out of or in connection with its subject matter shall be governed by and construed in accordance with Brazilian law.

30.2 The application of the United Nations Convention on International Contracts (the "Vienna Convention") is explicitly prohibited.

### **30. JURISDICTION.**

30.3 Any controversies or disputes arising out of or relating to the Contract shall be submitted to the exclusive jurisdiction of the Courts of the city of São Paulo (Brazil), irrespective of where such party may be located at the time of such proceeding.

30.4 If an arbitration clause is provided for in the Contract, all disputes arising out of or relating to the Contract shall be resolved by arbitration. The seat or legal place of arbitration and all arbitration hearings and meetings shall be held by International Chamber of Commerce - ICC Brazil, in São Paulo (Brazil), according to the chamber's arbitration rules in effect at the time of the arbitration, except as otherwise provided for under the Contract by mutual agreement of the Parties.

### **31. MISCELLANEOUS**

30.5 The Parties agree that the commercial relationship shall abide by the most strict and demanding concepts and principles of ethics, morality and good faith during the execution of business, including, but not limited to, avoiding to keep by themselves or third parties, totally or partially, directly or indirectly, any relationship, contact or commercial association with any kind or class of agents that have participated in unlawful commercial activities, including unfair or unethical competition activities, which, as a result of the activity performed, the Parties are aware of or should be aware of.

30.6 No provision under the Contract shall be construed as a means to create a partnership, joint venture, or association or commercial representation between the Parties, each of them being solely, fully and exclusively responsible for their own acts and obligations.

30.7 In all matters relating to the Contract, ENEL and the Contractor shall act as independent contractors. Neither Party may declare that it has any authority to assume or create any obligation, express or implied, on behalf of the other Party, nor represent the other Party as agent, representative or any other role. It is hereby established that ENEL has no liability for debts and obligations incurred by the Contractor, which shall not be allowed to use the Contract or any other reason to claim damages or refunds.

30.8 The Parties represent, under penalties set forth under the Law, that their individuals or representatives who sign the Contract are duly empowered, according to their respective Bylaws or Corporate Charters, with authority to take on the obligations under the Contract.

30.9 The clauses of the Contract and its Annexes that by their nature have a perennial nature, especially, but not limited to, those related to civil, labor, tax, social security and fiscal matters, as well as intellectual property rights and confidentiality, among others, shall remain valid even after the termination of the Contract.

30.10 The Contract shall be binding upon the Parties, their successors, whatever the form of succession, in all rights and obligations undertaken under the Contract.

30.11 In the contracts entered into between the Companies of ENEL Group ("Related Parties") in which there is no need for prior approval by ANEEL, pursuant to ANEEL Resolution nº 699/2016, each Party shall be solely, independently and exclusively responsible for its respective obligations, and no joint and several liability shall be claimed in any event between



them, including, but not limited to, the obligations to (i) pay invoices for the service rendered to it; (ii) its respective tax credits and obligations related to its operations, as well as (iii) its respective labor and social security obligations.

30.12 In all matters related to the Contract, the Related Parties shall act as independent contractors, and they shall not be deemed as jointly and severally liable and shall have no responsibility for debts and obligations undertaken by the Contractor. The Contractor or third parties shall not be allowed to use the Contract or any other reason to claim any compensation or reimbursement.

### **32. ATTACHMENTS**

Attachments GDPR/ LGPD.



Attachments

**ATTACHMENT 1 GDPR/LGPD****DESCRIPTION OF THE PERSONAL DATA PROCESSING**

With reference to the Article 13 of GDPR, Article 9 of LGPD and Contract/Order Letter no. \_\_\_\_\_ and in particular to the appointment of the company [ ] as Data Processor, with this attachment the Data Controller means to identify types of data and categories of data subjects related to the abovementioned contract.

**A. Type of Personal Data**

- **Biographical data<sup>1</sup>**  
☐
- **Special categories of personal data<sup>2</sup>**  
☐
- **Judicial data**  
☐
- **Personal Economic & Financial Data**  
☐
- **Data related to contracts with customers (e.g. POD, PDR)**  
☐
- **Other** \_\_\_\_\_

**B. Categories of Data Subjects**

- **Customers**  
☐
- **Employees**  
☐
- **Suppliers**  
☐
- **Shareholders**  
☐
- **Other** \_\_\_\_\_

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<sup>1</sup> e.g. name, surname, home address, credit card number, Identity Card number, Passport number, IP (Internet Protocol); address, geolocalization data

<sup>2</sup> these include sensitive data, e.g. personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs; trade-union membership; genetic data, biometric data processed solely to identify a human being; health-related data; data concerning a person's sex life or sexual orientation.



Attachment 5 GDPR/LGPD

List of Sub-processors

COMPANY	COUNTRY AND ADDRESS	PRODUCT OR SERVICES	TYPE OR CATEGORY OF DATA PROCESSED	INTERNATIONAL DATA TRANSFER SAFEGUARD MEASURES OR OTHER RELEVANT CERTIFICATIONS



**Attachment 6 GDPR/LGPD**

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

**Subject:**

**REQUEST FOR AUTHORIZATION OF APPOINTMENT OF SUB DATA PROCESSOR PURSUANT TO ARTICLE 28 OF EU REGULATION 2016/679 (HEREAFTER "GDPR")**

The Company xxxxxx, as Data Processor appointed by [•], as Data Controller

**WHEREAS:**

- for the execution of specific processing activities related to the execution of the foregoing Contract, use must be made of subjects external to their own organization;
- for these purposes, the Company xxx has been identified
- pursuant to Article 28 of the GDPR, this company must be appointed as a Sub Data Processor

**IT IS HEREBY AGREED AS FOLLOWS**

The Company xxx requests to [•], in its capacity as Data Controller, authorization to appoint the Company xxx as Sub Data Processor using the template prepared by it and attached herein.

\_\_\_\_\_, XX/XX/XXXX

Data Processor

\_\_\_\_\_

For acceptance

Data Controller

\_\_\_\_\_