Title:
SPECIFIC SUPPLY CONDITIONS FOR THE SUPPLY OF MATERIALS AND SERVICES TO ENEL S.p.A. – OPERATING PURCHASING DEPARTMENT ENEL SERVIZI – NETWORK PROCUREMENT UNIT

Summary:
This document integrates and/or modifies the provisions contained in the “General Supply Conditions” of ENEL S.p.A. (hereinafter CGF) in use (see the CGF edition indicated in the Order Letter), in view of the application thereof to the orders issued by Operating Purchasing Department Enel Servizi – Network Procurement Unit, including orders with on site activities.

The numbering used herein maintains the numbering of the CGF clauses to which the integrations and/or amendments refer. Where the numbering is missing, this means that the clause has not been integrated and/or modified with respect to the CGF and therefore the one of the CGF remain in force.

The integrated clauses shall have a sequential numbering and shall follow the one indicated in the CGF.

As per organisational note No. 40 of 2nd August, 2002 issued by ENEL’s Managing Director, this document is for:

- [ ] PUBLIC USE
- [ ] COMPANY INTERNAL USE
- [ ] COMPANY RESERVED USE
- [ ] RESTRICTED USE

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ANNEXES (Rev. as per the Order Letter):

- Allegati Tecnici alle Condizioni Particolari di Fornitura, consisting of:
  1. Post Vendita;
  2. Omologazione e certificazione dei materiali, prove di tipo sui prototipi;
  3. Prescrizioni per l’imballo, il trasporto e la consegna dei materiali;
  4. Controllo Qualità Forniture (CQF) – Criteri e metodi;
  5. Appendice – errata corrige;

- Altri allegati alle Condizioni Particolari di Fornitura, consisting of:
  1. Contratto di Raggruppamento Temporaneo di Imprese;
  2. Fac-simile cauzioni a garanzia del Contratto;
  3. Fac-simile di accettazione dell’Ordine;
  4. Fac-simile di autorizzazione del subcontratto.
1. **DEFINITIONS**

The following document shall be included among the documents which constitute the Supply Contract:

- **General Contractual Clause**: Supplier declaration as per Legislative Decree 231/2001

1.1 The Order and complete acceptance thereof by the Supplier shall constitute the full agreement between the parties, hereinafter the "Agreement". There shall be no terms, obligations, conventions, claims, representations or conditions other than those included in the Order Letter and in the other documents which constitute the Agreement.

2. **SCOPE OF THE SUPPLY CONTRACT**

The enumeration contained in article 2 of CGF is integrated with the following document:

- General contractual clause

Which is deemed to prevail on the Offer of the Supplier.

3. **OBLIGATIONS OF THE SUPPLIER**

3.1 If and to the extent that such activities are provided for by the Order Letter, the Supplier shall be fully liable towards ENEL in relation to on-site activities, such as erection on site or verification of correct erection on site, adjustment, on-site testing and ready-to-operating.

3.2 The Supplier shall also be fully liable in relation to any sub-supply and services rendered by Third Parties.

3.3 Activities (including but not limited to, erection on site, exceptional shipping, etc.), which the Supplier does not intend to carry out directly shall be subject to prior ENEL authorisation. ENEL shall be informed of any sub-supplies. In connection with such activities and/or sub-supply, the Supplier shall:

- select sub-suppliers that can guarantee the quality level required by ENEL;
- prescribe to the sub-supplier the same obligations with which it must comply to achieve the required quality level;
- take all necessary action to ensure sub-suppliers fulfil their obligations.

Unless otherwise stated in the Order Letter, the manufacturing and testing of the materials must be carried out at the Supplier’s premises, indicated by the said Supplier and specified in the Order Letter. The provisions contained in Article 35 below shall apply to testing.

Any derogation shall not release the Supplier from full liability towards ENEL.

3.4 Since ENEL abides by the principles contained in its Code of Ethics (see article 28 below), the Supplier represents and warrants that it treats its employees with dignity and respect, avoiding any form, however indirect, of physical and moral violence; that it applies normative and financial conditions not lower than those established by the collective bargaining agreements in force at the time and in the place where the activities are carried out; that it complies with insurance and social security undertakings and with all undertakings, in accordance with the laws, regulations and rules in force in the place where the activity is carried out; that it does not employ, in performing its activity, whether direct and indirect, any person aged less than the minimum age set forth by the laws in force in the Country in which the activities are carried out; that it does not avail itself of any form of forced or mandatory work, i.e. performed by individuals under the menace of any penalty whatsoever, and for which they have not proposed themselves on a spontaneous basis (convicts etc.); that it guarantees a safe and healthy working environment, and that it applies the laws and regulations in force in the place of the activity to prevent any accident and damage to health and to the environment that may take place in carrying out the activity commissioned by ENEL or as a consequence thereof.
ENEL may carry out any control and monitoring activity to verify compliance with contractual obligations, both on the part of the supplier and any sub-suppliers, and may terminate the Agreement in the event of breach of said obligations, pursuant to Article 1456 of the Civil Code.

6. **DELIVERY TERMS**

6.1 ENEL Unit/s which manage/s the Agreement shall be those referred to in the Order Letter.

6.2 The contractual terms applicable to IM ("Inizio Montaggio" – start of erection on site and/or adjustment and testing) and FC ("Fine Collaudo" – conclusion of on-site testing), shall be defined by the ENEL Units referred to in the Order Letter; the Supplier shall be informed of the IM at least 30-days prior to the start of activities, and the FC shall be defined on the basis of the Supplier’s installation capacity, which may be indicated in the Order Letter.

6.3 For materials produced under a quality guarantee system with a "Declaration of Compliance", deliveries may be accepted by ENEL Units only if these Units receive the above Declaration, or, in the event of non-compliant material, if ENEL receives the supply clearance notice as per paragraph 4.5 of the “Controllo Qualità Forniture (CQF) – Criteri e metodi” document referred to in the annex “Allegati tecnici alle condizioni di Fornitura”, which shall wholly replace the "Declaration of compliance".

7. **CHANGES IN CONTRACT TERMS**

7.1 If the Supplier predicts that it shall fail to meet the delivery dates, the Supplier shall inform all relevant ENEL units indicated in the Order Letter thereof.

7.2 Any postponement of the delivery terms shall be formalized by ENEL, without prejudice to ENEL’s right to apply the Penalties for non-compliance with contractual terms.

7.3 Upon positive test results, or in case of materials produced under the Quality Guarantee system and issued with a “Declaration of Compliance”, if, because of ENEL’s exigencies, it is not possible to proceed with the shipment of the material within the deadline set forth for the delivery, the material shall be appropriately stored with the Supplier. The Supplier may proceed directly with arranging the storage for the material at its own warehouse and issuing an invoice for the stored material. The original documentation relating to the storage at the supplier’s premises shall be sent to the relevant Territorial Administration Service, and a copy shall be sent to the ENEL Units in charge of managing the Agreement. The storage, for a maximum period of sixty days, shall be free of charge. After sixty days, unless already provided by the Order Letter, ENEL shall agree the methods of subsequent storage with the Supplier.

7.4 Both ENEL and the Supplier shall comply with the obligations contained in article 53 of Presidential Decree 633 of 26th October, 1972.

7.5 Should the materials be ready-for shipment with a delay of more than 30 days following the contractual term, a new date and any new delivery methods shall be agreed upon, without prejudice to the application of the contractual penalties and ENEL’s right to compensation for any greater damages.

7.6 In the above case, the materials shall be stored free of charge until the new delivery date, and the relevant invoices may not be issued before said date.
9. CONTRACTUAL PRICES

9.1 If not otherwise stated, the unitary supply prices referred to in the Order Letter shall have to be DDP – according to Incoterms 2000, including all costs sustained for the following activities:

- packaging of materials as per the “Prescrizioni per l’imballo, il trasporto e la consegna dei materiali” document referred to in the attached “Allegati Tecniche alle Condizioni Particolari di Fornitura”;
- loading, shipping to destination (from the Supplier’s premises or from the premises of the company authorized by ENEL to carry out acceptance testing), travel insurance for possible damages to transported material and (unless otherwise set forth by the Order Letter) unloading;
- collection and shipping to destination of ENEL equipment for the manufacture of the products and/or for type tests thereon;
- customs clearance and insurance against all risks prior to installation and/or delivery;
- handbooks for the use and installation of materials, as required by ENEL’s technical documentation and/or by the Order Letter;
- prototype homologation/certification/approval;
- factory testing and on-site testing, including the costs for equipment and instruments;
- off-line testing as per the list enclosed to the Order Letter;
- costs related to the application of WEEE directive (see art. 39);
- any other costs associated with the material type indicated in the Order Letter.

9.2 Any unitary prices for the erection on site, where indicated and referred to in the Order Letter, shall include all costs associated with the erection on site and the costs of providing a suitable number of qualified plant personnel, including the traveling costs and allowances, and costs relating to the use of equipment; the above mentioned price shall also include any leasing of necessary lifting gears (cranes, baskets, etc.).

10. FINANCIAL EVALUATION OF CONTRACTUAL AMENDMENTS

10.1 Requests for addendum and amendments shall be made in writing to the Supplier.

10.2 If addendum or amendments determine increases or reductions of the cost, and/or modifications in the supply characteristics and guarantees, price differences and relevant payment modalities, the new contractual terms, new characteristics and new guarantees shall be agreed in writing with the DO/ACQ/APR prior to implementation.

11. INVOICING AND PAYMENTS

11.1 INVOICING

11.1.1 Issuance of Invoices

Invoices shall be issued as follows, unless otherwise indicated in the Order Letter and subject to the finalization of the Agreement:

a) Supply:
   100% upon shipment of the materials, or, if supply includes on-site testing, 90% upon shipment, and the remaining 10% upon final delivery of the materials, and in any case no later than 6 months following the contractual delivery date, in the event that it should not be feasible to carry out on-site testing due to causes attributable to ENEL.

b) Activities on site:
   100% upon completion of the activities.

c) Repetition of type tests (if officially requested by ENEL)
   100% upon completion of the tests, provided the said tests have a positive result.
11.1.2 Execution of Invoices
With reference to the execution of invoices by the Supplier, if the Supplier carries out the material
testing using the EDI (Electronic Data Interchange) system, it shall be sufficient that the invoice
bears the wording “Acceptance test carried out by Supplier – Positive outcome” and the test note
number.

11.2 PAYMENT
11.2.1 Invoices must include the following information:
National supplier:
• International bank details (IBAN code) of the current account.
Foreign supplier:
• International bank details (IBAN codes) of the current account;
• BIC code - "Bank Identifier Code".

11.2.2 The Euribor rate shall be calculated on an annual basis of 360 days/calendar year in calculating the
interest referred to in Article 11 of CGF.

12. PENALTIES
12.1 PENALTIES FOR NON-COMPLIANCE WITH CONTRACTUAL TERMS
12.1.1 In the event of delay in respect of the contractual terms indicated in the Order Letter, the Purchase
Orders or the purchase orders for frame agreements that is not the result of force majeure, and
without prejudice to any additional damages suffered by ENEL arising out of the delay, the penalties
set forth by the Order Letter shall be applied to the Supplier.
Penalties shall be calculated by the competent ENEL Units and the relevant amounts shall be
withheld at the time of invoice payment.

12.1.2 To be recognized as resulting from force majeure, any such delay shall be notified prior to the expiry
of the contractual terms set forth in the Order Letter, the purchase orders or purchase orders for
frame agreements, and the cause thereof shall be properly substantiated to, and accepted by, ENEL.

12.2 PENALTY FOR NON-COMPLIANCE WITH THE GUARANTEED SERVICES
The Supplier guarantees that the services supplied shall comply with the provisions of the
contractual documents.
The provisions of the Order Letter and the relevant enclosures shall be used in evaluating said
services.
Should the supply not comply with the services guaranteed, the penalties established in the contract
shall be applied.

12.3 PENALTY FOR NON-INTERVENTION (Non-performance of testing, non-performance of
supervision visit or non-performance of the off-line Tests) – TEST REPETITION
In the event of non-intervention (non-performance of testing, non-performance of the supervision
visit or non-performance of Off-line Tests) due to causes attributable to the supplier, ENEL reserves
the right to apply a lump-sum penalty determined on the basis of the location of the Supplier’s
production plant, as hereinafter set forth:
- EURO 1,000.00 for non-intervention in Italy;
- EURO 3,000.00 for non-intervention in Europe;
- EURO 8,000.00 for non-intervention in non-EU countries.
The same penalties shall apply in the event of test repetition as a consequence of previous failure thereof.
12.4 MAXIMUM AGGREGATE AMOUNT OF PENALTIES

The aggregate amount of penalties for non-compliance with the contractual terms and failure to provide the services guaranteed, as per paragraphs 12.1 and 12.2 above, may not exceed 15% of the total amount of the Agreement, including tolerance and option, if exercised. This percentage shall not include the penalties for non-intervention referred to in paragraph 12.3 above.

13. TERMINATION AND ENFORCEMENT

13.1 In case of agreement termination due to breach of supplier’s obligations set forth in the agreement, ENEL reserves the right to apply the penalties as provided for the Order Letter and to enforce the performance bond as provided for by art. 15 of the CGF and of the present document.

13.2 The following shall be established:

a) In case of negative results for one or more acceptance tests, type test or functional tests, or, for materials produced under the “quality system”, in the event of serious breach of the provisions contained in the documents relating to said system, the causes of the defects shall be jointly ascertained, and the Supplier shall be obliged to rectify such causes; the same procedure shall apply if ENEL representatives identify differences between the manufacturing process and the technical specifications.

If the Supplier fails to take appropriate measures in the above cases, or in the event that ENEL representatives identify irregularities in the course of production plant inspections, ENEL may suspend supply and take any measures deemed necessary, including the reduction of the contractual amounts or the termination of the Agreement and, for materials produced under a quality guarantee system, the suspension of the acceptance of supplies with the sole "Declaration of compliance".

b) In the event of repeated delays in complying with the contractual terms, ENEL may terminate the agreement on the grounds of breach of contract on the part of the Supplier. ENEL shall be entitled to terminate the agreement pursuant to article 1456 of the Italian civil code, in the event that the aggregate amount of penalties due to non-compliance with the contractual terms and of failure to provide the guaranteed services, as per article 12 above, should exceed 15% of the total amount set forth in the Order Letter, including tolerance and option, if exercised.

c) ENEL reserves the right to reduce the contractual amounts or to terminate the Agreement if the Supplier does not complete delivery of the supply within the terms provided for by the agreement; or if type tests, acceptance tests or compliance tests (repetition, partial or total, of the type tests) should have a negative outcome, without prejudice to the application of the Penalties set forth by the Order Letter, and to compensation for greater damages.

d) The provisions of paragraph c) above shall apply if the Supplier fails to deliver the amounts requested in the Purchase Orders issued by the ENEL Unit in charge of managing the Agreement. If delivery is delayed for more than two months, the Purchase Order may be annulled and the amounts ordered may be removed from the Agreement, without prejudice to the application of the Penalties set forth by the Order Letter, and to compensation for greater damages. The removed amounts shall be used in calculating the punctuality index for the purposes of Vendor Rating.
15. PERFORMANCE BONDS

15.1 The terms for the presentation of the performance bond requested to guarantee the contractual obligations and its total amount are specified in the “Letter Notice of Tender Result”.

15.2 If there are no breaches on the part of the Supplier, the guarantee given by the Supplier shall be returned upon request to the ENEL Unit in charge of the Agreement, within three months of the expiry for the guarantee relating to the last delivery.

15.3 The forms to be used for the guarantee agreement are enclosed hereto.

19. TEMPORARY ASSOCIATIONS OF ENTERPRISES (RTI)

19.1 The agreement concerning the temporary association of enterprises shall be drafted according to the enclosed form.

21. SUPERVISION

21.1 ENEL reserves the right to follow the manufacture of the materials to be supplied, both at the Supplier and any sub-supplier premises; through its own representatives, the Supplier shall grant these representatives free access to the production premises (Supplier and/or sub-suppliers) during normal business hours to verify that manufacture is carried out at the premises stated by the Supplier and indicated in the Agreement.

21.2 ENEL reserves the right to carry out Inspections (VI) on the process/product to ascertain the adequacy and efficiency of the Supplier’s Quality System. For these purposes, the Supplier shall communicate, in advance and according to the date established in the attached “Controllo qualità fornitura (CQF) – Criteri e Metodi”, to the competent ENEL Units defined in the Agreement, the period during which the materials to be supplied shall be manufactured (production plan - PP). If the Supplier does not deliver the PP to the competent Units, ENEL may:

- suspend supply;
- block payments;
- carry out type compliance tests on the manufactured/delivered product for which the relevant costs shall be borne by the supplier.

If the production process does not allow for the above, the Unit managing the tests indicated in the agreement shall grant a written derogation to the supplier indicating the prior notice period for the delivery of the PP.

21.3 The outcome of the Inspections shall be used by ENEL in calculating the Vendor Rating Quality Index (QI) of the product/supplier.

Furthermore, if Inspections reveal the Quality System of a certified Supplier to be inadequate or inefficient, ENEL reserves the right to report the breach to the relevant certifying and accrediting bodies, so that appropriate measures may be taken.

Inspections shall be carried out as per the enclosure to the present document.

21.4 ENEL reserves the right to carry out, on all or part of the components subject to the agreement, Tests (Off-line tests and/or type compliance tests), to ascertain the compliance of the product with the contractual technical prescriptions.

Off-line Tests shall be carried out as per the provisions of the technical prescriptions attached to the agreement (Off-line Test list), under the responsibility of the Supplier and at its own cost, in the presence of ENEL personnel. ENEL shall bear the costs relating to its own personnel. If the Supplier is unable to carry out all off-line tests at its laboratory/premises, ENEL shall evaluate and agree upon the possibility of using an external laboratory (ILAC accredited and/or previously authorised by ENEL). Unless a written derogation is granted by the Unit referred to in the agreement as responsible for testing, the batches from which samples for Off-line Tests are taken may be
shipped to ENEL solely upon positive completion of the tests. If Off-Line Tests identify non-compliance, the parties (ENEL and the Supplier) shall jointly evaluate the test results and determine the acceptance or rejection of the batch.

ENEL may, at any time and at its own expense, carry out compliance tests (repetition of all or of part of the type tests), with an accredited EA laboratory (European co-operation for Accreditation) chosen by ENEL. If one or more of the test results is negative, the test costs shall be charged to the Supplier; any such charge may, at the discretion of ENEL, be directly regulated between the laboratory and the Supplier.

ENEL may request any testing it deems appropriate and reserves the right to take suitable measures in relation to supplies in progress (e.g.: suspension of production/supply, suspension of homologation/certification, etc), including the termination of the Agreement.

The results of Off-line Tests and type compliance tests shall also be used by ENEL in calculating the Vendor Rating Quality Index (QI) of the product/supplier.

22. INSURANCE AND MEASURES FOR THE HEALTH AND SAFETY OF EMPLOYEES

22.1 For ENEL personnel present on the Supplier’s or sub-supplier’s premises during the homologation/acceptance testing and verification of the production process to guarantee the quality of the materials to be supplied, the Supplier shall, at its own cost:
- supply the necessary and adequate individual protection equipment;
- illustrate, and request compliance with, corporate provisions concerning workplace safety and hygiene, as well as the use of collective protection equipment and the individual protection equipment provided to ENEL personnel;
- provide information concerning the corporate measures on first aid, fire prevention and emergency in place.

22.2 If and to the extent provided for in the Agreement, in addition to the supply, erection on site and commission, the Supplier is obliged to:

22.2.1 take out, at its own cost, an insurance policy from the time in which the property of the machine/equipment is transferred to ENEL up to the end of the guarantee period, covering damages which may occur with respect to the material subject of the Agreement, as well as towards third parties (persons and property) caused by manufacturing defects and incorrect erection on site;

22.2.2 take out, at its own cost, an insurance policy covering its own employees and those of sub-contractors against any accident and damage resulting from incidents during all the activities on site;

22.2.3 take out, at its own cost, an insurance policy covering any civil liability towards third parties and ENEL deriving from the work carried out on site by its employees and those of its sub-contractors.

22.2.4 The above insurance policies must be stipulated for an unlimited maximum amount for damage caused to persons, and for a suitable maximum amount for damage to property.

22.2.5 Prior to the beginning of the activity the Supplier, or its appointee, shall be provided with detailed information concerning the risks associated with the environment in which they are to operate, as well as the prevention and emergency measures in place.

The Supplier, or its appointee, shall verify that its Safety Plan is adequate in respect of the risks referred to above, and that dangerous situations not envisaged in the Plan may not arise; if the result is negative, the Plan shall be updated before activity begins.

The Supplier, or its appointee, shall co-ordinate prevention and protection measures against risks to workers, and provide the information necessary to remove the risks associated with the employees of any other companies involved in performing the task.
23. **WARRANTY – POST-SALE ACTIVITIES**

23.1 The Supplier shall be the sole guarantor towards ENEL for all planning, material and manufacturing defects and for any damage to the material due to the shipping to destination.

23.2 During the warranty period, the Supplier undertakes to carry out all necessary repairs and/or replacements, to restore the materials, intervening immediately and no later than 2 days following ENEL’s request. The materials shall be repaired or replaced as soon as possible. This does not apply in the event of problems resulting from incorrect use by ENEL personnel.

23.3 Any and all costs for repair and/or replacement shall be borne by the Supplier, including the cost of removing the equipment and shipping in both directions.

23.4 The provisions included in the “Post Vendita” document referred to in the enclosure “Technical Enclosures to the Specific Supply Conditions” shall apply.

33. **ORDER ACCEPTANCE – FINALISATION OF THE AGREEMENT**

33.1 Order acceptance must be confirmed in writing by the Supplier by way of letter stating the total acceptance of any and all conditions set forth in the Order Letter and the other documents referred to therein and/or enclosed thereto. Any and all documents necessary for the finalisation of the agreement (for each company included in the Association) as set forth by the Order Letter, shall be attached to the acceptance letter.

The acceptance letter shall be drafted in accordance with the enclosed form.

33.2 Upon expiry of the term set forth in the Order Letter for the delivery of the above documentation, and if the Supplier has not provided a valid reason for the delay, ENEL reserves the rights to terminate the order notifying the Supplier’s breach to the Vendor Rating System.

33.3 The agreement shall be considered finalised only if, on the basis of the information transmitted by the competent Prefecture, there does not exist any prohibition, suspension or forfeiture against the relevant persons or individuals living with them as per article 10 of Law 575/65, nor any attempt by a criminal organisation to influence company decisions or policy.

33.4 If the Agreement is not finalized, the Supplier may not start deliveries, nor prepare supply for the purposes of testing.

33.5 In the course of supply, the Supplier shall transmit to ENEL, until such time as all obligations under the Agreement are fulfilled, new certification/declaration/documentation for any change to its ownership structure, organisation and the technical and management bodies of the company. ENEL reserves the right to terminate the contract in the event of circumstances impeding the contractual relationship, as provided for by the law.

34. **HOMOLOGATION – CERTIFICATION – APPROVAL OF THE PROTOTYPE**

34.1 Material supplied shall conform to the prototypes homologated by ENEL or certified according to the procedures described in the attached “Omologazione e certificazione dei materiali, prove di tipo sui prototipi” document. If the homologation/certification has not been obtained, supply shall be subject to the obtaining thereof, or to the positive result of type and/or functional tests on prototypes as per the Order Letter.

34.2 Unless otherwise set forth in the Order letter, any and all costs relating to the homologation/certification/approval of the prototype shall be borne by the Supplier.

34.3 ENEL may, at its own expenses and at any time, repeat all or part of the type tests according to the modalities set forth by art. 21.4.
35. ACCEPTANCE OF THE MATERIAL - TESTING

35.1 Materials supplied to ENEL may undergo an acceptance procedure and testing in the presence of ENEL personnel only when all Certification/Homologation has been completed and officially recognised by the ENEL Unit referred to in the agreement.

35.2 To ensure that the terms of delivery are met, testing shall be carried out in advance on the basis of the average time required for material testing and shipping.

35.3 Material supplied may be accepted by ENEL, depending on the characteristics of the supply and the provisions of the agreement, only if the material passes the “acceptance test” carried out by the Supplier either in the presence or otherwise of ENEL representatives. Unless otherwise agreed with ENEL representatives, testing shall not, as a rule, be performed out of the normal business hours, i.e. before 8 am and after 5 pm or on Saturdays, Sundays or public holidays. The number of days’ notice to be given for testing as per the attached “Controllo qualità forniture (CQF) – Criteri e Metodi” document is understood to be working days, using the Italian calendar as reference.

35.4 If the supplier does not carry out testing in accordance with the agreement (e.g.: non-delivery of ready to test notice, delivery of negatively tested products, etc), ENEL may:
- suspend supply;
- block payment;
- carry out type compliance tests on the manufactured/delivered product and relevant costs shall be borne by the supplier.

35.5 Under certain circumstances specified in the contract, materials manufactured in plants operating under a Quality Guarantee (QG) system may be accepted if accompanied by a Declaration of Compliance (DC) (ref. UNI CEI EN 45014).

35.6 In any event acceptance shall be subject to “compliance control” and the verification of “product certification”, where applicable (such as Italian Quality Trademark – IMQ). Irrespective of the test category, for the first Purchase Order (first Specification of each ordered component) of a new agreement, or following product modification in the course of supply, material supplied is always tested in the presence of ENEL representatives.

35.7 The instruments and equipment used for the tests must be managed under calibration control (metrological reference to primary samples). If requested, the supplier shall provide any and all documentation and certification necessary to verify current instrument calibration/control. If instruments are not calibrated, ENEL may suspend or annul the acceptance test with all the consequences thereof.

35.8 On the basis of the provisions of the agreement, the supply shall be subject to one of the following acceptance procedures, detailed in the document attached to these Supply Conditions:
- Acceptance Test in the presence of ENEL representatives;
- Acceptance Test carried out without the presence of ENEL representatives;
- Acceptance subject exclusively to direct compliance control and the existence of the quality trademark, where applicable;
- Materials produced under a Quality Guarantee system accompanied by a Declaration of Compliance.

35.9 Any and all documents relating to the verification of compliance of the supply with contractual prescriptions shall be kept for at least ten (10) years, unless otherwise stated.
36. RELIABILITY

36.1 During the Supply period, ENEL reserves the right to carry out reliability tests on the products to verify reliability declarations made by the Supplier during the tender as per ENEL’s requests. If reliability proves different from declarations made by the Supplier, ENEL reserves to take appropriate measures in relation to the supply in progress (e.g., suspension of production/supply, suspension of homologation/certification, etc.), including the termination of the Agreement.

37. ERECTION ON SITE AND COMMISSIONING – OPERATION

37.1 ERECTION ON SITE AND COMMISSIONING

37.1.1 The Agreement and/or amendments or the Purchase Orders (order Specifications) shall establish whether the instrument and/or the machinery is to be erected on site.

37.1.2 The erection on site of all material supplied shall be carried out by a suitable number of specialised technicians and necessary workers qualified to perform the activity correctly and in compliance with the established deadlines. Erection on site and testing must be planned/programmed by the Supplier in a document to be previously delivered to the ENEL Unit in charge of managing the Agreement, which shall approve it or request amendments and/or integrations.
All Supplier employees must meet ENEL requirements, and ENEL may request the removal and timely replacement of any Supplier or sub-supplier employee without being liable for the consequences.

37.1.3 Erection on site activities shall include the installation and removal of all the necessary equipment and other instruments as per the Order Letter. The cost of any consumable materials used shall be paid by the Supplier.

37.1.4 Upon completion of erection on site, any post-erection on site tests provided for in the agreement are to be performed before activation with the drafting of the relevant minutes. The parties shall then proceed with commissioning according to the agreed schedule.

37.1.5 Correct commissioning shall be verified in the proper minutes signed by the parties. At that time, ENEL shall accept the delivery of the material supplied.

37.1.6 If, post-erection on site commissioning is not possible for reasons not attributable to the Supplier, the relevant minutes shall be drafted, and ENEL shall accept delivery of the material supplied.

37.1.7 The costs for commissioning are generally included in the erection on site price.

37.2 ON SITE ACTIVITIES

37.2.1 Sub-contracts shall be subject to the provisions contained in Article 118 of Legislative Decree 163, 12th April, 2006.
In particular:
- at the time of offer, the Supplier must indicate the activities and/or the supplies which it intends to sub-contract and these shall be specified in the Order Letter;
- prior to entering into a sub-contract agreement, the Supplier shall provide ENEL with a formal request to sub-contract identifying both the activities for which authorisation is requested and the sub-contractor;
- the above request for authorisation must include the necessary anti-mafia documentation for the sub-contractor, without which authorisation cannot be granted;
- ENEL shall grant authorisation (subject to timely compliance with all the conditions under Article 18 of Law 55/1990 currently in force), within thirty days. This period may be extended once and for substantiated reasons by an additional thirty-day period. If ENEL has taken no action within this time, authorisation shall be deemed granted. A sub-contract authorisation form is attached to the present document;
- if the anti-mafia documentation contains any elements which may prevent the sub-contractor from performing its activity, ENEL shall inform the Supplier in writing, stating the reasons for which authorisation to use the sub-contractor cannot be granted;

- at least twenty days prior to the start of sub-contractor activities, the Supplier must provide the sub-contract agreement to ENEL.

At the same time as the agreement is filed, the sub-contractor declaration of compliance with the general requirements under Article 38 of Legislative Decree 163, 12th April, 2006, must be sent.

The sub-contractor must be qualified pursuant to Presidential Decree 34 of 25th January, 2000, for the categories and amounts of the sub-contract activities, except for cases in which registry with the Chamber of Commerce, industry, handicraft and agriculture is sufficient.

For companies from EU Member States, compliance with the sub-contract requirements is determined on the basis of certification in accordance with the law of the individual countries.

In addition to providing the sub-contract agreement, the Supplier shall provide ENEL with a declaration of ownership/relations in relation to the sub-contractor as per Article 2359 of the Italian civil code, as well as an equivalent declaration by each individual company in the case of temporary association, company or consortium.

ENEL may revoke authorisation on the basis of the above documentation;

- remuneration shall be paid by ENEL solely to the contracting Supplier, which shall, throughout the period of supply and within 20 days of each payment, provide the ENEL Units responsible for the Agreement with a copy of the invoices bearing a receipt note for payments to the sub-contractor, indicating guarantees withheld.

- as a rule, the award prices related to the above activities for the transparent management and the control of compliance with paragraph 4 of Legislative Decree 163, 12th April, 2006, shall be deductible from the Agreement.

37.2.2 The provisions of Law Decree 494 of 14th August, 1996, inter alia, shall apply to activities subsequent to supply performed at temporary and mobile ENEL sites.

The Supplier shall implement the ENEL safety plan and shall integrate and/or amend it in relation to activities on the work site.

Waste materials produced as a result of activity on ENEL sites, including packaging and associated waste, must be managed in accordance with the law.

38. TECHNICAL REPRESENTATION OF NON-EU SUPPLIERS

Suppliers not residing in a European Community Member State shall appoint a post-sales technical representative residing within the European Community. ENEL must be notified of the appointment at least 1 month before delivery commences, and the appointment must be maintained for the duration of the warranty period of the supplied product.

39. WEEE

39.1 DLGS 151 del 25.07.05

39.1.1 The Legislative Decree nr. 151 dated 25 July 2005 introduced the criteria for the waste of end of life electric and electronic equipment (WEEE). This system is based on the separate collection, recovery and recycling of this waste. The relevant costs for this wasting system shall be sustained by the electric and electronic equipments producers. In order to reduce the production of highly dangerous waste, producers shall also be obliged not to use hazardous substances in the manufacture of new products (RoHS).

39.1.2 The Dlgs 151/2005, with its obligations for the EEE producers and distributors is fully enforced starting from 1st January-2008.
39.2 EEE PRODUCERS’ OBLIGATIONS

39.2.1 EEE producers have to be registered in the National Registry for financing system management of WEEE, located by the relevant Chamber of Commerce, within 90 days from the Ministerial Decree nr 185 dated 25/09/07, or in any case, before the producer will place on Italian market EEE material (art. nr 3 of MD nr 185 dated 25/09/07). In order to place on the Italian market EEE products, the producers shall have to be registered not only in the National Registry appointed for this but they shall also have to declare the scheme chosen for WEEE financing obligation management.

39.2.2 In view of the above, Enel suppliers of EEE subject to the Legsl. Decree 151 of 25/07/05, shall have to be registered in the abovementioned Registry or, in case of foreign suppliers, they have to elect a fiscal representative in the Italian territory who will comply with such obligations.