



**This "Annex IV Spain" applies to contracts for the purchase of goods, supplies, services or civil works (hereinafter "the Contract") subject to the laws of Spain and concluded between Enel Group companies and the Supplier (hereinafter "the Parties").**

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## 1. Scope of application.

According to the wording in the paragraph of the same name in the General Part of the General Terms and Conditions of Contract.

## 2. Definitions.

- **SHIPPING AUTHORISATION:** Document issued by ENEL, through which the SUPPLIER is empowered to proceed to the total or partial shipment of equipment or material object of the Contract.
- **DISPATCH NOTICE:** Document issued by the SUPPLIER once all agreed procedures have been followed, informing ENEL that all equipment or material, or part thereof, object of the Contract has been dispatched.
- **QUALITY AGREEMENT:** Agreement between ENEL and the SUPPLIER according to which, the latter, guarantees quality levels previously agreed between both Parties.
- **LETTER OF INTENT:** Agreement containing general and previous commitments that may be formalized or not in a Contract. Its purpose is to facilitate the beginning of the execution of the Contract by the SUPPLIER, once the essential obligations are agreed by the Parties, and not to condition the entire proceedings to the negotiation of pending details. This document involves the submission of the Parties to these General Terms and Conditions
- **INSPECTOR:** Person or body appointed by ENEL to carry out the inspections at any phase of the Contract execution.
- **REQUEST FOR OFFERS:** Document through which ENEL requests for bids to a potential SUPPLIER, within the context of a bidding process. It comprises, at least, the Technical Specifications and Commercial and Legal Specifications, among which these General Terms and Conditions are included.
- **QUALITY CONTROL PLAN:** Document issued by the SUPPLIER which specifies the processes, procedures, and associated resources to be applied to meet the requirements of the Contract.
- **INSPECTION POINTS PROGRAMME:** Document issued by the SUPPLIER and approved by ENEL, in which the various inspections, tests, trials, and checks to be carried out are recorded.
- **ACCEPTANCE AT SOURCE:** Procedure in which the mandatory tests and checks for the handover of materials are carried out in the presence of ENEL'S technicians or of the person or body authorised by ENEL, in the SUPPLIER'S facilities, those of its sub-contractor, or any other body agreed by both Parties.
- **ACCEPTANCE PROTOCOL:** Revision of the mandatory testing protocols that has been previously carried out by the SUPPLIER, through which ENEL'S technicians or the person or body authorized by ENEL approve the shipping of the material in question or, on the contrary, decide to check the results of said protocols through the Acceptance at Source procedure.
- **QUALITY ASSURANCE SYSTEM:** System establishing the requirements that the SUPPLIER must comply with in order to develop effectively and correctly the object of the Contract.



### 3. Language.

The original version of this Annex IV Spain is written in Spanish.

### 4. Formalisation.

According to the wording in the paragraph of the same name in the General Part of the General Terms and Conditions of Contract.

### 5. Interpretation and hierarchy.

5.1 All matters regulated in this Annex shall be primarily governed by the terms outlined in their paragraphs, and additionally by the terms outlined in the paragraphs of the same name in the General Part of the General Terms and Conditions of Contract.

5.2 Matters whose regulation in the Annex expressly indicates that they shall be directly governed in accordance with the wording outlined in the paragraph of the same name in the General Part of these General Terms and Conditions of Contract are excluded from the above mentioned provisions.

### 6. Communications.

According to the wording in the paragraph of the same name in the General Part of the General Terms and Conditions of Contract.

### 7. Financial conditions.

#### 7.1. Prices.

7.1.1. The total Contract price includes at least the added value of the following:

- Direct and indirect labour.
- Machinery and personnel associated with its use.
- Amortisation of machinery.
- Permanent and consumable material.
- Provision and use of all the tools of the SUPPLIER'S speciality.
- Equipment necessary for the protection, safety and the correct execution of the works and the costs and means to fulfil its obligations regarding control, training and provision of information on occupational risks.
- Construction, provision, maintenance, dismantling and demolition of all temporary facilities and auxiliary buildings that the SUPPLIER requires for offices, warehouses, workshops, changing rooms, sanitary facilities, security, etc., and those built in compliance with the Regulation for the Prevention of Occupational Risks.
- Transport of personnel, materials and any other resources to and from the place of work.
- Installation and authorisation of services and supplies.
- Maintenance expenses.
- Overheads and industrial profit.
- Food and expenditure expenses of the SUPPLIER'S personnel and those of all its agents, representatives, dependants, self-employed and subcontractors.
- Taxes and levies, and excise taxes that legally correspond to the SUPPLIER as a taxable person, unless they are recoverable by ENEL.



- Expenses incurred by the SUPPLIER for programming, inspections and trials, material control, execution control, testing, receptions and other analyses.
  - Full execution of the object of the Contract in accordance with the Technical Specifications and other contract documents.
  - Costs of provision and maintenance of the financial guarantee, insurance or other guarantees, if applicable.
- 7.1.2. The prices shall be itemised by price of services, price of materials and the corresponding taxes in accordance with the applicable legislation.
- 7.1.3. The SUPPLIER shall pay any additional costs incurred in freights, transportation, and any other expenses incurred due to the failure to fulfil the delivery and shipping conditions established in the Contract and in these General Terms and Conditions of Contract.
- 7.1.4. ENEL shall not pay for any materials, equipment or civil work not included in the Contract if their delivery or execution was not previously offered by the SUPPLIER, in writing and with an express description of the price, accepted likewise in writing by a representative of ENEL with the required level of authority.
- 7.1.5. The SUPPLIER undertakes the extensions, modifications, and reductions to the scope of the Contract, to the agreed prices, provided that they do not represent, on the whole, an increase or decrease of more than 20% of the Contract amount. The new delivery date, if appropriate, shall be determined by agreement between the Parties, on the basis of a reasoned proposal of the SUPPLIER.
- 7.1.6. If the extensions, modifications or reductions that ENEL proposes, which have been motivated by a justified reason, represent together an increase or decrease of more than 20% of the Contract amount, the SUPPLIER may accept or reject them, but in the latter case, ENEL shall be entitled to terminate the Contract.
- 7.1.7. In the cases where additional scope not foreseen in the initial prices table of the Contract must be executed, the corresponding price of said scope shall be determined between ENEL and the SUPPLIER, at its duly justified proposal, based on the breakdown of costs of other analogue units for which already exist established unit prices.
- 7.1.8. The negotiation of the additional scope shall be independent from the execution thereof, being the SUPPLIER obliged to immediately execute it after receiving ENEL'S request.
- 7.1.9. At ENEL'S request, the SUPPLIER shall include in its bid unit price scales in case that ENEL considers it necessary, during the fulfilment of the Contract, to request the execution of additional civil work units, services or supplies not foreseen in the initial scope of the Contract (administrative costs) by the SUPPLIER. Said prices, once agreed by the Parties and incorporated to the Contract, shall include items equal to the ones defined in clause 7.1.1. and shall be applied when it is not possible to fix additional scope price or in the cases in which ENEL considers it necessary.
- 7.1.10. The execution of works with administrative costs by the SUPPLIER may only be carried out with a previous express written execution order from ENEL.

## **7.2. Modification of prices.**

According to the wording in the paragraph of the same name in the General Part of the General Terms and Conditions of Contract.



### 7.3. Invoicing.

- 7.3.1. The following items must be shown separately on the same invoice:
- a) Eventual works contracted with administrative costs in addition to the costs initially agreed as scope in the Contract.
  - b) Increases through the application of readjustment formulas established in the Contract. In this case, the SUPPLIER must provide documents substantiating the values of the price indexes applied and the details of the application of corresponding readjustment formula.
- 7.3.2. In case of loss of the invoice, the SUPPLIER may issue a duplicate provided that it is, in turn, an original document and the note "Duplicate due to loss of original" is indicated thereon.
- 7.3.3. The date of the invoice may not be earlier than the provision of services, or the receipt of materials or equipment, or the one indicated in the Contract.
- 7.3.4. All invoices and, if applicable, supporting documentation must be sent to the following address unless otherwise stated in the Contract:

**ENDESA**

Department of Administration and Treasury  
Sub-department of Administration  
Ribera del Loira, 60  
28042 MADRID – SPAIN

### 7.4. Terms of Payment.

The received invoices shall be paid, subject to ENEL's prior assessment and, if applicable, approval of the compliance with the Contractual conditions on the part of the SUPPLIER, within the deadline indicated in the Contract, in accordance with the applicable legislation.

The Parties agree that in case of payment delay by ENEL for reasons solely attributable to it, it shall pay the SUPPLIER, at its written and reasoned request, an additional amount for interest for late payment of three percent (3%) of the amount due.

All payments made before the Provisional Acceptance or delivery, in accordance with the provisions of the Contract, shall be considered payments in advance and shall be discounted from the final price.

### 8. Taxes.

- 8.1 The prices established in the Contract include taxes, levies or contributions, unless they are recoverable by ENEL. Taxes, levies, and contributions arising from procurement applicable in any of the jurisdictions where the SUPPLIER and ENEL reside shall be paid, withheld or deducted from the price of each of them, in accordance with the applicable legislation.
- 8.2 The Parties undertake to meet all requirements and procedures and submit all documentation necessary for the correct settlement of taxes and payment of invoices, even to carry out owed



retentions and similar obligations in accordance with the applicable legislations, following at all times the guidelines indicated by them. Likewise, the Parties undertake to cooperate in obtaining exemptions and other tax benefits which may apply to the execution object of the Contract. In the case that due to lack of diligence or any other cause attributable to the SUPPLIER, ENEL does not obtain any tax benefit, it may deduct the amount of said benefit, prior certification thereof through any legally admissible means, from the agreed price.

In the event that there is a current agreement to avoid double taxation signed between the SUPPLIER'S country of residence and ENEL's country of residence, and the SUPPLIER invokes the application of any provision thereof, it shall submit to ENEL the corresponding residence certificate attesting its tax residence in the country for the purposes of the provisions of the Agreement in question, and the income classification given by ENEL's country of residence shall be addressed. Said certificate must be submitted together with the first issued invoice and/or as soon as requested by ENEL. In the event that the certificate expires while the Contract is still in force, the SUPPLIER shall submit to ENEL a new certificate to implement the Agreement application.

## **9. Execution.**

### **9.1. General conditions.**

According to the wording in the paragraph of the same name in the General Part of the General Terms and Conditions of Contract.

### **9.2. Inspections, testing and trials.**

- 9.2.1. ENEL may inspect the materials and equipment object of this Contract at any stage during the manufacturing process, as well as the execution of the contracted civil works or services, including the materials used by the SUPPLIER to provide for their execution. Said inspections may be carried out by ENEL's personnel or by persons or bodies appointed for this purpose, in the civil works, offices, factories, workshops or warehouses of the SUPPLIER or those of the SUPPLIER'S subcontractors. For these purposes, ENEL's inspectors shall be provided free access to the above mentioned facilities and the SUPPLIER must grant whatever necessary.
- 9.2.2. Notwithstanding the previous clauses, the tests or trials shall be carried out in accordance with the Inspection Points Programme prepared by the SUPPLIER and approved by ENEL, in all cases in which the Contract specifies it.

### **9.3. Quality Control.**

- 9.3.1. Quality Control covers the set of actions, activities and techniques required to give ENEL sufficient confidence that the contracted materials, equipment, civil works or services object of this Contract satisfactorily meet the conditions required by ENEL and, if applicable, comply with the corresponding laws and technical standards.
- 9.3.2. The SUPPLIER shall be solely responsible for Quality Control, independently of the controls and tests carried out or demanded by ENEL with its own resources or those of a third party, which, if carried out, shall not alter the full liability for quality control, which falls exclusively on the SUPPLIER.
- 9.3.3. Before starting the manufacturing process or the construction of the civil works or service contracted, the SUPPLIER shall submit a Quality Control Plan (according to ISO 10005 or equivalent), at ENEL's request, for approval, which shall include the Inspection Points Programme, and the relationship of the applicable operations and procedures.



Once the above mentioned Quality Control Plan has been submitted, ENEL may present its objections, if applicable and solely for well-founded reasons, within a period of fifteen (15) working days, and the SUPPLIER must modify the plan with due diligence, making the necessary corrections in accordance with the objections raised by ENEL.

- 9.3.4. During the execution of the Contract, the SUPPLIER shall rigorously and strictly comply with the provisions of the Quality Assurance System and Quality Control Plan approved by ENEL, which reserves the right to carry out any audits necessary to ensure its fulfilment.
- 9.3.5. Once the Contract has been executed, the SUPPLIER shall issue a final Quality Control Report, which must be submitted to ENEL's approval. The content of this report must fulfil the provisions of the Contract and the approved Quality Control Plan.
- 9.3.6. ENEL may require the SUPPLIER to register the contracted technical documentation necessary for manufacturing the materials and pieces of equipment with a Notary in those cases in which a product is discontinued.
- 9.3.7. The fulfilment of these Quality Control conditions shall not relieve the SUPPLIER of its liability for the inappropriate execution of the Contract in any case.

#### 9.4. **Delivery and acceptance conditions.**

##### 9.4.1. **General conditions.**

If the Contract does not specify a determined date of termination and only establishes the execution or delivery term, this period shall begin as of the date of the Contract or the issue date of the Letter of Intent, if any.

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

- 9.4.2.1. Along with each delivery, the SUPPLIER must provide all the final technical documents and the trial protocols established in the Specifications, in the Contract main body and in the other Annexes and, if applicable, in the corresponding technical standards.
- 9.4.2.2. In addition to these documents, the SUPPLIER must certify that the design, raw materials, materials, brands, and types of components used in the execution of the Contract are identical to those leading to the approval, if so requested by ENEL.
- 9.4.2.3. In order to deliver the elements, the SUPPLIER must send to ENEL, addressed to the contact person designated in the Contract, in good time, the Dispatch Notice stating the following data:
- Contract reference number.
  - Number of packages sent, indicating the content thereof.
  - Express indication, if these were the last contracted supplies
  - Data on the means of transport used and the company in charge of transport, with data and the telephone number of the contact person of said company.
  - Date and place of provision of the equipment or materials to ENEL.

The SUPPLIER undertakes to immediately notify ENEL of any circumstance that may alter the agreed and/or previously notified delivery conditions.

- 9.4.2.4. With regard to materials or equipment subject to Quality Controls, and unless the contrary is agreed, the SUPPLIER shall not send these elements until it has received the Shipping Authorisation subsequent to the Acceptance Protocol or the Acceptance at Source issued by ENEL. The supplies subject to Quality Agreements shall be exempt from this requirement. If



the SUPPLIER proceeds with the shipping, without complying with said requirements, all the costs incurred in the process shall be at the SUPPLIER'S expense.

- 9.4.2.5. Unless otherwise provided in the Contract, the delivery of the materials and equipment shall be made at the DDP (Incoterms CCI 2010) at the delivery point provided in the Contract. The terms, with reference to the delivery, ownership, insurance, etc., shall be interpreted in accordance with the Incoterm, except where such terms are in conflict with the provisions of the specific clauses of the Contract.
- 9.4.2.6. ENEL reserves the right to postpone any delivery or dispatch of the materials or equipment, without such postponement constituting a failure to correctly fulfil the delivery dates indicated in the Contract on the part of the SUPPLIER. The price agreed in the Contract includes the storage and insurance costs by the SUPPLIER, observing the use of best industrial practices, during the month following the delivery date indicated in the Contract. If the delivery or dispatch delay be extended any longer than said month, the appropriate compensation for the subsequent storage and insurance costs shall be mutually agreed between the Parties.
- 9.4.2.7. When no final tests, trials or inspections are required for materials and equipment, the SUPPLIER'S effective delivery of the materials and equipment, with ENEL's approval and in accordance with the provisions of the Contract, implies the transfer of ownership to ENEL as well as the risks inherent in the ownership and possession, including the risks of loss and damage, and the beginning of the Warranty Period, all without prejudice to the SUPPLIER'S subsisting liability for encumbrances, hidden defects, or any other liability that may be required of it under the applicable legislation.

Subsequently, the end of the Warranty Period, with ENEL's approval and in accordance with the provisions of the Contract, implies the final acceptance by ENEL of the purchased materials or equipment, without prejudice to the SUPPLIER'S subsisting liability for encumbrances, hidden defects, or any other liability that may be required of it under the applicable legislation.

- 9.4.2.8. When final tests, trials or inspections are required for materials and equipment, and once they are received by ENEL, all the conditions or activities in these General Terms and Conditions of Contract and in the Contract have been carried out, the Provisional Acceptance and subsequently the Final Acceptance shall be carried out in accordance with the provisions of paragraph 9.4.3 except that the periods referred to in paragraphs 9.4.3.1.1 and 9.4.3.2.1 shall be reduced to eight (8) calendar days.
- 9.4.2.9. When materials and equipment require to be assembled in a facility to check their competence and operation, their Final or Provisional Acceptance shall be taken as carried out in conjunction with the Provisional or Final Acceptance of the installation.

#### 9.4.3. **Works and/or services.**

##### 9.4.3.1. Provisional Acceptance.

- 9.4.3.1.1. In good time before the SUPPLIER shall communicate to ENEL the date where it will completely end the execution of the work or service under Contract, so as to be fixed by mutual agreement the date (day and time) in which they must carry out the Provisional Acceptance, although this date may be later than thirty (30) calendar days from the completion of the execution of the work or service.

On the day set for making the Provisional Acceptance, the representative of ENEL will proceed, in the presence of the representative of the SUPPLIER, to examine the state of the work or service contracted and verify compliance with applicable laws, standards and obligations contained in the Contract.



9.4.3.1.2. The Provisional Acceptance will be made once specific tests have been carried out to the satisfaction of ENEL and once the correct execution of the work or service under Contract has been verified. In that case, ENEL shall draft the Provisional Acceptance Document, to be signed by both parties. The signing of this document means the delivery and provision of ENEL of works or contracted services and the transfer of ownership as well as the risks inherent in the ownership and possession, including the risks of loss and damage, and the beginning of the Warranty Period, all without prejudice to the responsibility of the SUPPLIER subsisting for eviction, hidden defects or any other liability that will be required under applicable law.

9.4.3.1.3. In the event that an examination of the contracted work or service is not satisfactory in the view of ENEL, or they have not passed the established tests, ENEL shall write an act of recognition of the work or services in which it shall record detected defects and the maximum period during which they must be remedied by the supplier to its own and exclusive responsibility. If it wishes to express its disagreement on any technical or economic aspect, it shall be stated reasonably in the Act itself.

After the deadline the examination and tests that apply shall be realized. If found satisfactory in the view of ENEL, the Provisional Acceptance document will be signed. Otherwise, it will draft a new Act of recognition, indicating the defects and ENEL may either terminate the Contract due to breach by the SUPPLIER or give a new deadline for the correction of defects at their own and exclusive responsibility, both cases without prejudice to the ability of ENEL proceeding to claim damages.

9.4.3.1.4. Extraordinary deadlines granted by ENEL to the SUPPLIER to remedy detected defects upon provisional acceptance do not constitute an extension or expansion of the contractual terms and accordingly, the SUPPLIER shall be liable for penalties and compensation for damages incurred for this reason.

9.4.3.2. Final Acceptance.

9.4.3.2.1. In good time before the supplier shall communicate to ENEL the end date of the Warranty Period in order to be fixed by mutual agreement the date (day and time) that the final acceptance will be realized, although this date may be later than a period of thirty (30) calendar days from receipt of that communication by ENEL, or prior to the date of completion of the Warranty Period.

On the day set for making the Final Acceptance will proceed by the representative of ENEL, in the presence of the representative of the SUPPLIER, to examine the state of the work or service contracted and verify compliance with applicable laws, standards and obligations contained in the Contract.

9.4.3.2.2. ENEL will express their agreement by signing the corresponding Final Acceptance Document, to be signed by both parties, and which shall contain the complete fulfilment of the obligations of the SUPPLIER. The signing of this document represents the final acceptance by ENEL of the works or contracted services, without prejudice to the responsibility of the supplier subsisting for eviction, hidden defects or any other liability that will be required under applicable law.

If ENEL discovers minor defects, will also sign the document Final Acceptance, pointing at the defects, the deadline for the SUPPLIER to correct them under its own and exclusive responsibility, conditions of economic security to ensure the effectiveness of the remedy and the deadline for carrying it out by SUPPLIER. If it wishes to express its disagreement on any technical or economic aspect, it shall be stated reasonably in the Document itself.



After the time limit, the defects have been remedied, ENEL may terminate the Agreement for breach of the SUPPLIER or give a new deadline for the correction of defects at their own and exclusive responsibility, in both cases without prejudice to the ability of ENEL to the claim for damages.

- 9.4.3.2.3. Should the SUPPLIER, despite having been cited, does not attend the act of Final Acceptance, the document drawn up by ENEL shall have the same effect as if it had been also signed the SUPPLIER.

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

The supplier will be responsible for the apparent or hidden defects, damage or defects arising or established during the execution of the Contract or during the Warranty Period, and until the end of the period prescribed by law, or other arising legal responsibilities. In case of serial defects, the SUPPLIER must replace or redo all that apply, without waiting for the defect to be seen in all services or supplies.

#### **10. Assignment of Contract and Subcontracting.**

- 10.1. In no case contractual relationship may be deducted between subcontractors and ENEL, the SUPPLIER of all the activities of these subcontractors, and the fulfilment of its contractual obligations, legal and tax being always responsible; as well as the damages caused to ENEL by any of its subcontractors, its agents, advisers and employees.
- 10.2. ENEL will not be responsible to any subcontractor, or to the staff of these, for any claim arising directly or indirectly from the Contract, so the SUPPLIER agrees and is obligated to ENEL to perform everything in its power to prevent the formulation and/or processing of such claims.

To that end, the SUPPLIER shall obtain from the subcontractor and submit to ENEL, the express written waiver from the subcontractor to direct action provided under Article 1597 of the Civil Code. Failure by SUPPLIER to obtain and present to ENEL such waiver entitles ENEL to terminate the Contract for default, without prejudice to any legal action that could proceed.

Accordingly, the SUPPLIER is liable to ENEL and hold harmless from and against any action, judicial or extrajudicial, or proceeding directed against ENEL by any subcontractor or assignee, or by the staff of these. This indemnity is to be understood as an independent and without prejudice to the application by the Administration or the courts of other penalties or liabilities on the same facts, in compliance with current legislation.

Said indemnity will reach both the amount payable by ENEL, as expenses or costs of any nature incurred by ENEL because of such claim. Specifically, if a judicial or extrajudicial claim produced against ENEL, either under Article 1597 of the Civil Code, or from workers of the SUPPLIER or its subcontractors, agents or advisers, ENEL is empowered to retain the corresponding amount, under any amounts due from ENEL or economic guarantees provided by the SUPPLIER held by ENEL, in order to cover the principal claimed plus any amounts that are prudentially budgeted for interest, costs and expenses. Failure by the SUPPLIER of the provisions of this section shall be considered as a serious breach, and empower ENEL to terminate the Contract for breach of the SUPPLIER, without prejudice to any legal action that might assist ENEL.

- 10.3. In cases of assignment or subcontracting, the SUPPLIER requires from the assignee or subcontractor express prior written acceptance of the obligations arising versus ENEL for all



contractual, legal, employment, confidentiality and security. It is essential to present to ENEL of supporting evidence.

- 10.4. ENEL may inspect and monitor at any time all the work or manufacturing of the assignee or subcontractor, and the fulfilment of their obligations. The subcontractor or assignee is obliged to provide any assistance that ENEL may require (documentation, reports, free access to their factories, workshops or facilities, etc.).
- 10.5. ENEL reserves the right to refuse giving reasons to those subcontractors or assignees for the progress not judge appropriate to maintain.
- 10.6. The requirements and limitations of levels of subcontracting, shall be governed by the provisions of the Agreement and the Spanish legislation.

#### **11. Assignment of rights and claims.**

ENEL may, with the only requirement to notify the SUPPLIER, assign its rights to payment or payment obligations arising from the Contract, in favour of any other company of the group of companies of ENEL.

#### **12. Obligations of the Supplier.**

According to the wording contained in the homonymous section of the General Part of these General Terms and Conditions.

#### **13. Supplier Responsibility.**

The SUPPLIER is obliged to pay the full costs that ENEL must support (including legal fees and attorney rights, provision of funds for both certificates, ratings, fees, supplies, guarantees or surety bonds or deposits for legal recourse or that are required or necessary in any way, etc.) because of its legal defence against administrative acts, extra or preliminary claims and actions of any kind and entity against ENEL that are addressed, including actions directed against ENEL by the SUPPLIER's workers or its subcontractors and dependants, subcontractors and independent of both third-party claims and any other that may arise directly or indirectly derived from the execution of the Contract by the SUPPLIER. The obligation to pay defence costs of representation and assumes the SUPPLIER not in any way affects the choice of professionals by ENEL, nor entail prior submission by the supplier of defence mechanisms and means that ENEL understand from developing their own interest.

#### **14. Warranty period.**

- 14.1. The Warranty Period of materials and equipment as well as works or contracted services extends for as long as stipulated in the Contract, and failing that, for one (1) year from the date of the Provisional Acceptance Document. If the document is not subscribed, the year is counted from the conformity of ENEL to delivery of the material, or the communication of the completion of the work or of the service and delivery of documentation to ENEL by the SUPPLIER for processing the administrative authorization to commission the work, where appropriate.
- 14.2. If upon expiration of the Warranty Period six (6) months have not passed at least since the entry into service of the main ENEL installation to which it is intended or that part the subject of the



contract, the Warranty Period shall be automatically extended until the end of the six (6) months, unless the materials or equipment supplied by the SUPPLIER have undergone repair or replacement, in which case it will be guaranteed by time equal to the initial Warranty Period. In no case it will mean higher costs for ENEL.

- 14.3. Upon expiration of the Warranty Period and made the Final Acceptance, ENEL may proceed for the exclusive benefit directly or through third parties, to freely modify or alter the materials and equipment under contract or mounted constructions or installations, even when they are covered by licenses, patents or other forms of industrial property of the SUPPLIER, in any event preserving the confidentiality due by reason of these.

## 15. Penalties.

- 15.1. Notwithstanding the provisions of section 16.3. of the General Part of these General Terms and Conditions on Resolution of Contract for reasons attributable to the SUPPLIER, breaches by the latter in delivery dates or deadlines for both partial and final implementation, and any other breaches expressly provided for in the Contract or in these General Conditions, lead to the application by ENEL of a penalty that under no circumstances will be of an indemnity basis.

In case a different one has not been set in the Contract, the penalty for delay will be 1.5% of the total amount of the Contract per calendar week of delay during the first four weeks, and 4% of the total amount of the Contract calendar week of delay from the fifth week.

If during the Warranty Period ENEL saw total private or part of the provision or use of materials or equipment hired or of the work performed or mounted installation, because of absence, defect or damage that has occurred or warned them not attributable to ENEL, or because of shortcomings in the implementation or in the work to be undertaken to correct them, the SUPPLIER shall be liable to the penalty established for that purpose in the contract and if it has not been set, the 0.1% of the total contract value for each calendar day of non-availability or use.

- 15.2. The amount of penalties may not exceed 15% of the total amount of the Contract. If this limit is exceeded, ENEL shall apply the penalty and shall be entitled either to terminate the Contract, or to continue demanding compliance from the SUPPLIER, in both cases with the corresponding damages and losses under the applicable law.

The collection of penalties shall not deprive ENEL of the ability to further affect the SUPPLIER the amount of any damages, expenses and costs which come forced to endure and/or is obligated to pay to third parties as a direct result of the delay or failure by the SUPPLIER.

- 15.3. The application of the penalties provided does not exempt the SUPPLIER from the proper compliance of the Contract in its entirety. Accordingly, the SUPPLIER is obliged to eliminate any perceived technical deficiencies; to pay the penalties that apply; to recover its lost deadlines, and substitute materials and equipment, or redo or repeat, as appropriate, the work or services under Contract at the request of ENEL.

- 15.4. The procedure for the collection of any penalty under the contract will be made according to what is described in this section:

ENEL shall communicate in writing to the SUPPLIER the appropriate penalty to pay, detailing the amount thereof. The SUPPLIER will have no more than fifteen (15) calendar days from the date of communication to express in writing as in its defence sees fit.

After this period, and in the event that ENEL does not accept the arguments of the SUPPLIER, the SUPPLIER is obligated to deduct, on their next bill to ENEL, the corresponding amount of the penalty



imposed. In the event that the rebate will not occur as and when due, ENEL shall proceed to execute the corresponding amount of economic security established, or to make the payment by any other means provided for in the Contract, in law or in these General Conditions and without prejudice to compensation for damages in favour of ENEL.

If the financial guarantee was executed, the SUPPLIER shall be obliged to reimburse the same amount as before the execution, as provided in paragraph 19.

While that refund does not occur ENEL shall suspend the return of the excess that would result from the total amount of the security forfeit and the amount of the penalty imposed.

In the event that the amount of the guarantee is not sufficient to cover the amount of penalties, ENEL shall offset outstanding payments needed to cover the total amount of penalties, and without prejudice to the restitution of the guarantee by the SUPPLIER, as indicated above.

## **16. Suspension, termination and resolution.**

According to the wording contained in the homonymous section of the General Part of these General Terms and Conditions.

## **17. Force majeure.**

17.1. Neither Party shall be responsible for any breach of its contractual obligations if performance of such obligations is delayed or prevented by Force Majeure, as defined in Article 1105 of the Spanish Civil Code and applicable Law.

17.2. It may not be invoked by the supplier as Force Majeure:

- a. Conditions or weather phenomena that have been reasonably foreseen and whose negative effects on performance of the Contract could have been avoided completely or partially by the SUPPLIER.
- b. Physical conditions of the performance place of the contract, which are known and accepted by the SUPPLIER.
- c. Delays or failures that have been foreseen, avoided or corrected in advance, in obtaining material or human resources for the execution of the Contract.
- d. Technical, economic or financial difficulties of the SUPPLIER or its subcontractors.
- e. Contractual delays or defaults of any subcontractor of the SUPPLIER, unless such delays or contractual breaches are themselves a result of Force Majeure.
- f. Strikes or labour disputes of the SUPPLIER or its subcontractors, unless such strikes or conflicts have national or sectoral character.

17.3. The Party whose performance of the Contract is affected by events deemed Force Majeure shall notify in writing to the other as soon as possible, and always within a maximum period of five (5) calendar days from the date such Party had knowledge of those facts. Such notification:

1. Shall identify the cause facts and circumstances that have occurred.
2. Shall detail the estimated duration of the situation.
3. Shall relate affected contractual obligations and the measures it will take to reduce, if possible, the negative effects of the events on the performance of the Contract.
4. Shall attach documents proving that the causing events to be considered as Force Majeure.

The other Party shall respond in writing to accept or not the cause of determinations in a maximum of ten (10) calendar days after receipt of the aforementioned notification. The absence



of response from the Party notified within the prescribed period is deemed as acceptance of the cause invoked.

- 17.4. The fulfilment of the obligations affected by Force Majeure shall be suspended for the duration of that cause, no compensatory consequences arising between the Parties. Contractual obligations not affected by Force Majeure shall continue to run according to the contractual terms and terms in effect prior to the occurrence of that cause.
- 17.5. The Party whose performance of the Contract is affected by events deemed Force Majeure shall notify in writing to the other as soon as possible, and always within a maximum period of five (5) calendar days from the date such Party had notified said facts. After the termination, the Parties agree that the extension should produce in the contractual terms, or the necessary measures to be taken to recover, in whole or in part, the lost time in order to maintain these time limits. The Parties shall take all reasonable measures within their power to execute all Contract obligations affected by Force Majeure to start again in the best conditions and with a minimum of delay after the cessation of that cause.
- 17.6. In the event that Force Majeure substantially affects by more than one hundred twenty (120) calendar days the performance of the Contract, ENEL may request early termination of the Contract without indemnification consequences arising between the Parties

## **18. Labour law and occupational health and safety obligations.**

### **18.1. General aspects.**

The PROVIDER agrees to comply correctly and in its entirety labour, legal or conventional regulations, and health and safety that may be applicable, in accordance with the Contract and applicable law. The observance of this obligation by the SUPPLIER is considered essential for the successful completion of the contract so that failure constitute grounds for termination of the Contract at the request of ENEL, without prejudice to compensation of damages on behalf of ENEL.

Since ENEL may be legally responsible, directly, supportively or alternatively, of certain breaches of law by suppliers:

- 1) ENEL will check and verify compliance by the SUPPLIER of its legal obligations in this area.
- 2) The SUPPLIER undertakes to make available to ENEL, in the form and at the intervals determined by it, the information and documentation demonstrating compliance with their legal obligations.

The relevant information and documentation shall be provided in the manner and through the support, physical or electronic, that at all times determine ENEL, giving priority to the supply through electronic means. ENEL shall endeavour to make available to the SUPPLIER the most effective means possible for it to comply with these obligations, either through their own or other systems and resources. ENEL reserves the right to entrust to third parties the verification and certification of compliance with the legal obligations documentaries labour, prevention of occupational risks and complementary by the SUPPLIER. From all this, the SUPPLIER will be informed appropriately and in detail; and, in the case of changes made, well in advance so it can carry them out.

The lack of input from the SUPPLIER, at the time set by ENEL, documentation can be in the view of ENEL, for contract execution both ENEL facilities and those of its customers, fully or partially. In



the event that it is so, ENEL may terminate the Contract and or require the SUPPLIER to repair the damage caused.

ENEL reserves the right to make its own means or others, verification of compliance audits by SUPPLIER of work duties and occupational safety and health that ENEL could be responsible for direct, joint or subsidiary manner if failure by the SUPPLIER. Such audits may be carried out either at the premises of ENEL and the SUPPLIER itself, and its realization will be communicated to SUPPLIER with an advance of at least seventy-two (72) hours. ENEL also may conduct inspections *in situ* at the place of performance of the contracted activities, to review compliance by the SUPPLIER with its obligations regarding health and safety as well as all measures and provisions established in coordination meetings business activities. These inspections may be carried out by ENEL, with their own or other means, at any time, without further requirement than communication in the act the person responsible for the work or service of the SUPPLIER. The SUPPLIER is committed to working pro-actively and diligently, and facilitate the activities to be undertaken by the persons designated by ENEL and to make available all information and documentation necessary to demonstrate the extremes that are inspected and auditing.

The SUPPLIER is responsible for and guarantees the authenticity of documents and the accuracy of the information requested, both the initial contribution, as regular as well as that may be requested during audits. Breach of this obligation by the SUPPLIER shall entitle ENEL to terminate the Contract and/or require from the SUPPLIER appropriate compensation for damages.

## 18.2. Incompatibilities.

The SUPPLIER agrees, in the execution of the Contract not to use the services of active persons or which have left for early retirement or similar mechanisms in ENEL companies, either personally or through any entity with which they maintain employment, commercial or property or through third parties, unless with express prior authorization of ENEL.

Nor may hold the position of manager or controlling shareholder of the SUPPLIER any person in active, retired, or with a formal contract terminated or suspended due to early retirement or equivalent mechanism in relation to ENEL, unless authorized by it.

Failure to meet any of these obligations constitutes for ENEL grounds for termination of the contract and/or require the SUPPLIER for appropriate compensation for damages.

## 18.3. Special reference to Occupational Health and Safety.

### 18.3.1. Regulatory Compliance.

The SUPPLIER will comply with the rules on the prevention of occupational hazards and few other rules, legal or conventional force, containing requirements for adopting preventive measures in the labour field or capable of producing in this area.

### 18.3.2. Work organization.

Work organization and security that requires the execution of works or services, and the acquisition of materials and/or equipment is required by the SUPPLIER, who shall designate a person responsible for organization of proven competence, for the purposes of



management, supervision and coordination with other providers responsible for ENEL, where appropriate, and in any case with ENEL personnel with responsibility for work organization and prevention.

#### 18.3.3. Preventive organization.

It will be established by the SUPPLIER a preventive organization mode, including prevention, preventive resources and health care required by the legal provisions and technical specifications, remembering in coordinating activities or advise caution in terms of the risks of work to prevent work accidents.

#### 18.3.4. SUPPLIER staff.

The SUPPLIER guarantees the security and protection of workers in its service in every aspect related to work. For this purpose and under its own responsibility, it must take the necessary measures regarding risk assessment, prevention planning, training and information on risks, action in case of emergency or serious and imminent risk and health surveillance staff in service and other measures as necessary.

#### 18.3.5. Coordination of activities.

In the event that the contract entails carrying out work in the premises of ENEL or in its customers', the SUPPLIER shall draft a Prevention Plan relating thereto. The aforementioned Prevention Plan will consider the general and specific risks, risk assessment, protection measures (collective and individual), preventive planning of the work done and work procedures.

With a number of suppliers in the implementation of these activities, each of them will cooperate in implementing the regulations on prevention of occupational risks, assuming its obligations and responding to their defaults.

ENEL shall establish the means and measures to coordinate business activities it deems appropriate for the SUPPLIER to receive appropriate information and instructions in relation to the risks and protective measures and corresponding instructions prevention as well as emergency measures to apply, for transfer to their workers.

The SUPPLIER shall also inform ENEL of the risks of the activity performed which may affect their own or other workers or third parties, as well as protective measures to be taken.

When hired for work in the customer premises of ENEL, the SUPPLIER shall documentary credited ENEL of compliance with the obligations that the law requires in regard to the coordination of business activities with ENEL's client. This requirement shall not apply in the event that the SUPPLIER works carried out in the homes of ENEL's client.

#### 18.3.6. Particularly dangerous activities.

In case the execution hired by ENEL to lead the SUPPLIER to perform particularly dangerous activities, with exposure of workers to any of the risks defined in Annex I of Royal Decree. 39/1997 of 17 January approving the Regulation of Prevention Services, or if in Appendix II of Royal Decree 1627/1997 of 24 October laying down minimum safety and health requirements that are established in construction, ENEL may request the SUPPLIER monitoring data on the health of their workers which are legally required to ensure compliance with the legislation of Occupational Risks.



Likewise, and in compliance with the provisions of Article 32a of the Law on Prevention of Occupational Hazards, the SUPPLIER undertakes to provide the necessary resources for preventive enforcement of preventive activities.

#### 18.3.7. Reporting incidents and risks.

Whenever an incident occurs in its activities, even when there are no victims, the SUPPLIER has the unavoidable obligation to report it, immediately, to the person responsible for ENEL for the contract, filling the forms of declaration of accidents that ENEL or provide its own. In addition, the supplier shall proceed to a further investigation, the report delivered to ENEL in less than seventy-two (72) hours, in which the root causes of the accident and preventive measures are reflected.

When ENEL opens a file to investigate the cause of an incident, the SUPPLIER must provide maximum collaboration, providing quick and diligent efforts of any information and may be requested.

Any comments regarding the prevention of occupational risks made by the Head of ENEL on site or facility should be addressed immediately by the staff to whom it is addressed, as it were motivated by the failure of standards or requirements established, may give in a sanction to the SUPPLIER, which must be proportionate to the gravity of the offence. All without prejudice to any action that the SUPPLIER, in exercise of its disciplinary power, could take in relation to their own workers, and the penalties or liabilities for the same facts can be applied by the administration or by the courts in application of existing legislation.

With a view to continuous improvement of working conditions and safety personnel participating provider contracted work shall give its superiors suggestions it deems appropriate. These suggestions will be forwarded by the communication procedure, which is established in all cases, to the Responsible of ENEL for the Contract. The actions to be taken as a result of this information will be decided by the Responsible of the SUPPLIER and if necessary be submitted for approval to the Responsible of ENEL for the contract.

#### 18.3.8. Training.

The SUPPLIER guarantees and, where applicable, credits the appropriate theoretical and practical training on the risks inherent in the business of developing and training its staff on Prevention and First Aid, realizing the actions taken in this regard the Head of ENEL for the Contract.

### 18.4. **Information and legal employment and safety and health documentation that the SUPPLIER must provide to ENEL.**

ENEL shall ask the SUPPLIER the information and documentation necessary to verify the correct implementation by the latter of those legal obligations for any liability arising towards ENEL. The list of documents required ENEL in general and detailed below is not exhaustive and can be modified unilaterally by ENEL in the case of legislative changes occur or ENEL policies on this matter, with the only requirement of the SUPPLIER communication with one (1) month before its effectiveness.

ENEL, taking into account the type of activity or risk associated with the work or service under Contract may agree that the documentation from the SUPPLIER may be not all detailed in this section or focus on specific aspects.

On the contrary, in certain cases where the type of service provided by the SUPPLIER can be considered most dangerous or there specific legislation, ENEL may request the SUPPLIER to provide additional documentation to that provided in the following subsections.



If the SUPPLIER has recently provided certain documentation or information in any other competition or for other valid contract with ENEL, and this is in force and complies with the requirements of the new tender or contract, it is not necessary to make it available again, while the SUPPLIER shall indicate the reference of the tender or contract for which it has previously made.

Failure to deliver obligations as and when due by SUPPLIER documentation are regulated in this paragraph 18 shall constitute grounds for termination of the contract at the request of ENEL, without prejudice to compensation of damages on behalf of ENEL.

18.4.1. In general terms.

A. Documentation to be provided by the SUPPLIER before signing the Contract:

1. Provider Authorization to ENEL for obtaining the certificate proving be current in the payment of contributions to Social Security, issued by the General Treasury of the Social Security (Article 42 of the Statute of Workers), for a period equivalent the duration of the contract.
2. Liability insurance and casualty coverage established by ENEL, and proof of payment of the premium.
3. Tax Agency certification stating that the supplier is the current in the payment of taxes (article 43, 1, f) of the Tax Code).
4. SUPPLIER Designation interlocutor with ENEL.

B. Documentation to be provided by the SUPPLIER before the start of implementation of the Contract:

5. Relation of attached workers to the implementation of the contract, indicating for each of them: Names and surname; NIF; No. affiliation to Social Security; location/workplace where they will serve; occupational category or job position; where appropriate, whether the worker is subject to particularly dangerous risks.

This document will be updated whenever an incorporation or dismissal assigned to the implementation of the contract workers occurs.

6. ITA report (report issued by the General Treasury of the Social Security of workers at high on a ticker).

When, after the start of execution of the Contract, additions of new workers (whether or not newly recruited) occur, the SUPPLIER will provide new duly updated ITA report. In the case of new hires, it may alternatively present the Report ITA and choice of the SUPPLIER, a document registered in the General System of Social Security for each worker, model TA-2.

These documents are updated every time an incorporation or dismissal assigned to the implementation of the contract workers occurs.

7. Specific Prevention Plan of the contracted work or service that includes at least: general and specific risks; evaluation of occupational hazards; measures of collective and



individual protection; preventive planning of the work to complete; working procedures, and appointment of charge on prevention of the SUPPLIER.

In addition, this document shall include, where appropriate, the designation of: preventive resources; authorized-qualified worker/s; scaffolding supervisor; operations coordinator of mechanical handling of loads; head of cargo handling operations; and supervisor of lifelines.

It will also include the authorization for the use of work equipment (machinery and equipment), and any other nominations it must be performed by the SUPPLIER for legal requirements or since they have been defined in the specific conditions of the Contract.

In no event will begin implementation of the Agreement without having previously been held between ENEL and the SUPPLIER the meeting of coordination of business activities (Article 24 of the Law on Prevention of Occupational Hazards) and has been signed by representatives of both companies the minutes of the same.

8. Statement from the SUPPLIER declaring and guaranteeing:

- that it has in its possession current certification of medical fitness for the particular work to develop all assigned to the execution of the Contract workers,
- that it has in its possession acknowledgement of all works assigned to the execution of receiving information on occupational risks of installing ENEL contract in which workers are performing their activity; as well as the risks and prevention measures associated with their job,
- that all assigned to the execution of the Contract workers have the specific theoretical and practical training in the workplace that will develop and that they hold the supporting individual certifications that, with effect determined for each course and legislation be updated at least every three (3) years,
- that it has its acknowledgement of all works assigned to the execution of the Contract certifying that they have received PPE, personal protective equipment, corresponding as provided in the specific workers Prevention Plan,
- that all workers assigned to the execution of the Contract have received the required training on prevention of occupational hazards in accordance with the requirements of Article 19 of the Law on Prevention of Occupational Risks and Royal Decree 39/1997 of 17 January and that work in possession of the supporting individual certifications of it,
- that the teams and collective protection equipment that will be used in performance of the Contract comply with the minimum safety and health for use in accordance with the provisions of Royal Decree 1215/1997 of 18 July or that they have the corresponding CE declaration of conformity seal.

The SUPPLIER is obliged to have archived in the personal file of each of their workers, the documentation of all extremes manifested through responsible Statement; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.

C. Documentation to be provided by the SUPPLIER during Contract execution:

9. Quarterly statement responsible for being up to date payment of salary with all obligations attached to the implementation of the Contract workers.

The SUPPLIER ensures compliance with this obligation and has the documentation of it; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-



eight (48) hours.

10. Quarterly Bulletin of Social Security contributions, model TC1, settlement prices of all assigned to the execution of the Contract workers; as well as proof of their payment.
11. Quarterly Bulletin of contributions to Social Security, TC2 model, nominal list of workers.
12. Annually, Tax Agency certification stating that the supplier is the current in the payment of taxes (article 43, 1, f) of the Tax Code).
13. According to the periodicity of the obligation to pay the premium, certifying receipt be current in payment of liability insurance and damages to third parties.

#### 18.4.2. Freelance workers.

##### A. Documentation to be provided by the SUPPLIER before signing the Contract:

1. Document proving the paid fee for the Special Scheme for Self-Employed Social Security of the month immediately preceding the submission of its bid. Alternatively, where appropriate, supporting document registered in the Special Scheme for Self-Employed Social Security in the month of submission of the tender.
2. Liability insurance and casualty coverage established by ENEL, and proof of payment of the premium.

Additionally, in the event that the SUPPLIER has self-employed workers assigned to the execution of the Contract, it shall submit the following documents:

3. Tax Agency certification stating that the supplier is the current in the payment of taxes (article 43, 1, f) of the Tax Code).
4. SUPPLIER Designation interlocutor with ENEL

##### B. Documentation to be provided by the SUPPLIER before the start of implementation of the Contract:

In the event that the SUPPLIER has self-employed workers assigned to the execution of the Contract, shall present, with the scope and content applicable, the following documents:

5. Relation of attached workers to the implementation of the contract, indicating for each of them: Names and surname; NIF; No. affiliation to Social Security; location/workplace where they will serve; occupational category or job position; where appropriate, whether the worker is subject to particularly dangerous risks.

This document will be updated whenever an incorporation or dismissal assigned to the implementation of the contract workers occurs.

6. ITA report (report issued by the General Treasury of the Social Security of workers at high on a ticker).

When, after the start of execution of the Contract, additions of new workers (whether or not newly recruited) occur, the SUPPLIER will provide new duly updated ITA report. In the case of new hires, it may alternatively present the Report ITA and choice of the SUPPLIER, a document registered in the General System of Social Security for each worker, model TA-2.



These documents are updated every time an incorporation or dismissal assigned to the implementation of the contract workers occurs.

7. Specific Prevention Plan of the contracted work or service that includes at least: general and specific risks; evaluation of occupational hazards; measures of collective and individual protection; preventive planning of the work to complete; working procedures, and appointment of charge on prevention of the SUPPLIER.

In addition, this document shall include, where appropriate, the designation of: preventive resources; authorized-qualified worker/s; scaffolding supervisor; operations coordinator of mechanical handling of loads; head of cargo handling operations; and supervisor of lifelines.

It will also include the authorization for the use of work equipment (machinery and equipment), and any other nominations it must be performed by the SUPPLIER for legal requirements or since they have been defined in the specific conditions of the Contract.

In no event will begin implementation of the Agreement without having previously been held between ENEL and the SUPPLIER the meeting of coordination of business activities (Article 24 of the Law on Prevention of Occupational Hazards) and has been signed by representatives of both companies the minutes of the same.

8. Statement from the SUPPLIER declaring and guaranteeing:

- that it has in its possession current certification of medical fitness for the particular work to develop all assigned to the execution of the Contract workers,
- that it has in its possession acknowledgement of all works assigned to the execution of receiving information on occupational risks of installing ENEL contract in which workers are performing their activity; as well as the risks and prevention measures associated with their job,
- that all assigned to the execution of the Contract workers have the specific theoretical and practical training in the workplace that will develop and that they hold the supporting individual certifications that, with effect determined for each course and legislation be updated at least every three (3) years,
- that it has acknowledgement of all works assigned to the execution of the Contract certifying that they have received PPE, personal protective equipment, corresponding as provided in the specific workers Prevention Plan,
- that all workers assigned to the execution of the Contract have received the required training on prevention of occupational hazards in accordance with the requirements of Article 19 of the Law on Prevention of Occupational Risks and Royal Decree 39/1997 of 17 January and that work in possession of the supporting individual certifications of it,
- that the teams and collective protection equipment that will be used in performance of the Contract comply with the minimum safety and health for use in accordance with the provisions of Royal Decree 1215/1997 of 18 July or that they have the corresponding CE declaration of conformity seal.

The SUPPLIER is obliged to have archived in the personal file of each of their workers, the documentation of all extremes manifested through responsible Statement; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.



C. Documentation to be provided by the SUPPLIER during Contract execution:

9. According to the periodicity of the obligation to pay the premium, certifying receipt be current in payment of liability insurance and damages to third parties.

Additionally, in the event that the SUPPLIER has self-employed workers assigned to the execution of the Contract charge with ENEL, submit the following documents:

10. Quarterly statement responsible for being up to date payment of salary with all obligations attached to the implementation of the Contract workers.

The SUPPLIER ensures compliance with this obligation and has the documentation of it; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.

11. Quarterly Bulletin of Social Security contributions, model TC1, settlement prices of all assigned to the execution of the Contract workers; as well as proof of their payment.

12. Quarterly Bulletin of contributions to Social Security, TC2 model, nominal list of workers.

13. Annually, Tax Agency certification stating that the supplier is the current in the payment of taxes (article 43, 1, f) of the Tax Code.

18.4.3. Foreign workers.

18.4.3.1. For all workers assigned to the Contract who are foreign:

A. Documentation to be provided by the SUPPLIER before signing the Contract:

1. Liability insurance and casualty coverage established by ENEL, and proof of payment of the premium.
2. SUPPLIER Designation interlocutor with ENEL

B. Documentation to be provided by the SUPPLIER before the start of implementation of the Contract:

3. In the case of workers performing their activity to SUPPLIERS based in countries of the European Union, the European Economic Area or Switzerland:
4. In the case of workers performing their activity to SUPPLIERS not based in countries of the European Union, the European Economic Area or Switzerland:
  - a. Certificate of residence and work permits of workers outside the European Union.
  - b. Medical assistance to displaced document foreign worker in case of accident or illness (medical insurance or similar).

Similarly, the SUPPLIER shall present, with the scope and content applicable, the following documents:

5. Nominal relation of attached workers to the implementation of the contract, indicating for each of them: Names and surname; NIF; No. affiliation to Social Security from country of



origin or equivalent; location/workplace where they will serve; occupational category or job position; where appropriate, whether the worker is subject to particularly dangerous risks.

This document will be updated whenever an incorporation or dismissal assigned to the implementation of the contract workers occurs.

6. Specific Prevention Plan of the contracted work or service that includes at least: general and specific risks; evaluation of occupational hazards; measures of collective and individual protection; preventive planning of the work to complete; working procedures, and appointment of charge on prevention of the SUPPLIER.

In addition, this document shall include, where appropriate, the designation of: preventive resources; authorized-qualified worker/s; scaffolding supervisor; operations coordinator of mechanical handling of loads; head of cargo handling operations; and supervisor of lifelines.

It will also include the authorization for the use of work equipment (machinery and equipment), and any other nominations it must be performed by the SUPPLIER for legal requirements or since they have been defined in the specific conditions of the Contract.

In no event will begin implementation of the Agreement without having previously been held between ENEL and the SUPPLIER the meeting of coordination of business activities (Article 24 of the Law on Prevention of Occupational Hazards) and has been signed by representatives of both companies the minutes of the same.

7. Statement from the SUPPLIER declaring and guaranteeing:
  - That it has in its possession current certification of medical fitness for the particular work to develop all assigned to the execution of the Contract workers,
  - that it has in its possession acknowledgement of all works assigned to the execution of receiving information on occupational risks of installing ENEL contract in which workers are performing their activity; as well as the risks and prevention measures associated with their job,
  - that all assigned to the execution of the Contract workers have the specific theoretical and practical training in the workplace that will develop and that they hold the supporting individual certifications that, with effect determined for each course and legislation be updated at least every three (3) years,
  - that it has its acknowledgement of all works assigned to the execution of the Contract certifying that they have received PPE, personal protective equipment, corresponding as provided in the specific workers Prevention Plan,
  - that all workers assigned to the execution of the Contract have received the required training on prevention of occupational hazards in accordance with the requirements of Article 19 of the Law on Prevention of Occupational Risks and Royal Decree 39/1997 of 17 January and that work in possession of the supporting individual certifications of it,
  - that the teams and collective protection equipment that will be used in performance of the Contract comply with the minimum safety and health for use in accordance with the provisions of Royal Decree 1215/1997 of 18 July or that they have the corresponding CE declaration of conformity seal.

The SUPPLIER is obliged to have archived in the personal file of each of their workers, the documentation of all extremes manifested through responsible Statement; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.



C. Documentation to be provided by the SUPPLIER during Contract execution:

Quarterly statement responsible for being up to date payment of salary with all obligations attached to the implementation of the Contract workers.

The SUPPLIER ensures compliance with this obligation and has the documentation of it; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.

8. According to the periodicity of the obligation to pay the premium, certifying receipt be current in payment of liability insurance and damages to third parties.

In the event that the SUPPLIER ascribes to the implementation of foreign and nationals workers for the execution of the Contract, the SUPPLIER shall provide all detailed documentation in sub-paragraph 18.4.1., "In General," although, in relation to foreigner workers shall apply the provisions of the previous subsection 18.4.3.1.

18.4.4. Construction works.

By construction works it is understood any public or private construction work where construction or civil engineering whose relationship is not exhaustive made in Annex 1 of Royal Decree 1627/1997, of 24 October, by which minimum safety and health requirements in construction are set.

In the case of construction Contracts, the SUPPLIER shall supply before the start of the activity, in addition to proceed as provided in this paragraph 18.4., the following documents:

I. Construction works in which ENEL adopts the figure of Promoter:

1. Book of Outsourcing, enabled by the Labour Authority in the event that part of the work is subcontracted.
2. Registration in the Register of Accredited Companies dependent on the Labour Authority.
3. Document establishing specific approval Prevention Plan by the Health and Safety Coordinator at Work or the Project Manager, in cases of construction without project; Plan and the Occupational Safety and Health, in the case of construction with project.
4. Document establishing adherence to specific prevention plan by subcontractors in the event that are subcontracted by the SUPPLIER of the work under contract.

II. Construction works in which ENEL adopts the figure of Contractor:

1. Appointment of Project Manager.
2. Book of Outsourcing, enabled by the Labour Authority.
3. Registration in the Register of Accredited Companies dependent on the Labour Authority.
4. Document establishing adherence to the Health and Safety Plan by subcontractors in the event that are subcontracted by the SUPPLIER of the work under contract.



#### 18.4.5. Mining.

By way of example and not limitation shall mean those mining activities included in the General Regulation of Basic Standards for Mine Safety: blasting services, start, loading and transportation of materials, maintenance of machinery and mining facilities and mine reclamation work.

In the case of mining activities in the General Regulation of Basic Standards for Mine Safety, the SUPPLIER shall supply, in addition to what is provided in this Section 18.4, the following documentation:

Additional documentation to be provided by the SUPPLIER after signing the Contract and before the start of the execution of the contracted work or service:

1. Designation of the Optional Manager.  
The scope of the Project management will be regulated by ITC 02.0.01 of the General Regulation of Basic Standards for Mine Safety and the need, or not, of such designation by the SUPPLIER will be specified in the Technical Specifications of the Contract.
2. Internal Security provisions for Contract execution.  
Where appropriate, the need to submit by the SUPPLIER said Internal Security provisions will be implemented in the Technical Specifications of the Contract.
3. Statement from the supplier through the manifest and ensure that:
  - that has in its possession Certification of competence of workers for handling machinery, issued by the Chief of Mines of the Autonomous Community.

In the case of not having the workers' training period certificates, the Statement will certify the training period have begun and regulatory documents will be provided to the Head of Mines.

- and it has in its possession, in relation to the assigned to the execution of the Contract, Certification of Preventive training for job performance as provided in the General Regulation of Basic Standards for Mine Safety (ITC 02.1.02 ) in case to be placed regularly in the ITC activities listed above.
- machinery used in the performance of the Contract is duly registered in the Industrial Register of the Head of Mines of the Autonomous Community.

The manifestations of the Statement shall be updated, once initiated the execution of the Contract and during its duration, as many times as appropriate depending on the term of the Certificates to which it refers.

The SUPPLIER guarantees to have archived in the personal file of each of their workers, the documentation of all extremes manifested through responsible Statement; which is subject to verification and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.



### 18.5. Information and additional documents that the SUPPLIER must provide to ENEL.

ENEL needs to have certain information on the activity of the SUPPLIER and the circumstances of their implementation, in some cases with statistical information only and scope, to meet information requirements arising, in some cases, their participation in certain indicators and rankings in sustainability and Corporate Responsibility; and in other cases arising from legal requirements incumbent to ENEL as main employer towards the administration or the legal representatives of ENEL's workers. By way of example and not limitation:

- a. number of hours worked by employees of the SUPPLIER and its subcontractors in the Contracts (total, by Contract, by workplace and employee);
- b. number of employees of the SUPPLIER and its subcontractors classified by gender (male/female) who perform their activity in Contracts;
- c. type of contract for workers with the SUPPLIER and its subcontractors (indefinite/temporary; full-time/part-time; where appropriate, on its own);
- d. days worked by the staff of the SUPPLIER and its subcontractors (estimated equivalent to full-time working days -FTE-) involved in Contracts to include in its order: 1) construction activities; 2) exploitation; and 3) maintenance.

The SUPPLIER is obliged to provide, in a diligent and truthful manner, the information required for these purposes in the manner and frequency determined by ENEL. ENEL, meanwhile, undertakes to require the SUPPLIER only have information necessary for the purposes stated in the first paragraph of this subsection, as well as collecting it in a format and the least onerous possible means for the SUPPLIER.

Additionally, after signing the Contract and before the start of the execution, ENEL may request the SUPPLIER to provide responsible statement that certifies and ensures that all workers assigned to the execution of the Contract have been trained in environmental matters, they have been informed of the environmental requirements applicable to ENEL and assumed environmental policy; and in its possession the documentation of all.

The SUPPLIER is obliged to have archived in the personal file of each of their workers, the documentation of all extremes manifested through this responsible Statement; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.

### 18.6. Subcontracting assumptions.

#### 18.6.1. Authorization for subcontracting.

It is an essential prerequisite, so the SUPPLIER can subcontract the execution of the Contract, the prior authorization in writing from ENEL. Without this authorization, the subcontractor shall not start activities in any case.

#### 18.6.2. Information and legal employment and health and safety documentation to provide in the case of subcontracting.

In the case of subcontracting, the contribution by the subcontractor to the SUPPLIER of identical information and documentation, to the same extent and content in the case of the provision of information by the SUPPLIER to ENEL, regulated in this paragraph 18, is mandatory for each of the different events (domestic worker, self-employed and foreign workers).

The SUPPLIER is responsible of transferring the information and documentation regarding subcontractors to ENEL.



In the event that the object of the Contract does not have the legal effect of "own activity" of ENEL, the SUPPLIER may replace the provision of information and documentation required, referring to the subcontractor for a Statement. The realization of what is not considered "own activity" of ENEL will be established in each case by ENEL.

The SUPPLIER is obliged to have archived in the personal file of each of the workers, the documentation of all extremes manifested through responsible Statement; which is subject to review and verification by ENEL at any time. Also, if required to do so, the supplier has to put this documentation available to ENEL no later than forty-eight (48) hours.

### 18.7. Special situations.

In cases in which, although not in the case of work Contracts or the provision of services, labour activity of employees of SUPPLIERS and subcontractors are done in facilities or properties of ENEL or its clients, such workers perform some type of interaction with ENEL officials and workers or its clients and no exposure by workers of SUPPLIERS and subcontractors to own facilities or ENEL's clients, the following measures will be taken:

- 1) Strict supply Contracts, defined as the mere delivery of goods or materials to ENEL by the SUPPLIER or subcontractor.

ENEL will inform to whom delivery should be made, of the risks involved in the delivery area and the existing emergency measures.

- 2) Maintenance Contracts, service or repair of machine-tools, work equipment or facilities owned or include right to use by ENEL made by the SUPPLIER or subcontractor.

ENEL will inform, prior to commencement of work, occupational risks arising from the activity in the working area of the established preventive measures and emergency measures. For this purpose, ENEL may issue instructions and directions on how to run tasks.

- 3) Delivery or supply of goods or materials in ENEL facilities (not derived from a Contract or services entered into by ENEL) performed by employees of a third company that requires use of mechanical means for mounting, assembly or handling.

ENEL will inform, prior to commencement of work, occupational risks arising from the activity in the working area of the established preventive measures and emergency measures. For this purpose, ENEL may issue instructions and directions on how to run tasks.

Additionally, ENEL and the responsible of the SUPPLIER will hold a meeting of coordination of business activities, which are documented promptly, which will inform the SUPPLIER of risk information that can generate activity and take appropriate measures to coordinate business activities shall be adopted in avoidance of occupational hazards.

- 4) Contracts for the collection or removal of machinery, scrap or any other goods, materials, products or waste in ENEL facilities made by employees of third companies as a result of the sale thereof by ENEL.

The same precautions must be taken in the previous course.



In all special cases covered by this paragraph 18.7., the SUPPLIER and its employees take into account the existence of risks and measures reported by ENEL, take the appropriate preventive measures and comply with the indications and instructions that ENEL has completed previously.

#### 18.8. Temporary Employment Agencies.

When contractual works are executed with Temporary Employment Agencies (ETT), unification with the ETT must be in writing via the official model called "Contract of Availability".

– Documentation to be provided by the SUPPLIER:

It shall provide, together with documentation under point 18.4.1., which is detailed below:

1. Certificate issued by the Provincial Directorate of Labour and Social Security, crediting the administrative authorization granted to the ETT to make available to ENEL, temporary workers employed by the ETT.
2. Certificate issued by the Provincial Directorate of Labour and Social Security, crediting the financial guarantee required by the Law 14/1994 for ETT.

#### 18.9. Special provisions on safety and health for materials and equipment.

##### 18.9.1. Safety conditions.

The SUPPLIER is obliged to comply with the requirements of Article 41 of the Law on Prevention of Occupational Hazards on conditions Safety of machinery, equipment, products and tools provided to ENEL.

The SUPPLIER will ensure that the machinery, equipment and work tools provided to ENEL, will not constitute a hazard to workers, provided they are installed and used under the conditions, manner and for the recommended purposes.

The SUPPLIER shall supply to ENEL information indicating the correct way to use for workers, additional precautions to be taken and workplace hazards involving materials and equipment supplied both in normal use and handling or employment.

##### 18.9.2. Acquisition of machinery.

In case of acquisition of machinery, the SUPPLIER will ensure ENEL compliance with the requirements relevant to it, contained in Directive 2006/42/EC on the approximation of Member States relating to machinery.

In the Instruction Manual use of machinery or equipment the SUPPLIER supplies to ENEL shall include all specifications that the Royal Decree 1435/1992 of 27 November established as necessary and in particular instructions to be conducted with a level of tolerable risk: commissioning, use, maintenance, installation, assembly, disassembly, adjustment, maintenance (maintenance and repair), the training instructions and contraindications for use of the instrument.

##### 18.9.3. Purchasing products and chemicals.

The SUPPLIER is obliged to supply products to ENEL properly packaged and labelled



chemicals so that its storage and handling safely be allowed and the substance and the risks to the safety and health of workers clearly identifies its storage or use. The products and substances shall be accompanied by the corresponding safety data sheet prepared in accordance with current legislation and including ENEL expected uses for such products and substances.

When the supplier provides to ENEL chemicals that may arise, depending on their composition characteristics and employment risks for workers, and in any case if the products are statutorily classified as toxic, hazardous, flammable, explosive, corrosive, carcinogenic, radioactive, etc., the SUPPLIER shall inform ENEL the risks associated with their use and application, as well as preventive measures for their elimination or control.

When these materials are considered hazardous, according to current legislation, the SUPPLIER shall communicate to ENEL who is its security adviser, in order to coordinate activities aimed at protecting the safety and health of persons.

The SUPPLIER is obliged to inform ENEL, in case of acquisition of material containing metal powders, organic powders, asbestos, silica or other substances which may cause particularly dangerous risks to workers or facilities.

The SUPPLIER guarantees ENEL compliance with Royal Decree 664/1997 of May 12 on the protection of workers from risks related to exposure to biological agents at work, when providing preparations or substances that may involve such risks.

The SUPPLIER guarantees ENEL compliance with Royal Decree 665/1997 of May 12 on the protection of workers from risks related to exposure to carcinogens at work, in the case of ENEL supplying substances or preparations classified as carcinogens or to be applied in ENEL processes detailed in this Royal Decree, pursuant to the acquisition of materials and / or equipment to perform.

#### 18.9.4. Acquisition of facilities, equipment and instruments.

When the SUPPLIER provide to ENEL facilities, equipment and instruments, ensuring that they are consistent with industrial legislation and prevention of occupational risks and inform ENEL concerning risks associated with their use and application, as well as preventive measures for elimination or control.

In the case of acquisition of Personal Protective Equipment (PPE) and collective, the SUPPLIER guarantees ENEL effectiveness thereof, provided they are installed and used under the conditions and in the manner recommended for them. The SUPPLIER will inform ENEL the type of risks that are addressed, the level of protection against them and the proper way to use and maintenance and in general, all the specific obligations of Royal Decree 773/1997 on minimum requirements safety and health requirements for the use by workers of personal protective equipment.

#### 18.9.5. Other particular provisions.

ENEL may require the SUPPLIER, depending on the characteristics of the Contract, the organization and preventive approaches (Plans, Policies, Safety Procedures, etc.) and coordination measures as required by law or deemed appropriate to ensure safety in all phases of the delivery of materials and equipment.

As a result of the above, ENEL may require the SUPPLIER to fulfil other specific requirements for the prevention of occupational risks, to supplement, replace or optimize the above requirements.



A. Transport of dangerous goods

When the SUPPLIER in performance of the Contract, must transport materials that are considered hazardous under current legislation, it shall inform ENEL who is its security adviser, in order to coordinate activities aimed at protecting the safety and health of persons.

B. Repairs of equipment owned by ENEL.

The SUPPLIER undertakes to perform repair of equipment meeting the safety requirements contained in repair manuals and maintenance of equipment that ENEL will provide.

**18.10. Breaches, penalties and responsibilities.**

18.10.1. General features.

When ENEL notes that the Supplier fails Occupational Risks measures legally established or requested, the Head of ENEL will communicate the immediate interruption of work. The SUPPLIER shall be responsible for whatever actions were necessary to protect the safety of persons and things. Likewise, the corresponding head of ENEL, shall set a suitable deadline for correction.

If the SUPPLIER does not carry out the necessary modifications within the prescribed period, ENEL may fill this breach by the account of the SUPPLIER, without any responsibility of this action arising to ENEL. The correction of situations where the level of risk involving imminent danger conforming ENEL's judgement, there will be effected immediately.

In the event that the facts described in the preceding paragraphs produce delays in implementing the contract, the SUPPLIER shall take the necessary measures to recover the delay, not entitled to an extension of the agreed deadlines.

ENEL may require the SUPPLIER that it must make all necessary measures to prevent the recurrence of non-compliance with security standards and requirements by the SUPPLIER.

Within the framework of "zero tolerance" with accidents, if the investigation of accidents, incidents or serious infringements detected in inspections of Occupational Safety and Health or observations to work is found by ENEL that the SUPPLIER fails to comply with workers, work procedures or instructions for occupational Safety and Health issued by ENEL to the SUPPLIER and that its behaviour has been particularly negligent or severe, ENEL shall require the SUPPLIER to that in exercising its corporate powers and management right, it does not assign and remove these workers' Contract execution. Accordingly, and in order to avoid bad practice in the prevention of occupational hazards, ENEL will not allow access by these workers to their workplaces and/or facilities.

As another measure of prevention and safety at work, the SUPPLIER must disclose to their workers ENEL's "Work Stop Policy" (which can be accessed through [www.enel.com](http://www.enel.com) - Area Provider/Occupational Safety and Health) and they must make use of it in a situation of serious and imminent risk. The SUPPLIER also knows and assumes that it is the duty of all employees to immediately report any accident, incident or risk, which should disseminate their staff for appropriate action.



#### 18.11. Penalties for violation of the rules relating to the protection of health and safety at work.

Notwithstanding the right to terminate the Contract, without prejudice to the claim for damages in relation to any breach of the SUPPLIER on the protection of health and safety in the workplace, ENEL shall be entitled at its discretion, to impose the sanctions listed below, after certified notice to the SUPPLIER:

- a. One thousand five hundred Euros (1,500) for each violation described as "SERIOUS" (classification I), according to the table in clause 18 of the General Part of these General Terms and Conditions.
- b. Three thousand Euros (3,000) for each violation described as "VERY SERIOUS" (classification II and III), according to the table in clause 18 of the General Part of these General Terms and Conditions.

If the violations listed in paragraphs a) and b) above cause accidents or injury, ENEL reserves the right to impose at its discretion an additional penalty of up to 2% of the total value of the contract and, in any case, not less than three thousand (3,000) EUR.

The application of these sanctions by ENEL is not of compensatory nature and furthermore to be understood as an independent and without prejudice to the application by the administration or the courts of other sanctions for the same acts, in compliance with legislation in force.

If the amount of the penalties imposed on a SUPPLIER, regulated by this subsection is more than 5% of the Contract value, ENEL has the right to terminate the Contract with immediate effect and to claim damages in such event.

#### 19. Financial guarantee.

19.1. Should ENEL so requires, the supplier must provide, prior to payment of the first bill ENEL, a financial guarantee available to ENEL by delivering an abstract first demand guarantee (depending on model contained at the end of this Annex), subject to the Spanish and enforceable legislation in Spain, awarded by a Spanish Bank recognized solvency or by the Spanish branch of the entity if foreign, amounting to a minimum of 10% of the total amount Contract and its revisions, extensions and works with price management to respond, among other obligations:

- The fulfilment of all obligations of the SUPPLIER under the Contract, including penalties and compensation that becomes due, and refunds or returns of any type applicable or legally make ENEL by the SUPPLIER.
- Fines, penalties or any concepts-cash payment means which ENEL is imposed or may be imposed by administrative or judicial connection with the act or omission of the Supplier or its subcontractors including, without limitation, the total amount of any liability joint or subsequent legal that is or may be on ENEL for breach of obligations by the SUPPLIER of wage nature, social security and/or tax, or existing security and prevention of occupational risks.
- Third party claims against ENEL in connection with the performance of the SUPPLIER, including any claim of its employees, agents, consultants, and subcontractors.
- The legal defence costs incurred or to be incurred ENEL as paragraph 13 of this Annex.



- 19.2. The guarantee provided by the SUPPLIER will expire no later than thirty (30) calendar days after the expiration of the Warranty Period or final acceptance, or total completion of the execution of the contract, whichever is later. If it is not executed, the guarantee will be returned to the SUPPLIER after the appropriate checks carried out by ENEL.
- 19.3. The SUPPLIER explicitly consents, exclusively in cases where ENEL sees fit, to the guarantee is holding the SUPPLIER ENEL 10% of each of the payments to be made under the Contract, including payments for reviews price, extensions, administration jobs, etc.
- 19.4. In cases where the SUPPLIER fails to submit the guarantee within the time specified, without prejudice to any other action it should take, ENEL may terminate the Contract or suspend its implementation to provide a guarantee to be accepted by ENEL, and accept equivalent guarantees offered by the SUPPLIER in accordance with the law.

## **20. Insurance.**

- 20.1. If the contract is made in the form of materials offered by the SUPPLIER in ENEL's facilities, the SUPPLIER will be obliged to hire, plus insurance mentioned in the homonymous section of the General Part, theft insurance and other damage that can suffer the deposited material, for the entire period of performance of the Contract.
- 20.2. If the insurance coverage provided by the SUPPLIER are not sufficient in the opinion of ENEL, to cover the risk exposure of both the delivery of materials or equipment as the completion of the work or service under the contract, the SUPPLIER agrees to review and amend them as appropriate, in accordance with the terms of the insurance market.

## **21. Industrial and Intellectual Property.**

According to the wording contained in the homonymous section of the General Part of these General Terms and Conditions.

## **22. Confidentiality.**

According to the wording contained in the homonymous section of the General Part of these General Terms and Conditions.

## **23. Treatment of personal data.**

- 23.1. This regulation on the treatment of personal data shall apply if the execution of the Contract require the SUPPLIER to access, as the processor, to files containing personal data of those who is responsible any company of the ENEL Group subject to subjective and objective scope of the Organic Law on Personal Data Protection 15/1999 of December 13 (OLDP) and its complementary legislation (hereinafter, for the purposes of this paragraph 23, entitled "ENEL Society").
- 23.2. The above files are processed and managed by the SUPPLIER and the data and information contained therein are property and remain under the responsibility of the ENEL society.
- 23.3. The SUPPLIER is for the purposes of the Agreement, in charge of the treatment in accordance with the provisions of the legislation on Protection of Personal Data, especially in accordance with



Article 12 of the OLDP and is committed to fulfill their obligations, not being considered this delivery of data by the Society of ENEL as a personal communication to the effects of the OLDP.

23.4. The SUPPLIER, as the Processor, guarantees:

- a) That the processing of data shall be in accordance with applicable law, with the requirements of the Contract, with the recommendations of the European Union in the field and with the instructions eventually transfer to the SUPPLIER the ENEL Society.
- b) That the personal data they have access as a result of the implementation of the Agreement will not be applied or used for a purpose other than that contained in it, and also do not communicate, or assign to other natural or legal persons personal data. They will be delivered on the occasion of the execution of the Contract.
- c) That will return directly to the ENEL society the personal data that have been processed within a maximum period of fifteen (15) calendar days from the date of termination of the Contract for any reason.
- d) That will destroy any document, medium or copy of the personal data that have been processed under the provisions of the Agreement and which could not be refunded for the reasons stated in paragraph c). This destruction of information stored on any medium (paper, digital, etc.) must be conducted using the appropriate means to prevent subsequent recovery or reconstruction, and must be suitably accredited by a third party through the issuance of corresponding specific Certificate of Destruction. However, it will not proceed with the destruction of data when there is a legal provision that requires conservation, in which case the SUPPLIER retain duly blocked, said data.
- e) That it will adopt in the treatment of the data supplied by the company ENEL society, the necessary technical and organizational measures, required by article 9 of the OLDP, and in particular specific security measures required to implement the contract contained in the legislation on protection of personal data, so that the security of personal data is guaranteed and avoid its alteration, loss, or unauthorized access, given the state of technology, the nature of the stored data and the risks they are exposed, whether from human action, physical environment or natural environment. The measures will include, without limitation, hardware, software, recovery procedures, backup and data from personal data in the form of screen display or print and, to this end, in the contract it will be included an annex with the files affected of the ENEL society, as security measures basic or high, medium, to be applied.
- f) That if it was necessary for the execution of the Contract performing any international data transfers, the SUPPLIER is obliged to inform the ENEL society, in advance and in good time, so that it may request the corresponding authorizations, without which the SUPPLIER can not make the transfer. The SUPPLIER shall comply with specific security measures listed in the existing legislation on international data transfers defined and referenced in particular Articles 33 and 34 of the Organic Law on Data Protection and Title VI of the implementing regulations.

23.5. Notwithstanding the provisions of paragraph (b) of subsection 23.4 above, assuming that the ENEL society authorize the SUPPLIER outsourcing to third parties of certain services within the scope of the contract, which in turn imply that the subcontractor had to access the personal data included in the files affected by this section, the SUPPLIER, prior to said subcontracting will sign together with the ENEL society and the subcontractor a contract by which the subcontractor expressly accept both take the position of Data Processor with respect to the ENEL society, as responsible for the file, with the same precautions contained in this paragraph, as also assume all obligations under the Contract, of the rules of data protection character staff of the



recommendations of the European Union in this field, and to the instructions eventually transfer to the SUPPLIER the ENEL Society and that are characteristic of the condition Treatment Manager. The SUPPLIER agrees to indemnify the ENEL society against any administrative, judicial or extrajudicial claim that may be made (especially when opening any file by the Data Protection Agency), for non-compliance or by one of his subcontractor where applicable, as a processor of legislation on protection of personal data, and agrees to pay immediately or deposit the amount or warranty of any kind (bond, endorsement, sanction, fine, compensation, damages, damages, costs and interest, etc.) to which the payment or deposit may be required or convicted ENEL Society on the occasion of processing or resolution of that claim.

- 23.6. To fulfill the duty of care regarding the protection of personal data, ENEL Society reserves the right to make, whenever it deems appropriate, audits in order to check the degree of compliance with the security measures required by Royal Decree 1720/2007 as provided for in paragraph f) of 4.4.
- In addition, the SUPPLIER will perform, in accordance with current regulations a biennial audit to ensure compliance with the provisions of Royal Decree 1720/2007 of 21 December, these effects can gather the support of the ENEL society. The supplier shall provide the ENEL society copy of the audit and / or internal verification for proper maintenance of the measures of technical and organizational security.
- 23.7. The SUPPLIER will comply with the security measures required by either the enforcement of protection of personal data, the recommendations of the European Union in this field, or the instructions that eventually transferred to the SUPPLIER the ENEL society, in response to the internal classification made of the information that is being treated. In this sense, ENEL Society reserves the right to make, whenever it deems appropriate, audits in order to check the degree of compliance with the defined security measures.
- 23.8. If the SUPPLIER is based or perform tratamiento data in a third country will be required by the Society of ENEL thus obtain the prior approval of the Director of the Agency for Data Protection and sign a contract for the international transfer data according to the models of the European Commission.
- 23.9. If the execution of the Contract provides the delivery of services in "Cloud", the SUPPLIER must ensure both compliance with the standards and recommendations of the European Union in this field, including the suitability of the safety standards derived there from .

## **24. Environment protection.**

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

- 24.1.1. The SUPPLIER agrees to take appropriate measures to ensure strict compliance with its obligations for the implementation of all environmental legislation, energy efficiency and indoor environmental quality State, Regional, Provincial and Local that is application, especially with regard to the correct use of energy and the proper packaging and labelling of the products supplied, (date of packaging, manufacturing, product expiration, etc.), as well as the packaging returnability chemicals, in cases where such products are considered as dangerous preparation according to law, without prejudice to any legal development in the future, occurs on the matter, must restore the damage that has occurred as a result of any breach of the current regulations that apply.
- 24.1.2. The SUPPLIER agrees to provide, whenever it is possible, products or materials with eco-label and energy certification and those with a longer shelf life, lower cost, greater energy efficiency and lower generation potential waste product expiration and be as respectful as possible with the indoor environmental quality.



- 24.1.3. The SUPPLIER agrees that the elements used in material and equipment are not carcinogenic or chemically unstable.
- 24.1.4. The SUPPLIER will respect the limitations established for the marketing of dangerous substances and preparations set out in the legislation, as well as any future legal amendment on the matter. In particular the absence of PCB oil equipment, and the absence of CFCs, HCFCs, halons, etc. shall be credited with trade restrictions.
- 24.1.5. The SUPPLIER will be responsible to meet transportation provisions of the applicable law. For all transport of dangerous substances, raw materials or waste will be available when required, the authorization of transport of dangerous goods, ADR for road, or appropriate for sea transport.
- 24.1.6. The disposal of products or materials will be conducted in accordance with the duly established procedures to comply with the applicable regulations in each jurisdiction for handling hazardous substances.
- 24.1.7. Whenever possible, and although not required to do so by law, the SUPPLIER shall reuse or recycle waste generated by their products or materials.
- 24.1.8. ENEL reserves the right to monitor or control the proper management of waste by the SUPPLIER.
- 24.1.9. If within the scope of the Contract acquisition includes substances as such, in mixtures or in articles, citing indicatively and not limited to the following:
- Insulating oils.
  - Lubricating oils.
  - Greases.
  - Paints, inks (including toner) and varnishes.
  - Solvents.
  - Chemical products.
  - Electric batteries.
  - Gases (in bottles or in equipment).
  - Fuels (diesel, fuel oil).
  - Laboratory reagents.
  - Cleaning products.

The SUPPLIER confirms compliance with current legislation on the registration, evaluation, authorization and restriction of substances and chemical preparations, providing the stored data-security and handling of substances or mixtures which provide tailored according to the existing legislation. The safety data sheet must collect applications that have supplied the substances or mixtures.

- 24.1.10. The SUPPLIER agrees to carry out the management of supplied empty containers, complying with the provisions of the legislation, committing in any case removed when ENEL requests and makes available for this purpose fully taking responsibility for compliance with the mandatory rules for transport as set out in previous points. Also, the SUPPLIER will be obligated to the withdrawal of the packaging used for transportation in the conditions and terms established in the Contract, or in the case of not being indicated, in successive deliveries will remove packaging prior postings when ENEL so requires.

The SUPPLIER of electronic equipment complies with the conditions imposed by law. Focus on electronic meters, computers, and equipment control facilities will be provided, for which the



SUPPLIER shall be bound to its retirement at the end of its useful life by establishing the appropriate logistics using the return of the supplies at no cost to ENEL. The energy efficiency of equipment will also be considered.

#### 24.2. Works and/or services.

- 24.2.1. The SUPPLIER needs to know and verify that its staff knows, understands and executes all requirements and regulations relating to environmental protection, energy efficiency and indoor environmental quality that are applicable to perform the Contract.
- 24.2.2. The SUPPLIER guarantees, and will credit, that the staff that will perform the Contract, has or receives adequate theoretical and practical training and especially the need to ensure proper environmental and energy performance and reduce the risk of an incident with environmental impact and indoor environmental quality. Training will include the obligations to them arising from the documents of Systems of Environmental, Energy Management and/or Indoor Environmental Quality, if one already exists or is being implemented, as is common in the different business ENEL.
- 24.2.3. The SUPPLIER shall provide relevant information on the activities covered by the Agreement, to contribute to ENEL's calculation of the carbon footprint. Similarly, the information on the carbon footprint of activities will be assessed by the SUPPLIER.
- 24.2.4. The SUPPLIER will provide its staff with the necessary means so the Contract execution can be carried out respecting the environment, considering the efficient use of energy and addressing indoor environmental quality. Also, the SUPPLIER undertakes to fulfil all the legal requirements that are applicable, as well as derivatives of Environmental Systems, Energy and/or Environmental Quality Management indoors in case it has been implemented in any installation under Contract.
- 24.2.5. The SUPPLIER shall be liable for any environmental, energy and indoor environmental quality incident caused by it as a result of the execution of the Contract, and ENEL reserves the right to penalize the SUPPLIER with actions and expenses incurred by the breach of its obligations on environmental, energy and indoor environmental quality matters. The SUPPLIER shall take steps to ensure strict compliance with all existing laws that may apply to the execution of the Contract and restore the damage that has occurred as a result of any breach of the same measures.
- 24.2.6. The SUPPLIER will prepare a plan of risk prevention and environmental contingencies and indoor environmental quality resulting from the execution of the Contract, which will provide to ENEL when so required, to avoid any incident, take appropriate preventive measures to ensure compliance with current applicable regulations, as well as best practices dictated by environmental, energy management and indoor environmental quality, such as:
- Store and properly handle chemicals and goods or hazardous waste, providing separate incompatible chemicals together and avoiding the waste mixture.
  - Clear signalling and waste areas with special environmental impact.
  - Prevent leaks, spills and soil contamination, manholes or channels.
  - Prohibit its employees from conducting fires, wash-downs or uncontrolled abandonment.
  - Prevent emissions of dust or other substances in the transport of materials and any other activity likely to generate dust or other substances.



- Especially observe the ban on any kind of uncontrolled dumping, and the prohibition of the abandonment of any type of waste in the area covered by the development of the implementation of the Agreement, which shall endeavour to remain clean and tidy as possible during each day work and especially the end of it, also having to comply with the procedures specified in the Environmental Management System, Energy and/or Indoor Environmental Quality, which are applicable to the work to be performed, if any one implanted in the facility under contract. To perform any kind of waste on a sewerage/sewage that must have all necessary approvals.
  - Properly segregate each residue by placing a sufficient number of containers, closed, marked and in good condition, in the place of performance of the Contract, when because of the same waste is generated, which must then conveniently manage by an authorized manager and in accordance with the law. The SUPPLIER shall provide ENEL when requested, a copy of the transport documents, management and disposal of waste according to applicable regulations and authorizations that enable carriers and operators used.
  - Leave clean and free of debris the work area once completed the execution of the Contract, removing all debris, containers, packaging, garbage, junk, and all kinds of waste generated, there remain, being the account of the SUPPLIER, the collection, transport and authorized management thereof.
  - Ensure performance of the Contract in accordance with current legislation, appropriate control of emissions of noise and vibration, especially if they can affect third parties.
  - Take appropriate measures to ensure strict compliance with environmental legislation and energy efficiency that current is applied to the execution of the Contract.
- 24.2.7. The SUPPLIER's Project Manager will be responsible for monitoring and compliance procedures, he may designate another person to perform the task, notifying the ENEL's technician supervising the works, its identification data, who can transmit specific instructions for environmental Contract execution.
- 24.2.8. The SUPPLIER agrees to immediately inform ENEL's technician supervising the works on any environmental incident that occurs during the execution of the Contract, being obliged to submit a written report of the event and its causes.
- 24.2.9. Should an environmental, energy or indoor environmental quality incident occur, whatever it may be, the SUPPLIER undertakes to comply with the instructions of ENEL's technician supervising the works.
- 24.2.10. To a breach of any of these obligations, ENEL's supervising works can paralyse the work, the SUPPLIER assuming losses incurred and in any event, the breach of obligations relating to the maintenance of the working area, determine which is deducted from the billing office for costs incurred plus ten (10) % of them as a penalty.
- The SUPPLIER accepts these specifications to all works and services to be performed in any ENEL installation or other.
- 24.2.11. The SUPPLIER must equip itself with Environmental Liability Insurance with the necessary coverage to meet the responsibilities under the Environmental Liability Act and any other standard by which the Environmental Authority may require the repair and/or compensation for damages that may be caused on natural resources.

**25. Vendor Rating.**

According to the wording contained in the homonymous section of the General Part of these General Terms and Conditions.

**26. Global Compact.**

According to the wording contained in the homonymous section of the General Part of these General Terms and Conditions.

**27. Rules of Ethical Conduct.****27.1. Generalities.**

The ENEL Group in managing its business activities and relationships with thirds, conforms to the provisions of the "General Principles for the Prevention of Criminal Risks". The SUPPLIER, in managing its business and relationships with third parties agrees to comply with these principles or equivalent.

These principles and other regulations of Ethical Conduct, are available at [www.endesa.com](http://www.endesa.com).

**27.2. Conflict of interest.**

The SUPPLIER (if an individual), with the acceptance of the Contract, declares:

1. That it does not exercise within the Enel Group companies, senior management functions (director, senior manager with strategic responsibilities), of employee of Enel Group companies or auditor of the ENEL Group;
2. That it has not, within the Enel Group companies, family, relatives to the second degree, not legally separated spouse, partner, husband or children of the couple, who are related to him by blood or marriage;
3. That has not flaunted or holds both the SUPPLIER and their respective family members (spouse not separated or first degree relatives), in the last twenty-four (24) months, positions in public administration or entities responsible for public services that have been involved directly with activities of any of the companies of the ENEL group (granting concessions, control activities, etc.).

The SUPPLIER (if a legal entity<sup>1</sup>), with the acceptance of the Contract, states that as a result of the knowledge of its corporate structure, any person belonging to its governing bodies, management or control (including trust companies):

<sup>1</sup> "Public agencies, publicly traded securities firms, banks and companies controlled by them are not bound by this declaration."



- a. He is a member of senior management or the administrative or the audit committee or an executive with key responsibility of Enel Group companies, nor family to the second degree, spouse, partner, child of a spouse or partner, or dependent person (by blood or marriage) of said members.
- b. An employee of any of the companies of the Enel Group, nor family to the second degree, spouse, partner, child of a spouse or partner, or dependent (by blood or marriage) of that employee.
- c. Have not held or hold, in the last 24 months, both the person and their respective relatives (spouse not legally separated or first degree relatives) Government positions or posts in Organisations entrusted with public service entities that have been directly connected with activities undertaken by any ENEL Group companies (granting concessions, supervision activities, etc.).

The SUPPLIER, whether a natural or legal person is obliged to notify any changes to ENEL, declaring information regarding that may occur and could subsequently be active as SUPPLIER status before signing the Contract.

#### **28. Applicable law.**

The Contract and all matters that may arise between the parties or in connection with it, shall be governed by and construed exclusively in accordance with Spanish law, which the SUPPLIER and ENEL expressly submit.

#### **29. Jurisdiction and Conflict Resolution.**

The parties, waiving any other jurisdiction that may apply, submit themselves to the jurisdiction of the Courts of Madrid (Capital) for the resolution of any dispute, question, issue or dispute that may arise in the interpretation, implementation and enforcement of the Contract, which cannot be settled amicably between ENEL and the SUPPLIER.



## ANNEX A

FIRST DEMAND ABSTRACT GUARANTEE

The Bank/Savings bank ....., and on its behalf Mr./Ms.....and Mr./Ms..... with sufficient power to bind it in this act, hereby jointly and severally grant, as extensively as required in law, with .....(Supplier/Contractor) to..... (Company/ies of ENEL Group), up to the amount of .....( ..... ), to respond to the obligations arising for said ..... (Supplier/Contractor) of Framework Contract/Agreement no. .... signed with ..... (Company/ies of ENEL Group), as well as to respond, in its case, to the obligations arising for said..... (Supplier/Contractor) of every Order of delivery or Contracts arising from the previously stated Framework Agreement.

The present guarantee is a first demand abstract guarantee, whereby the Bank/Savings bank ..... undertakes to pay up to the maximum of the aforementioned amount at first written demand by..... (Company/ies of ENEL Group). The stated request shall be signed by the representative/s of ..... (Company/ies of ENEL Group) with sufficient power and it shall be presented in the branch of the Bank/Savings bank ..... located in.....

The payment obligation of the Bank/Savings bank ..... is abstract and it expressly renounces the benefits of order, exclusion and division, and undertakes to deal with all requests it makes to ..... (Company/ies of ENEL Group) in relation to this guarantee, handing over to these last Companies the amount requested, it being sufficient for this that this request is made to ..... (Company/ies of ENEL Group) in writing as specified in the previous paragraph, without any excuses or exceptions being admitted, including the opposition of ..... (Supplier/Contractor) to execution of this guarantee (Company/ies of ENEL Group) shall notify ..... (Supplier/Contractor) of the presentation of any demand for payment by virtue of this guarantee, indicating its cause and motive.

The present demand guarantee shall be terminated when ....., and this Bank/Savings bank should be jointly notified in writing by ..... (Company/ies of ENEL Group) and ..... (Supplier/Contractor).

The signatories of the present guarantee are duly authorized to represent and bind the Bank/Savings bank ....., this being one of the operations which, in accordance with article [ ] of the Statutes that govern it, it can perform, as it constitutes one of its purposes.

This guarantee has been registered with number .....