

## **GENERAL PROCUREMENT DOCUMENT**

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**LABOUR AND INTELLECTUAL WORK SERVICES FOR THE  
CONSTRUCTION OF PLANTS, EXECUTION OF BUILDING WORKS,  
MAINTENANCE AND PROVISION OF SERVICES AND RELATED  
SUPPLIES. ENGINEERING ACTIVITIES**

*Rev\_03 of 29/11/2022*

*Approved*

**Customer**

**Contractor**

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**ARTICLE 1****1.0 PURPOSE, APPLICABILITY AND APPROVAL**

This General Procurement Document establishes the general conditions governing the management, operating methods and responsibilities of the Contractor who supplies the Company with installations and/or carries out their commissioning and/or operation, construction or civil engineering works, services and maintenance.

The operating rules herein regulate, unless derogated from in the individual Order or in the Contractual Documents annexed to it, the operations and responsibilities between the Customer and the Contractor established with the formal stipulation of the contractual relationship.

It is understood that the General Procurement Document is a general framework document, intended to regulate all activities of interest to the companies of the Jsw Group, whether construction sites or any other type of relationship and/or work activity. Consequently, anything provided for therein that is not applicable due to the nature of the work itself shall be disregarded, the remainder being valid and the provisions of the individual Orders or attached Contractual Documents having hierarchical precedence over this General Procurement Document.

This document is to be considered binding for each Contractor who is to operate at the plants of the Companies belonging to the Indian Jsw Group.

THE CONTRACTOR HEREBY DECLARES AND CONFIRMS THAT IT HAS RECEIVED THIS DOCUMENT WELL IN ADVANCE, THAT IT HAS DISCUSSED AND SHARED IT WITH THE CUSTOMER, AND IN PARTICULAR DECLARES THAT IT HAS TAKEN FULL COGNIZANCE OF ALL ITS CLAUSES AND CONDITIONS, WHICH IT SPECIFICALLY AND FULLY APPROVES.

**ARTICLE 2****2.0 DEFINITIONS****2.1 CONTRACTOR**

Subject (company, self-employed worker, cooperative, Temporary Association of Enterprises – ATI, consortium) with technical-professional suitability in relation to the entrusted works, to which the Customer has awarded the Order for design, supply of installations including, if required, erection and start-up, building or civil engineering works, services and/or maintenance. If the Contractor is established as a temporary association of companies, the company - group leader shall be held responsible for the activities of the temporary association of companies (ATI).

## **2.2 SERVICE AREA**

Area placed at the Contractor's disposal by the Customer and on which the Contractor will position the installations (warehouses, offices, services, etc.) necessary for the execution of the works and the fulfilment of the obligations imposed on the Contractor.

## **2.3 WORK-SITE**

Work Area intended for the execution of the activities covered by the Contract and/or Order.

## **2.4 TEMPORARY OR MOBILE WORK- SITE**

Any place where construction or civil engineering work is carried out, the list of which is given in Annex X of Legislative Decree 81/2008

## **2.5 CODE OF ETHICS/ORGANISATIONAL MODEL PURSUANT TO LEGISLATIVE DECREE NO. 231/01**

Document adopted by the Customer outlining the principles of business ethics and organisational model on the basis of Legislative Decree no. 231/01 with amendments as of the day of signing.

## **2.6 CUSTOMER**

The undersigned Company with registered office in Largo Caduti sul Lavoro, nr 21 Piombino, 57025 (LI) , (hereinafter referred to as the "Customer" for brevity) or other companies of the Indian Jsw Group for which this document is expressly referred to in the relevant contractual documents.

## **2.7 CONTRACT OR ORDER**

Contractual document containing the terms of the agreement concluded between the Customer and the Contractor (hereinafter referred to for brevity as the "Contract" or the "Order").

## **2.8 EXECUTION COORDINATOR**

Person formally appointed by the Customer or by the Project Supervisor to perform the tasks referred to Article 92 of Legislative Decree 81/2008, during the execution of the work.

## **2.9 DESIGN COORDINATOR**

Person formally appointed by the Customer or the Project Supervisor to perform the tasks referred to in Article 91 of Legislative Decree 81/2008, during the design of the work.



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## **2.10 CONSTRUCTION MANAGER**

A person who, if required by the applicable legal provisions, is formally appointed by the Customer to fulfil the obligations of compliance between the projects requiring formal approval by the competent authorities and their implementation, by means of the Supervision of Works and the Declaration of Completion of Works.

## **2.11 CONTRACTUAL DOCUMENTS**

Documents containing what is necessary and inherent to the performance of the Contract or Order and attached thereto.

## **2.12 CONTRACTOR**

Company holding the contract with the Customer. It is the addressee of the obligations pursuant to Article 97 of Legislative Decree 81/2008.

## **2.13 SUPPLY**

All services, works, materials, works and services due from the Contractor under the Contract and/or the Order.

## **2.14 PARTS**

The Customer and the Contractor defined jointly.

## **2.15 RESPONSIBLE (PREPOSTO)**

Person formally appointed by the Contractor to supervise the Worksite who, by virtue of his professional competence and hierarchical and functional powers appropriate to the nature of the task conferred on him, supervises the work activity and ensures the implementation of the directives received, checking their correct execution by the workers and exercising a functional power of initiative.

## **2.16 RESPONSIBLE FOR THE WORK**

A person who may be formally appointed by the Customer to perform the tasks assigned to him by Legislative Decree 81/2008.

## **2.17 SITE MANAGER OR CONSTRUCTION FOREMAN**

A person who, by reason of professional competence and hierarchical and functional powers appropriate to the nature of the task assigned to him, represents the Contractor to all intents and purposes, carrying out all the functions to be performed by the Contractor in relation to its own employees and the Customer.

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## **2.18 PROJECT MANAGER**

Person formally entrusted with representing the Contractor to the Customer in connection with the execution of the Order.

## **2.19 CONTRACT MANAGER**

Technician expert appointed to represent the Customer to the Contractor in connection with the execution of the Order.

## **2.20 SUB-CONTRACTOR OR SUB-SUPPLIER**

Subject (natural person or legal entity) to which the Contractor entrusts part of the work under the Order, subject to verification of its technical and professional suitability and the Customer's written authorisation.

## **2.21 SUB-ORDER**

Contract concluded between the Contractor and the Sub-Contractor (Sub-contract) or Sub-Supplier (Sub-supply) as a part of the Supply object of the Customer's Order.

## **2.22 REFERENCE LEGISLATION**

Legislative Decree No. 81/08, as amended by Legislative Decree No. 106/09 and following.

## **2.23 PRODUCTION UNIT**

Industrial site where compliance with procedures and regulations issued by the Customer is mandatory.

## **2.24 TECHNICAL SPECIFICATION**

Contractual document with which the Customer describes the scope of the services covered by the Contract and mainly identifies the activities, supplies and execution times, unless otherwise stated.

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**ARTICLE 3****3.0 COMMUNICATIONS AND RELATIONS BETWEEN THE PARTIES****3.1 CONTRACTOR'S OBLIGATIONS**

A) The Contractor is obliged to sign the Order received, before the start of activities, by affixing its Stamp and the Signature of the duly authorised legal representative and returning it to the Customer.

B) The Contractor must inform the Customer in writing of the names of the Site Manager and Supervisors when the Order is finally awarded.

The Contractor is obliged to transmit to the Customer in writing, together with the aforementioned communication, the declarations of acceptance signed by the individual persons in charge.

C) The Order states the name of the Contract Manager of the Customer.

The Contract Manager shall be the Contractor's ordinary contact person.

D) All correspondence relating to the Order must include the following indications and references:

- ❖ full Order number and date of issue as indicated on the first page of the Order;
- ❖ Project Code (if applicable);
- ❖ object of the Order;
- ❖ further indications that may be requested in the Order.

D) All correspondence relating to the Order must be addressed to the Customer as follows:

- ❖ all correspondence of an administrative nature (invoices, statements of account, guarantees, etc.) must be sent, in original and duplicate, to the Suppliers Accounting Department;
- ❖ all correspondence of a technical nature or related to the execution of the Order shall be sent to the Contract Manager;
- ❖ all general and commercial correspondence, including the acceptance letter, shall be sent to the Purchase Department, for the attention of the entity that issued the Order.

The Customer shall not be liable for the consequences of any correspondence being forwarded in contrast to what is specified.

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**ARTICLE 4****4.0 APPLICABLE LANGUAGE**

Unless otherwise specified in the Order, all documentation produced by the Contractor for the execution of the Order must be drawn up in the Italian language, including use and maintenance manuals, conformity certifications, safety data sheets for hazardous substances and preparations.

**ARTICLE 5****5.0 GENERAL RULES****5.1 FIGURE OF THE CONTRACTOR**

The activities covered by the Order will be carried out by the Contractor with its own organisation of means and management at its own risk, without any bond of dependence and/or subordination to the Customer.

**5.2. DECLARATIONS, WARRANTIES AND OBLIGATIONS OF THE CONTRACTOR**

The Contractor hereby declares and guarantees, also with reference to any sub-contractors, where necessary also pursuant to and for the purposes of Article 1381 of the Civil Code, the following:

- A) that it is a duly constituted company, in force and operating in accordance with Italian law and that it may freely enter into the Contract and dispose of its assets;
- B) that he is not being wound up, is not insolvent, has not been declared bankrupt, is not the subject of winding-up proceedings, or is not the subject of, or has not been admitted to, any such proceedings;
- C) that it has carried out and will carry out its activities in compliance with the applicable regulations, which the Contractor undertakes to continue to comply with, for the entire duration of the Contract; that it is in possession of all permits, licences, concessions, authorisations and whatever else is required, for the exercise of its activities; said permits, licences, concessions, authorisations and whatever else is required have been validly and regularly acquired and are still in force, and will remain in force, for the entire duration of the Contract;
- D) that the activities carried out and tools used for the execution of the Order (including *know-how*) do not violate the intellectual property rights of third parties; the Contractor is not in breach of contractual obligations towards third parties that may interfere, in any way, with the execution of the Order; there are no events or circumstances that may interfere, in any way, with the execution of the Order;

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- E) to have adequately examined the Worksite and/or Temporary or Mobile Worksite and the plant components present or under construction in the Production Unit, which may interact with the performance of the Order; to deem that the Production Unit, Worksite and/or Temporary or Mobile Worksite and the relevant plant components are suitable for the performance of the Order and the achievement of the guaranteed parameters;
- F) that it possesses the required technical-professional suitability pursuant to and for the purposes of Legislative Decree 81/2008 in force for the execution of the Project and will promptly release to the Customer all relevant documentation;
- G) all work relations to which the Contractor is a party, including those of labour leasing, must comply with current legislation and applicable collective labour agreements, both at national and local level, and such compliance will persist throughout the term of the Contract; The Contractor further declares and warrants that all workers employed in the execution of the Order are and will be, for the entire duration of the Contract, its permanent employees, i.e. regularly employed under one of the types of employment provided for by the laws in force and that there are no persons involved in the execution of the Order who work outside the types of employment provided for by the law and/or in any case in an irregular manner, both in terms of recruitment/employment and in terms of working terms and conditions;
- H) all persons employed by the Contractor in the execution of the Order shall enjoy and will enjoy, for the entire term of the Contract, the economic and regulatory treatment contemplated by the laws in force and by the applicable national collective labour contract or individual labour contract;
- I) has carried out and will carry out promptly and regularly all fulfilments, reports and communications to the relevant social-security, welfare and insurance bodies pursuant to the law, and will also carry out promptly and regularly all payments due, in connection with labour relations, pursuant to the applicable laws and regulations. The Customer reserves the right to check and request from the Contractor, at any time during the execution of the Order, copies of the documents certifying the Contractor's compliance with this article;
- J) the work equipment and any protective devices provided to the subjects engaged in the performance of the Order will be (i) compliant with legal requirements, (ii) suitable to guarantee the safety of workers, and (iii) adequate for the performance of the activities assigned to the various subjects under the Order;
- K) that it has read and agrees, without exception, with the documentation drawn up pursuant to Legislative Decree 81/2008 and that all the activities to be performed for the execution of the Order will be performed in full compliance with the relevant provisions;
- L) shall deliver to the Customer and the Project Supervisor (i) a declaration on its average annual workforce, broken down by qualification, and accompanied by the details of the reports/notifications relating to workers made to INPS, INAIL, building social security funds and other competent bodies, in compliance with the applicable regulations, and (ii) a declaration on the national collective agreement applied to its workers.
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The Contractor agrees as of now to indemnify and hold harmless the Customer for any burden, liability, damage or expense that the Customer may incur (i) for the inaccuracy of any statement and guarantee or for non-fulfilment of the provisions of this art. 5.2, and (ii) for any labour disputes brought by the Contractor (or any Sub-Contractors or Sub-Suppliers) or by competent authorities/entities.

### 5.3 CONDITION OF EXECUTION OF WORKS

- A) The Contractor declares that it has taken into account, for all purposes, the purpose and scope of the supply object of the Order and all circumstances, data and elements that, in any case, could have an influence on its execution and cost, including safety costs under the TUS; therefore, in formulating its offer, the Contractor has taken into account all the above, and therefore waives any reservations or claims in this regard in the future.
- B) The Contractor declares that it has exact knowledge of the places where the works are to be carried out; it also declares that it is aware of the need not to hinder the normal operation of the Production Unit and of the possible simultaneous execution of other works by other companies; it also declares that it is aware of the specific risks existing in the environment in which it is to operate and of the prevention and emergency management measures adopted by the Customer.
- C) The Contractor also declares that it is aware of the provisions of the cooperation and coordination documents prepared by the Customer for the regulation, for the purposes of workers' safety, of interference deriving from the simultaneous activity of different subjects operating in the same work area. The above also in relation to the provisions of Art. 6 of this Document.

### 5.4 CONTRACTUAL DOCUMENTS

- A) The Order fully defines, also by means of the Contractual Documents annexed thereto, the contractual object, specifying its nature, limits and characteristics, as well as the set of conditions agreed upon between the Parties.

Therefore, the conditions of the Order cancel and replace any and all conditions stated in the Contractor's offer and/or in the conditions that may be attached thereto, even if this is not expressly stated, as well as any and all agreements that may previously have been made between the Parties, concerning the subject matter of the Order.

- B) The Contractual Documents are explicitly mentioned in the text of the Order as Annexes thereto, forming an integral part thereof. In the event of conflict between them, it is understood that, except for the prevalence of the contractual text signed between the Parties, the latter shall prevail over all the Contractual Documents, according to the sequence in which they are cited.

- C) The information necessary for the execution of the Order is contained in the text of the Order and in the Contractual Documents; if such information is not all contained in the above documents, the Order will contain a list of those that are still necessary and will specify the terms within which the Customer must provide it to the Contractor.

In any case, the Contractor may not complain, for the purpose of any requests for recognition of higher charges or for extensions to the contractual terms, about the lack of information concerning those general indications for which it could have requested, upon acceptance of the Order, any necessary clarifications.

- D) The description of the work in the Technical Specifications must be interpreted and applied extensively by the Contractor; the Contractor is bound, subject to the limits indicated in the Order, also in the event of any shortcomings in the contractual documentation, to perform the work in a workmanlike manner, making sure that what has been realised/supplied is absolutely compliant with the contractual characteristics of functionality and suitable for the purpose for which it is intended, according to the best reference standards.
- E) The Contractor agrees to deliver, in a timely manner, to the Customer any documentation reasonably requested by the Customer in connection with the Order and related activities, including the documentation required for access to the Production Unit and the documentation certifying its reliability and honourableness; the Contractor also agrees to operate in compliance with the Customer's regulations in force in the Production Unit from time to time.
- F) The Contractor shall take over the contents of the Contractual Documents and shall be fully responsible for them, except for what is explicitly indicated as "binding data".

The Contractor must inform the Customer, in good time, of any changes that it intends to make to the reference solutions contained in the Contractual Documents for the correct execution of the Order, without prejudice to the Customer's right to oppose such changes.

## **5.5 COMMERCIAL CORRECTNESS AND CODE OF ETHICS/ ORGANISATIONAL MODEL PURSUANT TO LEGISLATIVE DECREE NO. 231/01**

- 5.5.1 The Contractor (as well as any Sub-Contractor or Sub-Supplier with respect to which the Contractor undertakes also pursuant to art. 1381 of the civil code) must carry out its activity in compliance with the principles of business ethics, in compliance with the provisions of the Code of Ethics that the Customer has adopted; in particular, the Contractor declares:

- A) to be aware of the regulations in force concerning the administrative liability of companies and, in particular, the provisions of Legislative Decree no. 231/2001;

- B) to have received adequate information about the documents drawn up for this purpose by the Customer;
- C) that its organisation is made up of personnel suitable for the activity to be carried out, with reference also to the requirements of honourableness and moral suitability, with specific but not exclusive reference to the absence of convictions, even of the first degree, and even if with a suspended sentence or issued pursuant to Articles 444 and following of the Code of Criminal Procedure and following for having committed one or more of the offences contemplated by Legislative Decree no. 231/2001 and following.

5.5.2 In the event of non-fulfilment, even partial, of the obligations under this Clause 5.5, the Customer:

- A) shall have the right to suspend, at any time and without any prior notice, the performance of the Contract by indicating, by registered letter or by e-mail, the factual circumstances or legal proceedings from which the non-performance in question may reasonably be inferred, with the right to obtain from the Contractor justifications and the immediate removal of such impediments or, alternatively or in the event of non-fulfilment of the above obligation.
- B) shall have the right to terminate the Contract by right, pursuant to Article 1456 of the Civil Code, at any time and also during its performance, without prior notice and without any further obligation or liability, by registered letter or communication via PEC, containing a concise indication of the factual circumstances or legal proceedings proving the non-performance in question.

It is understood that any attempt on the part of the Contractor to engage in conduct punishable under Legislative Decree no. 231/2001 or the Customer's Code of Ethics will result in the application of this Art. 5.5.2.

5.5.3 In the event of non-fulfilment of the obligations under this Clause 5.5, the Customer shall nevertheless have the right to be indemnified for the damage suffered or to be suffered as a result of such non-fulfilment.

5.5.4 The Contractor must immediately inform the Customer if it receives, directly or indirectly, from a representative, employee, collaborator or consultant of the Customer, a request for behaviour that could lead to a violation of the Customer's Code of Ethics and/or Organisational Model or, more generally, behaviour that could lead to the commission of offences contemplated by Legislative Decree no. 231/2001.



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**ARTICLE 6****6.0 GENERAL RESPONSIBILITIES OF THE CONTRACTOR****6.1 CONTRACTOR PERSONNEL**

The personnel that the Contractor assigns to the work must be permanently, in number and professionalism, adequate to the importance of the work to be carried out and to the contractual terms under Art. 12.

The Customer may require specific evidence from the Contractor that its personnel possess the qualifications required for the performance of the contracted activity.

Every worker working within the Production Unit must also have the necessary information on the risks and the resulting prevention and protection measures:

1. to the specificities of their work activities;
2. to the specificity of the environment in which it is called upon to operate;
3. to the Code of Ethics;
4. to the Operational Safety Plan and the occupational health and safety measures provided for in Legislative Decree 81/2008.

Access of the Contractor's personnel to the Production Unit is regulated by the procedures in force at the Production Unit.

**6.2 CONTRACTOR'S MACHINES, EQUIPMENT AND MEANS OF WORK**

The machinery, equipment, working and lifting means and anything else used by the Contractor for the execution of the works must comply with the safety requirements of the laws in force, be suitable for the purpose and used in accordance with the manufacturer's instructions. Unintended uses are forbidden. The entry of non-compliant or modified equipment into the Production Unit is forbidden.

**6.3 CUSTOMER'S MEANS, MACHINERIES AND EQUIPMENT**

The use of machineries, plants, means and anything else belonging to the Customer must be authorised in advance by the Customer's Department Manager. The use, if granted, must be limited to operations pertaining to the authorised work and must comply with the characteristics of the means, avoiding any conduct that exceeds its intended use. If the Customer grants it, the Contractor guarantees that use will be reserved to suitably informed, trained and instructed personnel for the purpose, and that it will carry out a prior check of the safety levels that characterise the asset granted for use. Any defects that emerge subsequently shall be the sole responsibility of the user, who shall be responsible for their elimination.

## 6.4 WORK-SITE DISCIPLINE

- 6.4.1 The Contractor shall be responsible for maintaining discipline and order at the Building Site.

The Customer may demand, also verbally, at any time, for a justified reason, the immediate removal of the Contractor's or any Sub-Contractor's and Sub-Supplier's employees or collaborators, without this constituting interference in the working relations between the Contractor, the Sub-Contractors and Sub-Suppliers and their respective employees.

The Contractor undertakes to observe and have its employees, Supervisors and Sub-Contractors scrupulously observe all the Customer's company regulations, including those relating to access to and stay in the Production Unit, thereby expressly relieving the Customer from the duty to give any information and communication to anyone other than the Contractor.

The Contractor shall be liable for all damaging consequences that occur as a result of any breach by it and/or its employees and/or Sub-Contractors and Sub-Suppliers of the aforementioned obligations. The Contractor shall also be liable for shortages attributable to its employees, collaborators and/or Supervisors or to those of Sub-Contractors and Sub-Suppliers.

- 6.4.2 The Worksite Area may be allocated to facilities, machinery, equipment and anything else necessary for the performance of the contracted activity.
- 6.4.3 The Contractor is responsible for the safe custody and preservation of the works according to art. 13.12; it is also responsible for the safe custody and preservation of all machinery, materials and work equipment, also of those that may be delivered by the Customer, relieving the Customer from any and all responsibility in this respect.
- 6.4.4 The management and disposal of wastes from the Contractor's activities and those of its Sub-Contractors and Sub-Suppliers, if any, must be carried out in compliance with current regulations. As regards the management of waste for which the Customer is the producer, the Contractor will take care to ask the plant ecology service, with suitable advance notice, for the relevant procedures.  
The Contractor shall be obliged to keep the areas of operation clean at all times, with the areas being cleaned at least daily.

## 6.5 COMPLIANCE WITH LAWS, REGULATIONS AND RULES

- 6.5.1 The Contractor assumes all responsibility for the precise observance of all laws, regulations and prescriptions that are in any way related to the subject-matter of the Order, and it expressly undertakes to comply with all new rules and legal provisions that may be issued during the execution of the Order.

In particular, the Contractor shall observe and cause its employees, collaborators and/or Supervisors or those of Sub-Contractors and Sub-Suppliers to observe all applicable regulations on accident prevention, work hygiene, ecology and environment.

- 6.5.2 The Contractor must comply with the technical standards specified in the Contract Documents and valid, unless otherwise specified, at the date of award of the Order.

In addition, the Contractor undertakes to adapt the works carried out, if requested by the Customer and without prejudice to its right to the payment of justified additional costs, according to the development of technical regulations after the date of the Order.

- 6.5.3 It is the Contractor's responsibility to obtain all necessary permits and authorisations for the execution of the Order, with the exception of those that by law or expressly stated in the Order are at the Customer's charge, for which the Contractor must provide any necessary assistance.

It is also the Contractor's responsibility to obtain all permits and authorisations, if any, from the competent Italian and foreign Authorities in order to be able to import the goods necessary for the fulfilment of the Order.

- 6.5.4 The Contractor also undertakes to comply with all requests, including those coming from competent Authorities and Bodies, with the exception of those that by law or expressly stated in the Order are at the Customer's charge, for which the Contractor must provide any necessary assistance.

## 6.6 MACHINE AND PLANT CONSTRUCTION

- 6.6.1 All machines, equipment and systems falling under the cases provided for by Art. 1 of Legislative Decree 17/2010 (which abrogated Presidential Decree no. 459/96, being the transposition of the new Machinery Directive 2006/42/EC into our legal system) manufactured for the Customer shall be constructed in full compliance with the safety requirements of the aforementioned Legislative Decree and the technical standards in force.

The Contractor also ensures that these machines, equipment and installations will be accompanied by the documentation required by the regulations in force, i.e. conformity certification, user and maintenance manual as well as CE marking.

If registration, testing, first inspections or similar checks are necessary, the Contractor shall coordinate with the Customer's Prevention and Protection Service in order to prepare the relevant authorisation files, which it shall then forward to the competent Authorities.

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- 6.6.2 All measuring instruments and control equipment used by the Contractor and Sub-Contractors, if any, must be subject to periodic calibration checks in accordance with the technical and legislative standards in force.
- 6.6.3 The occurrence of any incident, of whatever nature, if attributable to non-compliance with the technical and legal regulations in force, will be attributable to the Contractor.

## **6.7 SAFETY, OCCUPATIONAL HYGIENE AND ENVIRONMENTAL PROTECTION STANDARDS**

- 6.7.1 With respect to the risks arising both from the nature of the work under the Order and existing in the work environment and in the areas where it must operate, the Contractor must comply with all current technical and legal regulations on accident prevention and work hygiene.
- 6.7.2 The Contractor shall observe all rules and regulations in force in the Production Unit issued at any time by the Customer.
- 6.7.3 The Contractor is responsible for the observance of the aforementioned rules and regulations by its own employees as well as by Sub-Contractors and undertakes to take the necessary measures against one and/or the other in the event of non-compliance.
- The Contractor shall be directly and exclusively liable for any infringement or breach and shall indemnify the Customer against any damaging consequences it may suffer.
- 6.7.4 In the event of non-compliance with the health and hygiene regulations in force in the workplace, including the internal rules and regulations of the Production Unit, the Customer can take specific measures commensurate with the gravity of the violation (immediate suspension of work, removal of the Contractor's personnel, up to termination of the Order pursuant to art. 1456 of the Italian civil code, if the non-observance constitutes, in the Customer's reasonable opinion, a major breach of the rules and regulations in question, or causes the Customer's confidence in the safe execution of the activities at the Worksite to be undermined).
- 6.7.5 The Customer can have work suspended immediately if a technical accident or injury occurs to either the Contractor's or the Customer's employees or third parties, however attributable to the Contractor's work.
- 6.7.6 Suspension of work and termination of the Order for the above reasons will not entitle the Contractor to claim any indemnity or compensation, subject however to the Customer's right to claim any consequential damage.

## 6.8 WORKER PROTECTION

6.8.1 The Contractor must fully apply and observe, with respect to its own employees and, if a cooperative, also with respect to its members, the collective labour agreements for the relevant category, including any supplementary company agreements in force (even after their expiry, until their replacement), as well as all legal provisions and regulations on social security, welfare, remuneration and labour law in general applicable to its personnel (including the rules on compulsory hiring) and to produce evidence thereof to the Customer, upon its request, without prejudice to its full and exclusive liability deriving from any breach of the aforesaid provisions.

The aforementioned obligations are binding on the Contractor, even if it is not a member of the stipulating trade associations or has withdrawn from them and regardless of its industrial or craft nature, the structure and size of the undertaking itself and any other legal, economic or trade union qualification.

6.8.2 The Contractor is responsible towards the Customer for the strict observance of the above obligations by any Sub-Contractors and Sub-Suppliers with respect to their respective employees and therefore indemnifies the Customer from any and all claims they may assert directly.

6.8.3 In order to ascertain the exact and timely fulfilment by the Contractor and/or its Sub-Contractors or Sub-Suppliers of their obligations under this art. 6, the Customer is entitled to carry out directly, or have persons and/or companies and/or entities of its choice carry out, at any time, checks and inspections at the Worksite as well as on the Unified Work Book (LUL) and in general on all documents of the Contractor and/or its Sub-Contractors or Sub-Suppliers whose keeping is compulsory for the purpose of complying with the above obligations.

6.8.4 If the above obligations are not fulfilled exactly and punctually, the Customer, having notified the Contractor of the non-fulfilment, reserves the right to deduct up to a maximum of 30% (thirty percent) from advance payments if work is in progress or to suspend payment of the balance if work has been completed.

If, on the other hand, non-fulfilment and/or incorrect fulfilment of these obligations results, by express provision of the law, in joint and several liability between the Contractor and/or its Sub-Contractors or Sub-Suppliers and the Customer, the Customer, without prejudice to any other right it may have, will have the right to deduct from the amount due to the Contractor deductions equal to the amount not paid by the Contractor and/or its Sub-Contractors or Sub-Suppliers for wages, allowances, social security and welfare contributions and anything else provided for by the contracts and applicable laws and regulations, including the amounts of any fines and interest.

These amounts will be set aside by the Customer, without interest in favour of the Contractor, to guarantee the exact and punctual fulfilment of the above obligations and will be retained until the Contractor has provided proof of exact fulfilment or until the statute of limitations and/or forfeiture periods provided for by law have elapsed.

If the fulfilment of the above obligations is demanded from the Customer, the Customer, without prejudice to any other rights and/or claims against the Contractor, will fulfil them by means of the amounts withheld, with the Contractor renouncing, as of now, any claim or right in connection with said withdrawal.

- 6.8.5 In the event of any breach of the Contractor's obligations under art. 6.8.1 and 6.8.2, the Customer, subject to its right to make the above deductions and any other reason against the Contractor, has also the right to terminate the Order pursuant to art. 1456 of the Italian civil code.

## **ARTICLE 7**

### **7.0 INSURANCE**

- 7.1 Without prejudice to the obligations and responsibilities under art. 6.5, the Contractor and its Sub-Contractors, if any, must take out and maintain, at their own care and expense, for the entire duration of the work to be performed at the Worksite, the following insurance policies, with the minimum limits indicated below, with leading insurance companies and, in any case, with a Standard & Poor's rating of not less than BBB:

- a) third party liability (third party insurance) for damage to persons and/or property, including the Customer: this insurance must also cover all the Contractor's and Sub-Contractors' vehicles if not covered by third party liability insurance), with limits of not less than € 2,500,000 (two million five hundred thousand) for each claim, with a limit of € 2,500,000 (two million five hundred thousand) per person and € 2,500,000 (two million five hundred thousand) for damage to property;
- b) civil liability to employee (RCO), with limits of not less than Euro 2,500,000 (two million five hundred thousand) per claim, with a limit of Euro 2,000,000 (two million) per person.

- 7.2 The terms and conditions of the insurance policy shall provide for the following warranty extensions:

- a) work at third parties;
- b) damage to pipelines and underground installations;
- c) damage to property within the scope of works execution;
- d) fire damage for activities at third parties;
- e) occupational diseases;
- f) business interruption damages;

- g) waiver of the right of recourse against the Customer and its subsidiaries/associates (including parent companies and subsidiaries of parent companies);
- h) accidental pollution and dangerous goods transport cover with a ceiling of no less than Euro 2,000,000 (two million) per claim;
- i) Liability for damage to vehicles under loading and unloading.

7.3 The Contractor must deliver to the Customer a copy of the policies provided for in this art. 7 before entering the Worksite; the absence of such policies may imply the immediate termination of the Order due to the Contractor's fault, pursuant to art. 1456 of the Italian civil code.

## **ARTICLE 8**

### **8.0 LIABILITY FOR DAMAGE AND LOSS**

Damage caused by any event that is not directly attributable to the Customer shall be borne exclusively by the Contractor, until final acceptance of the Supply or total clearance of the worksite by the Contractor, if this occurs after final acceptance.

The Contractor agrees to indemnify the Customer and/or Third Parties and their workforce for any damage and liabilities of any kind caused, directly or indirectly, by an event attributable to acts or omissions of the Contractor, its supervisors, employees, appointees, collaborators, Sub-Contractors and/or Sub-Suppliers, relieving the Customer from any liability and authorising the Customer, as a precautionary measure, to suspend an adequate amount of the payments due on account of work.

Any clauses or agreements in insurance or other contracts shall not limit the Contractor's liability.

All losses and/or damages that will not be effectively indemnified by insurance shall be borne exclusively by the Contractor.

## **ARTICLE 9**

### **9 CHARGERS**

#### **9.1 CONTRACTOR'S CHARGERS**

In addition to what is indicated elsewhere in the Order and in this General Procurement Document, the Contractor shall bear the following charges, which are purely indicative and not limitative:

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- a) the employment of technical and administrative personnel for the execution, direction and supervision of the works covered by the Order;
  - b) deployment of personnel, tools and instruments for all operations related to the execution of trace measurements, testing and function tests;
  - c) deployment of personnel on several shifts, also on non-working days, and adaptation of personnel and equipment to the actual contingent needs, especially in the event of delays in the agreed schedules caused by reasons attributable to the Contractor;
  - d) all social security and social insurance contributions pertaining to all personnel;
  - e) all charges arising from compliance with the laws and regulations on accident prevention and health and hygiene in the workplace, as in force from time to time;
  - f) all personal equipment (including PPE) and site equipment, to an extent appropriate to the work to be carried out;
  - g) expenses for travel, local transport, travel, board and lodging for its workforce;
  - h) all means of transport and lifting and all equipment (scaffolding of any height, scaffolding, protections and anything else necessary for the correct execution of the Order);
  - i) maintenance, internal transport (including loading and unloading) and safekeeping of all work vehicles and equipment;
  - j) arrangement and maintenance of the area made available to the Contractor, both for services and for the Site (cleaning, levelling, draining, compacting and whatever else is necessary for this purpose);
  - k) erection and dismantling of workshops, offices, warehouses and anything else needed at the Worksite (including changing rooms, showers and toilets); clearing and cleaning of the Worksite and the service area, including restoration of the ground, within the terms to be established by the Customer;
  - l) all practices and charges relating to the issuance of licenses, permits, test certificates and whatever else is required by the competent authorities for the execution of the Order (including the setting up of the Worksite), except for what is at the Customer's charge pursuant to the law;
  - m) the provision and careful maintenance of daytime and night-time, ground and air navigation warning and signalling equipment in compliance with legal requirements and specific requirements issued by the competent authorities, as well as anything else needed to ensure safety;
  - n) realisation, operation and maintenance of power supply lines and all fluids, from the intake points made available by the Customer, to the points of use, which must comply with legal regulations;



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- o) removal from storage and unloading of incoming vehicles, transport to site, unloading and storage of all materials to be laid;
  - p) opening packages and packaging, taking care to classify and store the materials used for the installations at the Customer's disposal;
  - q) any telephone connection for the site service to the national network (including, the relevant economic installation charge, the fee and all other user charges);
  - r) custody of materials and whatever else is necessary to keep the plant under the Order in perfect working order until the Customer takes delivery of it;
  - s) supply of all consumables such as electrodes, oxygen, acetylene and fuels;
  - t) return of surplus materials to the Customer's warehouses, collection and transport of waste materials;
  - u) all temporary protections to any existing machinery and equipment in order to keep them in service or not to damage them during the execution of the works;
  - v) installation and dismantling of any temporary lighting and/or fluid distribution systems (including the supply of the necessary materials);
  - w) masonry works, consisting of complementary or finishing activities to the works covered by the Order and comprising:
    - (i) Checking the positions of the drawers or anchor bolts to ensure that they correspond planimetrically and altimetrically with the plans and with the requirements of the machinery or carpentry, as well as the holes, niches, compulsory passages and anything else provided for in the plans;
    - (ii) reporting to the Customer Works Manager of any variations found;
    - (iii) formation of auxiliary holes for the laying of all the necessary and required stirrups for the support and anchorage of pipes, *conduits*, walkways, brackets, wall-mounted equipment and other; subsequent grouting with the most suitable means and accurate patching of the walls or floors or any other structure affected by the stirrups, including the supply of any edge protectors, plates and anything else necessary;
    - (iv) the formation of force-filled openings in structures, minor alterations to foundations, such as lowering of individual storey levels, chamfering of edges, temporary support castles, wall and floor traces, the formation of any small false floors for the drainage of liquids, including the cost of patching, patching and squaring, the provision of any edge protectors and plates;

- (v) restoration of finishes such as tiled floors, ceramic wall tiles, painting or re-painting, restoration of plaster and masonry damaged during installation and by the operations described in (iii) and (iv) above; and
- (vi) supply of all building materials required for the execution of all works described in the preceding points as well as the supply of common and specialised labour related thereto. With regard to materials, specific reference is made to sand, gravel, cement, special cements, gypsum, expansive additives, solid bricks, hollow bricks, cement blocks, door and work lumber, tubular structures for scaffolding, specific equipment such as: welding machines, oxyacetylene equipment, demolition hammers and light manual equipment;
- x) drainage and water flooding in closed rooms, tunnels and shafts, if flooded due to causes attributable to the Contractor, in particular rainwater fed to the premises through the shafts located outdoors and not covered at the end of the working day;
- y) repair of minor damage occurring during transport and unloading and, of course, repair of damage of any kind caused by the Contractor's means and/or personnel;
- z) Updating of drawings and diagrams, possibly on the basis of a check provided by the Customer, after completion of the works according to what has actually been realised ("*as built*" drawings);
- aa) any other charges necessary to deliver the work finished in a workmanlike manner and the installations fully functional, and executed in accordance with the contractual documentation and in compliance with the applicable regulations.

## 9.2 CHARGES ON THE CUSTOMER

Unless otherwise provided for in the other Contractual Documents, the Customer shall make available, at the Contractor's request:

- a) the service area in the areas determined by the Customer only for contracts longer than 1 (one) year and, if available, for the period covered by the works;
- b) industrial water, compressed air, etc., all if available; the cost of connection and the supply, installation, operation and maintenance of shut-off devices shall be borne by the Contractor;
- c) power supply points consisting of sockets CEI 63 A (3 F+T) to which the Contractor must connect with its own electrical distribution board for use at the Worksite, equipped with a 30 mA differential, conforming to European Standard EN 60439 - 4 (CEI 17-13/4). It is forbidden to supply any electrical power to any equipment or plant directly from the Production Unit sockets. In environments with greater risk (restricted conductive locations such as inside metal collectors or highly humid environments), additional protection systems must be adopted, as provided for by the standards in force; and

- d) the competences of its own testers and, if necessary, of external testers commissioned by the Customer.

## **ARTICLE 10**

### **10 SUB-ORDERS**

#### **10.1 SUBCONTRACTING**

10.1.1 It is forbidden to subcontract work to be performed, even only partially, at the Production Unit, unless otherwise indicated in the Order (listing, in this case, the types of work for which Subcontracting is allowed) and explicitly authorised in advance in writing by the Customer. In cases where Subcontracting is authorised, the following clauses shall apply.

10.1.2 Each Sub-Contractor must be approved in advance by the Customer, which reserves the right, at its undisputable judgement and without being a reason for the award of extra charges and/or extensions to contractual deadlines, to reject said approval. If a Sub-Contractor has been approved, the Contractor warrants that the Sub-Contractor has the technical-professional suitability and related requirements.

The Customer's Purchase Department will communicate its answer, in writing, within 15 (fifteen) days from receipt of the Contractor's subcontracting request; any failure to answer will be tantamount to refusal of the authorisation.

10.1.3 In the presence of authorised subcontracts, the Contractor will provide for the punctual co-ordination of the companies involved, always ensuring their regular fulfilment of the obligations under the Contract, including, without limitation, those deriving from health and safety regulations in the workplace, preliminarily verifying also the regularity of relations with social security bodies, personnel documentation, knowledge of the Customer's rules of conduct, Code of Ethics and anything else indicated or referred to in this General Procurement Document, remaining directly and jointly liable towards the Customer for the act and/or any non-fulfilment of Sub-Contractors; under no circumstances will an exception or limitation to the joint and several liability between Contractor and Sub-Contractor be allowed.

10.1.4 A breach of this Art. 10.1 will entitle the Customer to terminate the Order pursuant to art. 1456 of the Italian civil code.

#### **10.2 SUB-SUPPLIES**

10.2.1 Except as otherwise indicated in the Order, the Contractor has the right to issue orders to third-party Sub-Suppliers, both for the purchase of materials and products and for the execution of work outside the Worksite, subject to the following conditions.

- 10.2.2 If the provisional list of Sub-Orders complete with the relevant "short-list" of potential approved Sub-Suppliers is not already specified in the Order or in the Contractual Documents, the relevant data and information must be communicated to the Customer with due notice prior to the issue of the first Sub-Order and in any case within 30 (thirty) days from the date of the Customer's Order. It is agreed that the Contractor can issue Sub-orders only within the limits expressly indicated to the Customer pursuant to this art. 10.2.2.
- 10.2.3 The Contractor's communications under item 10.2.2 above will be in writing (letter/fax/e-mail) and sent to the Purchase Department and, for information, to the Contract Manager. The Purchase Department, subject to the Customer's right under art. 10.3 below, will inform the Contractor, in writing, within 15 (fifteen) days after receipt of the required data and information, of its observations and any requests, binding on the Contractor, for changes and/or additions to the list of Sub-Suppliers, as well as the list of "relevant" Sub-Orders, for which the procedure under item 10.3 below will be applied.
- 10.2.4 Any updates of the sub-supplier lists (including changes in the sub-supplier "lists" provided for in the Order) must be submitted to the Customer in the same manner as above.

### **10.3 CONDITIONS COMMON TO ALL SUB-ORDERS**

- 10.3.1 The Contractor agrees to deliver to the Customer (for the attention of the Purchase dept), within 10 (ten) days from the Customer's request, a complete copy of the Sub-Orders issued, possibly without the economic part.
- 10.3.2 This art. 10 is in no way meant to be a derogation from any quality guarantee procedure under the Contractual Documents or to affect the Contractor's obligations and responsibilities under the Order.
- 10.3.3 When the Customer undertakes to develop the participation of local businesses in steel production activities, the Contractor is obliged, when issuing Sub-Orders, to resort, if possible, to the market of local Sub-Suppliers or Sub-Contractors (i.e. from the province and/or region where the Customer's Works to which the Order refers is located), subject to the verification of the competitiveness of the technical-economic conditions.
- 10.3.4 The Contractor undertakes to impose on its Sub-Contractors and Sub-Suppliers the same general and special terms and conditions that govern the relations between it and the Customer and to exercise appropriate supervision over Sub-Contractors and Sub-Suppliers.

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**ARTICLE 11****11.0 RELATIONS WITH OTHER CONTRACTORS**

- 11.1 The Contractor and its Sub-Contractors present at the Worksite, against the Customer's Order or Sub-Contract authorisation respectively, are explicitly forbidden to carry out activities at the same Worksite for any reason on behalf of another Customer, unless specifically authorised in writing by the Customer or other companies of the Indian Jsw Group.
- 11.2 Any non-compliance with this art. 11 on the part of the Contractor will entitle the Customer to terminate the Contract pursuant to art. 1456 of the Italian civil code. The Contractor undertakes to promptly inform the Customer's Purchase Department of any requests received from other Customers for the above activities. The Contractor agrees to ensure, also pursuant to art. 1381 of the Italian civil code, that its Sub-Contractors also comply with the provisions of this art. 11. If the Customer notices non-compliance with this art. 11 by a Sub-Contractor, it reserves the right to remove said Sub-Contractor from the Worksite and to ask the Contractor to terminate the relevant contract, with all charges and consequences at the Contractor's expense.

**ARTICLE 12****12.0 CONTRACTUAL TERMS - EXTENSIONS**

- 12.1 The Order and the Technical Specifications specify the completion date of the work and any intermediate work progress deadlines that are relevant to the correct execution of the Order and the Technical Specifications. The Contractor undertakes to fully comply with each of said deadlines and in particular to make a continuous progress of the work such that it is always congruous with respect to the above deadlines. Subject to specific exceptions as provided for in the Order or subsequent and different agreements and in the Technical Specifications, all the above deadlines are to be considered peremptory and essential.
- 12.2 The Contractor's non-compliance with the terms under art. 12.1 entitles the Customer in accordance with art. 28 below, to terminate the Order pursuant to art. 1456 of the Italian civil code.
- 12.3 If events have caused delays in the execution of the Order, extensions of contractual deadlines will be agreed upon between the Customer and the Contractor, provided however that the Contractor can prove that such events have been caused only by the Customer's faults and/or by force majeure (pursuant to art. 24), that no fault of the Contractor, its employees, agents, Sub-Contractors or Sub-Suppliers has contributed to such events, and that no event attributable, even indirectly, to the Contractor, its employees, agents, Sub-Contractors or Sub-Suppliers has contributed to the delay. 24), that such events are not due to any fault of the Contractor, its employees, agents, Sub-Contractors or Sub-Suppliers, or to any event that can be ascribed, even indirectly, to the Contractor's technical, economic and organisational sphere, and that the Contractor has done everything reasonably possible to avoid the delay, provided that it has

informed the Customer in writing in due time, pursuant to art. 12.6. The extent of extensions will be determined on the basis of the real influence of the events that caused the delay on the execution schedule, provided that the Contractor proves that it has done everything possible to limit the consequences and in consideration of the Customer's requirements.

12.4 If the Contractor foresees that delays with respect to contractual deadlines may accrue during the execution of the Order due to any reason depending on or independent from the Contractor's will, it must inform the Customer immediately in writing and agree as soon as possible on the measures to be taken in order to limit such delays. If events have accrued or are foreseen that cause delays with respect to the contractual deadlines, the Customer can ask the Contractor, on written request, to take corrective measures to recover, totally or partially, said delays, subject to art. 23 and 28 in the case of the Contractor's fault, and to pay fair compensation in other cases.

12.5 The contractual deadlines can be brought forward at the Customer's request if events occur that impose or allow an acceleration of the execution of the Order.

The Contractor may not accept a request for an advance on contractual deadlines if the events supporting it have been brought to his knowledge too late for him to be able to usefully take them into account.

The Customer may postpone the contractual terms without prior notice and reasons.

In the above cases of anticipation or postponement of the contractual deadlines, the Contractor shall not be entitled to any indemnity or higher remuneration, but only to the recognition of any documented and justified extra costs directly resulting from the above and the amount of which must have been advanced to the Customer at the time of the postponement or advancement.

12.6 The Customer reserves the right not to consider requests for extension of contractual deadlines even if they comply with the provisions of Art. 12.3 above, if:

- a) the event giving rise to the need for an extension has not been communicated in writing with the necessary clarifications to the Customer within 2 (two) days of its occurrence or when the Contractor could have become aware of it with ordinary diligence;
- b) a written report has not been sent to the Customer within 5 (five) days after the occurrence of the event or when the Contractor could have become aware of it with ordinary diligence, with details of the exact repercussion of the event on the contractual terms;
- c) the event occurred after the expiry of the contractual terms or the terms of any extensions already granted.

- 12.7 The deadlines provided for in this General Procurement Document, in the Order and in the Contractual Documents shall be computed according to the common calendar and, if expressed in days, the latter shall be understood to be solar.

### **ARTICLE 13**

## **13 FULFILMENT OF THE ORDER**

### **13.1 PROGRAMMES**

13.1.1 The Contractor is obliged to prepare, in compliance with the provisions of this General Procurement Document, the Order and the Contractual Documents, scheduling documents for all activities under the Order.

13.1.2 Whenever the Order and the Contractual Documents do not contain specific prescriptions concerning the drafting of scheduling documents, the Contractor must at least prepare a general schedule of the Supply that illustrates the logical and time sequences of the main activities of the Supply (design, procurement, manufacture, testing, shipment, erection, end-of-assembly tests), highlighting in particular:

- a) contractual terms (Art. 12);
- b) binding events for payment purposes (Art. 20);
- c) *input* data requested from the Customer;
- d) phases of the activities, linked to the main Sub-orders;
- e) logical links between the different activities; and
- f) document approval activities by the Customer.

The aforementioned programme must be submitted to the Customer for examination within the agreed deadline and/or stated in the Technical Specifications.

Compliance with the programme will be an important contractual obligation for the Contractor; it being understood, however, that any observations or modifications formulated or requested by the Customer in relation to the programme will have no repercussion on the contractual terms set forth in the Order or in the Contractual Documents, which will in any case prevail over those of the programme.

13.1.3 The general programme under art. 13.1.2 must provide for the delivery to the Customer of detailed development schedules of the individual phases of design, procurement, manufacture, erection and testing carried out by the Contractor and Sub-Contractors or Sub-Suppliers; such delivery must be carried out within the terms and conditions provided for in the Technical Specifications and other contractual documents and in any case within the terms and conditions agreed upon with the Customer. Such detailed programmes must be congruent with the general programme. The detailed programme of on-site activities (erection and tests) must in particular highlight:

- a) the weekly distribution of personnel by qualification and specialisation;
- b) the quantities to be assembled;
- c) the type and number of tests to be performed; and
- d) the equipment and means (means of work) which the Contractor plans to use.

13.1.4 The Customer reserves the right to ask the Contractor, in the event of delays and in any case for critical manufacturing and erection stages, to draw up *short-range* programmes specifying all processing stages (e.g. single control, single machine processing, erection of a particular equipment, etc.), without the drawing up of such programmes justifying a delay with respect to the contractual deadlines and the deadlines envisaged in the construction programmes and without the Customer having to pay any extra remuneration or any reimbursement for the relevant activities.

13.1.5 At the frequency indicated in the Contractual Documents (in the absence of other indications, the frequency will be monthly), the Contractor must send the Customer a progress report and any proposals for changes to the general and detailed schedules while providing the Customer with all necessary information for a complete analysis of the situation.

13.1.6 At any time, the Customer can call meetings with the Contractor and any Sub-Contractors and Sub-Suppliers to jointly examine the progress of the scheduled activities.

## 13.2 START OF WORK ON SITE

13.2.1 The date of beginning of work must be recorded in a special report signed by the Parties; from that date the deadlines for the completion of work run, unless otherwise provided for in the Order or in the Contractual Documents.

If the Contractor does not present itself on the agreed date to receive delivery of the areas and/or works, the Customer will have the right to terminate the Order pursuant to art. 1456 of the civil code, subject to compensation for damages.

13.2.2 The works must be carried out with such means and labour as to ensure that the contractual deadlines and schedules agreed upon with the Customer are complied with.

## 13.3 DOCUMENTATION

13.3.1 The Contractor undertakes to transmit to the Customer, within the time and in the manner established in the Contractual Documents, all the required documentation.



In addition, the Contractor will send to the Customer as soon as possible and in any case no later than 15 (fifteen) days after the date of issue of the Order, a detailed provisional list of the documents necessary for the proper execution of the Order, complete with a schedule of their issue.

On this list, the Customer will indicate its binding requests to send the documents, specifying the purposes of said sending (for approval, for comments, for information). The documents subject to the Customer's approval will be considered final only after such approval has been formally expressed; such final documents will be the only ones that are recognised as valid for the purposes of the Order and may not be modified without the Customer's explicit written authorisation.

The contractual terms under art. 12 above are inclusive of the Customer's approval time for the documents produced by the Contractor (30 - thirty - days, unless otherwise stated in the Order or in the Contractual Documents).

The Customer's approval of the documents produced by the Contractor does not change in any way the Contractor's responsibilities under the Order; in this respect, the Contractor hereby waives to invoke any responsibility or contributory liability on the Customer's part. The above approval will in no case entitle the Contractor to any remuneration whatsoever, without prior written agreement, as provided for in art. 22 hereinbelow.

13.3.2 The drawings prepared by the Contractor must be executed and delivered to the Customer in editable electronic format (AUTOCAD, etc.), on standardised formats, according to the Customer's *standards* and on reproducible paper, in compliance with the provisions of the Contractual Documents.

The Contractor shall use, in all technical documentation, the UNI standard and the units of measurement of the international system, unless otherwise indicated in the Contractual Documents.

13.3.3 The Contractor will be responsible for updating the drawings as a result of any variation to the original project occurring during the execution of the work, including any necessary surveys.

13.3.4 The Contractor must keep at the Customer's disposal all certification documents regarding the performed tests and inspections, irrespective of the Customer's participation in such tests and/or inspections. Provisional Acceptance under art. 14 cannot be declared if the Contractor will not have delivered to the Customer, in 4 (four) copies (unless otherwise provided for in the Contractual Documents), the completed manufacturing and/or erection dossier that must include all project documentation (including "*as built*" drawings), manufacturing certification and anything else that may be required in the Contractual Documents, by the regulations in force, as well as the list of spare parts, complete with the references and information necessary for their identification (construction drawings for "*as built*" parts, name of the manufacturer and relative coding for commercial parts, etc.).

## 13.4 MATERIALS SUPPLIED BY THE CUSTOMER

13.4.1 With the exception of the provisions of the Order or the Contractual Documents, all materials and equipment supplied by the Customer will be delivered to any area of the Worksite, or to the Customer's deposit, by truck or railway wagon or special means, and must be unloaded and/or collected directly by the Contractor, according to the methods that will be established by the Customer.

13.4.2 When taking delivery of the materials and equipment supplied by the Customer, the Contractor must check that they are in perfect condition and report immediately and under penalty of forfeiture to the Customer any defects found, assuming at that time any and all responsibilities including custody and ordinary maintenance and liability for any damage caused and for all defects, excluding design and/or construction defects, that are hidden and discovered during or at the end of work.

The Contractor shall ensure the accurate storage, weather protection and stock accounting (entries, withdrawals, returns, etc.) of the materials taken over.

13.4.3 The Contractor undertakes to work and/or put in place the materials received from the Customer in such a way as to avoid, as far as possible, scraps or scraps of any kind, i.e. the difference between the material assembled on site and the material returned to the Customer's warehouse.

At the end of contractual work, the Contractor must deliver such scraps to the collection points indicated by the Customer. The Contractor is forbidden, under penalty of termination of the Order pursuant to art. 1456 of the Italian civil code, to remove from the Worksite and/or conceal such scraps or waste.

## 13.5 CONTRACTOR'S SUPPLIES

13.5.1 The Contractor agrees to keep constantly in the Worksite warehouses, under conditions and methods that allow the Customer the widest controls, a quantity of materials, in the most various types, necessary to ensure the continuity of contractual work, with a sufficient safety margin. The entries and exits of any residual materials against work orders are regulated by a specific establishment procedure.

13.5.2 The Customer has the right not to allow the use of materials that the Customer itself deems unsuitable in relation to contractual prescriptions and rules of art. In this case, the Contractor must, at its own expense, immediately remove such materials from the Worksite, if they are stored there, and replace them with suitable ones. If the Contractor does not remove them, the Customer can do so directly and charge the Contractor with the costs, who will also be responsible for any damage that may be caused by the removal. If, without the Customer's objection, the Contractor uses materials of a size, consistency and quality that are larger than those prescribed or of more accurate workmanship, this will not entitle the Contractor to increase prices and the metric calculation will be carried out as if the materials or works had the size and quality established in the Contractual Documents.

13.5.3 Testing of the Contractor's supplies will be carried out at the Contractor's workshop and/or at its Sub-Suppliers' workshops, before shipment at the Worksite. Tests and measurements will be carried out at the Contractor's care and expense, as provided for in the Contractual Documents and in accordance with art. 13.13. The Customer will have the right to participate in such tests without this participation limiting, in any way, the Contractor's responsibility for the correct execution of the Order.

13.5.4 The Contractor must complete, at its care and expense and with due timeliness, all paperwork for the approval and/or testing required by law (or by specific contractual conditions) by the relevant authorities (or as stated in the Order) for the work, equipment and materials under the Order. Any delays in the approval, testing or issue of the necessary certificates will be the Contractor's responsibility and the Contractor will not be entitled to extensions except in the event of force majeure recognised pursuant to art. 24 hereinbelow.

## **13.6 CONTRACTOR'S TRANSPORTS**

The Contractor must provide, at its care, expense and risk, for all transports necessary for the execution of the Order; transports must be covered by adequate insurance. This includes, by way of indication but not limitation, the transport from the delivery point to the Customer's place of work of the materials supplied by the Customer, pursuant to art. 13.4, the transport of the Contractor's work means and equipment, of debris to the Customer's dumps, if any, and of scraps, waste and any recoveries to the Customer's storage points.

## **13.7 WORK SITE AND SERVICE AREA**

13.7.1 The Customer's assignment of the Worksite and the Service Area to the Contractor will always be of a temporary nature and its size and location can be changed at any time by the Customer at its undisputable choice, without the Contractor being entitled to make any reserves or claims, also with respect to contractual deadlines.

13.7.2 The Worksite and the Service Area will be delivered in the state in which they are as at the work commencement date, as indicated in the Order under art. 13.2, with any improvement works remaining at the Contractor's care and expense. The Contractor will also bear the full responsibility and expense for the works and works to form and maintain the Worksite and/or Service Area. The Contractor must obtain, at its own care and expense, all permits and authorisations necessary to set up, prepare, maintain and use the Worksite and the Service Area, under penalty of contractual termination pursuant to article 1456 of the Civil Code.

In any case, the Contractor must inform the Customer, before taking over the Worksite and the Service Area, which installations and works it is interested in carrying out, in order to receive the Customer's written authorisation, it being understood that it is the Contractor's task to set up, at its own care and expense, in the Service Area, sanitary facilities and changing rooms in a mobile and prefabricated structure, equipped with an independent waste water collection and disposal system in compliance with the terms of the laws in force.

13.7.3 As indicated under art. 9.2, the Contractor will be responsible for the connections to the fluid (water, steam, compressed air, etc.) and power supply lines necessary for the operation and functioning of the Worksite and the Service Area made available, if possible, by the Customer.

Such connections must be authorised in advance by the Customer and must comply with the safety and special regulations in force at the Worksite and at the Works and must not hinder the operation of the Works and the activities of the Customer and other Contractors.

For this purpose, the Contractor undertakes to move or modify, at its own care and expense, the provisional lines, pipelines and equipment, at the Customer's even verbal notice, in the shortest possible time.

13.7.4 At the end of contractual work and in all cases where the Customer requires the Site or the Service Area to be moved, the Contractor is obliged to remove immediately, at its care and expense, all installations at the Site and the Service Area, restoring their initial conditions so that they are completely free from people and/or things, transporting and arranging scrap or debris in the areas indicated by the Customer, including waste disposal in compliance with current laws. If the Contractor does not comply with the above, the Customer can provide for this at the Contractor's expense, without prejudice to any other right of the Customer, which will carry out the clearance and transfer in the manner it deems most appropriate, without being liable for any damage. To cover the expenses incurred, the Customer can offset the relevant costs against the payments due to the Contractor and, if necessary, keep the Contractor's materials and equipment present at the Worksite or Service Area as guarantee.

## **13.8 SITE MANAGER**

13.8.1 The Contractor must be permanently represented at the Worksite and Service Area, for all purposes, by the Site Manager, following formal appointment, countersigned for acceptance. Any substitution of the Site Manager, always with formal appointment, countersigned for acceptance, must be notified in writing to the Customer and carried out without interruption in representation and permanence.

13.8.2 The Site Manager shall, for the entire duration of the work at the Site, ensure his presence at the Site and/or his immediate availability at a address close to the work.

13.8.3 The Site Manager has, in particular, the power to issue and receive, in the name and on behalf of the Contractor, and binding for it, all notices and instructions concerning the Order.

13.8.4 If the Contractor is entrusted with the design and execution of works that fall under the provisions of Law no. 1086/71 and subsequent additions, it must also comply with its provisions.

## 13.9 IMPORTS

### 13.9.1 Orders to Italian Contractors

The import of the materials necessary for the execution of the Contract is always at the Contractor's charge and the relevant expenses are included in the contractual amounts (both flat-rate and unitary); risks deriving from variations in exchange rates, customs duties and anything else inherent in importation are totally at the Contractor's charge or benefit.

The Contractor is obliged to carry out, in good time for the fulfilment of the contractual deadlines, all paperwork necessary for obtaining any foreign currency and import authorisations and to take care of the relevant customs formalities.

### 13.9.2 Orders to Foreign Contractors

The import of materials necessary for the execution of the Contract shall be borne by the Customer, unless otherwise provided for in the Order or in the Contractual Documents.

Customs clearance must be carried out in the place indicated by the Customer, and the Contractor must send to the Customer (to the attention of the "Customs Office" of the Plant receiving the Supply), at least 20 (twenty) days before the date of arrival of the material in Italy, a complete *set of shipping documents* and in particular the bill of *lading* or CRM (Certificates 22-23/*bill of lading/air way bill*, etc.), *pro forma invoices*, packing list, certificates of origin and certification for preferential regimes (EUR 1, ATR 1, etc.), *pro forma invoices*, *packing list*, certificates of origin and certification for preferential regimes (EUR 1, ATR 1, etc.). In the case of intra-EU material purchases, the invoice must follow the goods unless anticipated by fax. The invoice must contain the intra-Community VAT number, as well as an indication of the Order number and the value of the goods purchased.

At the time of dispatch, the Contractor must inform the Customer by e-mail of the details of the dispatch. If the Contractor does not comply with the above prescriptions, the Contractor will be liable to the Customer for all consequences. The Contractor will always be responsible for any temporary import of temporary materials and equipment and anything else that is destined to remain the Contractor's property once the Order has been executed; for such materials and equipment, it is the Contractor's responsibility to carry out, in due time to comply with contractual deadlines, all the necessary import procedures, also if it has obtained the Customer's assistance in carrying out customs formalities.

Failure on the part of the foreign Contractor to obtain authorisation to export the object of the Order to Italy shall be grounds for termination of the Order by the Customer, due to the Contractor's fault.

### **13.10 SPARE PARTS**

Unless otherwise provided for in the Order or in the Contractual Documents, the Supply includes the spare parts necessary to keep the object of the Supply in perfect working order until final acceptance.

The above applies to the supply of new installations; for maintenance orders the subject will be dealt with in the technical specification from time to time.

The Contractor guarantees the availability of spare parts for at least 10 (ten) years; consequently, the Contractor will not use equipment and/or components that are expected to be out of production in the execution of the Order.

### **13.11 ASSEMBLY AND/OR START-UP ASSISTANCE**

If assembly is excluded from the Supply and the Order specifies that the Contractor is requested to provide assistance for assembly and/or start-up, the Contractor must supervise the execution of work and provide the Customer with the requested assistance, by checking, among other things, that assembly and/or start-up preparation are carried out in compliance with the documentation produced and/or approved by the Contractor, in such a way as not to damage the Supply in any way.

The Contractor is obliged to inform the Customer in writing, immediately or in any case in good time for the latter to take action, of any errors or discrepancies in the assembly and/or start-up operations; otherwise, he shall be held responsible for the proper execution of said operations.

### **13.12 MAINTENANCE UNTIL DELIVERY**

The Contractor is responsible for the preservation of the executed works, without any right to additional compensation, reimbursement or indemnity, up to the date of provisional acceptance if the Work is carried out by the Customer or up to the date of final acceptance if the Work is also carried out by the Contractor.

In the event that the plant enters into operation before the date of provisional or final acceptance, as the case may be, the Contractor shall be responsible for operating and supervising the maintenance of the plant in order to ensure its preservation and efficiency.

If the Customer takes even partial possession of the works before final acceptance, as well as if they are used, this does not imply acceptance of the work by the Customer, which can only take place in the contractually agreed form.

### 13.13 SUPERVISION AND CONTROL BY THE CUSTOMER

13.13.1 The Customer reserves the right at any time to inspect the execution of the Order, to suspend work in order to demolish or rebuild, at the Contractor's expense, parts of the work that it deems to be badly executed or for which materials not conforming to those specified have been used, and to issue any other appropriate order so that the execution of the Order proceeds according to contractual terms and conditions and properly.

This is also for the purpose and effect of Art. 1662 of the Civil Code.

13.13.2 The Customer reserves the right to supervise, or have persons of its choice supervise, the progress of work and the execution of the Supply at the Worksite and in the Contractor's workshops, as well as in those of Sub-Contractors and Sub-Suppliers, without the exercise of this right having the effect of altering the Contractor's responsibility in any way.

The Contractor and its Sub-Contractors and Sub-Suppliers must therefore ensure that the Customer's representatives have free access to its workshops during working hours (also without prior notice) and give them every assistance in order to fulfil their tasks satisfactorily. It is the Contractor's obligation to provide for such obligations in its Sub-Contracts, it being understood that the Contractor is responsible for the Sub-Contractors' and Sub-Suppliers' compliance with this Art. 13.13.2 under Art. 1381 of the Civil Code.

For the execution of the obligations under this art. 13.13.2, the Contractor must submit to the Customer, with suitable advance notice, the documentation (technical specifications, test and trial methods, etc.) needed to follow up the execution of the Order and/or Sub-Orders, including the planning and scheduling documentation for trial activities.

The Contractor and its Sub-Contractors and Sub-Suppliers must provide the Customer's representatives with all the means they need to verify that the technical clauses of the Order are complied with, and to check that inspections and tests are carried out in accordance with the prescriptions or, in the absence of explicit prescriptions, in compliance with the regulations in force and properly.

To this end, subject to specific provisions set forth in the Contractual Documents, the Contractor and its Sub-Contractors and Sub-Suppliers shall in particular be obliged to:

- a) send the test and inspection planning and scheduling documents (manufacturing and inspection plans, list of tests and inspections, etc.) to the Customer well in advance; on these documents the Customer will indicate the activities it intends to attend and for the performance of which its presence will be binding ("binding stages");

- b) inform the Customer, by e-mail or fax, in good time and in any case with a notice period of at least 5 (five) working days, of the execution of the planned inspections and tests and, in general, of every inspection and test that provides indications on the state of manufacture, as well as of the availability of the materials and/or equipment necessary for the inspection; the Customer reserves the right to be present at such activities even if they are not "binding stages";
- c) issue acceptance and test certificates and deliver them or send them, if requested, to the Customer;
- d) transmit non-compliance reports complete with proposed corrective actions to the Customer; and
- e) compile and submit the end-of-manufacture and/or end-of-assembly certification file to the Customer for examination.

The test notices shall contain the following information: Order number, type of material or equipment ready for testing and quantity, date of testing and expected duration, type of testing with indication of reference documentation, location of testing and contact person.

If the Customer participates in the tests and inspections, the Contractor may carry out such tests and inspections, and only such tests and inspections, unless otherwise agreed with the Customer in writing.

In the case of "binding stages", in order for the Contractor to proceed without the presence of the Customer, he must have the Customer's prior written approval.

13.13.3 The time needed for inspection and testing cannot be invoked by the Contractor as a justification for a delay with respect to contractual deadlines, unless inspection and testing have been delayed due to the Customer's direct and exclusive responsibility, or if the Customer requires additional inspections not provided for in the Order and such inspections affect the execution time of the Order, notwithstanding the Contractor's efforts to avoid delay.

13.13.4 All formalities and expenses for the execution of tests and trials are at the Contractor's charge, except for the expenses of the Customer representatives to attend these operations.

The Customer may order additional tests that are not envisaged in the Order; such tests will be the subject of an agreement between the Parties as to the settlement of the relevant expenses, which will in any case be at the Contractor's charge in the event of a negative outcome of such tests or in the event that such tests become necessary due to incorrect execution of the Order.

Additional tests not envisaged in the Order cannot be considered as "additional tests not envisaged in the Order" if they are necessary to verify the conformity of the supply with the technical prescriptions of the Order or if they are required by the provisions of art. 6.4.



### 13.14 WORK “FOR ASCERTAINING”

- 13.14.1 If the Order provides for "ascertained" paid work, this will only be recognised if authorised in advance, in writing, by the Customer.
- 13.14.2 For such work, on the day before execution, the Contractor will submit to the Customer, for approval, a forecast of the use of personnel and means and the relevant cost.

## ARTICLE 14

### 14.0 PROVISIONAL ACCEPTANCE

- 14.1 Unless otherwise indicated in the Order, provisional acceptance is aimed at identifying, as a rule prior to industrial commissioning, the actual state of the Supply and to ascertain, by summary investigation, its substantial and apparent good workmanship, it being understood that the final evaluation will take place only with final acceptance under art. 16.

Therefore, once all the work under the Order has been completed and all required tests and trials have been successfully performed, before industrial commissioning and provided that the Supply has only required adjustments and fine-tuning that are compatible with the envisaged operation schedule, the Contractor can ask the Customer, in writing, to proceed to provisional acceptance.

- 14.2 Provisional Acceptance operations are carried out, unless otherwise specified in the Order or in the Contractual Documents, at the Contractor's full care and expense and include tests and trials to prove that the Supply meets the requirements of the Order.

These tests include in particular:

- a) end-of-assembly tests, the purpose of which is to check whether all the components of the Supply have been assembled correctly; these tests will be carried out with the system switched off and without fluids in the networks. They will be, inter alia but not exclusively, checked:
- (i) the correspondence of the drawings;
  - (ii) the anchoring, locking and aligning of structures and electromechanical equipment;
  - (iii) the rotation of rotating organs by hand;
  - (iv) connections and brackets of piping and cable routes;

- (v) the correctness of electrical connections;
  - (vi) the correct installation of line equipment (valve flow direction, compensator protection, etc.);
  - (vii) connection and calibration of instruments;
  - (viii) protection and earthing of installations;
  - (ix) the functionality of the automation system before its connection to the field;  
will also be performed:
    - (x) acid washes;
    - (xi) the flushing of pipes;
    - (xii) pressure tests; and
    - (xiii) electrical insulation tests.
- b) Cold/hot tests without load, the purpose of which is to verify whether the Supply is capable of being started up for industrial production. These tests will be carried out by supplying the equipment with electricity, compressed air and whatever else is necessary, without subjecting it to operating loads (pressure, temperature, material load, etc.). These tests are divided into:
- (i) individual tests, i.e. tests of the correct functioning of individual components, which will be carried out by operating each individual mechanism to verify its correct functioning; and
  - (ii) combined tests, which will be carried out by simultaneously powering all the constituent parts of a system or subsystem, and will have the aim of verifying the correct sequential execution of manoeuvres, the correspondence of signals, and anything else typically envisaged for this type of verification.

Included in these tests are the "load tests" required to verify the suitability of the plant for safe and feasible start-up prior to the start of industrial operation.

All tests will be conducted on an adversarial basis, according to a programme agreed between the Customer and the Contractor, within the framework of the general programme and taking into account the possibility and necessity of operation and any special contractual clauses.

Inspections and tests will be carried out under the Contractor's responsibility. The Contractor can also use, at its own cost, third-party specialists, subject to the Customer's written approval, and, subject to the Customer's agreement, the

Customer's personnel, who will work under the Contractor's responsibility. The costs for the Customer's personnel will be borne by the Customer.

- 14.3** The supply and installation of any equipment necessary for the execution of tests and trials is the Contractor's responsibility, except for exceptions specified in the Order.

The Customer may supply and install special measuring instruments, the accuracy and compliance of which the Contractor shall have the right to verify.

Fluids and consumables (excluding process fluids) for testing and trials will be borne by the Contractor.

The tolerances must be those specified in the contract or, in the absence of indications, those in use, according to the best reference standards.

The values of the technical characteristics of the Supply (dimensions, weights, functionality, etc.) that the Order explicitly states as "indicative", can be measured and verified at the Customer's request and must in any case substantially correspond to the provisions of the Order and the Contractual Documents, while maintaining the quality of the object of the Supply unaltered.

A special report countersigned by the Parties will be drawn up for all provisional acceptance operations, in which the repairs and adjustments carried out must also be recorded.

- 14.4** Provisional acceptance is in any case subject to the delivery to the Customer of all documents stipulated in the Contractual Documents, in the form and quantity of copies specified therein, including the end of manufacture and/or assembly dossier, if applicable, and the spare parts list.

- 14.5** If all conditions provided for in this Art. 14 have been fulfilled and in particular if all tests and inspections have been successfully passed, the Customer will sign the report referred to in Art. 14.3 "for provisional acceptance".

If it turns out that the Supply does not comply, even partially, with the prescriptions of the Order and in a workmanlike manner, or is not suitable for its intended use, the Customer reserves the right, at its undisputable choice, to terminate the Order pursuant to art. 1456 of the Italian civil code. The Customer reserves the right, at its undisputable judgement, to terminate the Order, pursuant to art. 1456 of the Italian civil code (if the non-conformity is, *prima facie*, in the Customer's reasonable opinion, relevant to the work and/or the Works), or to ask the Contractor to eliminate at its own expense all defects within a reasonable term; once said term has expired to no avail, the Customer can, at its undisputable judgement, terminate the Order pursuant to art. 1456 of the Italian civil code., it being understood that in all cases (also in the case of a defect remedied) the Customer shall be entitled to compensation for all damages suffered by the Customer, none excluded.

If the elimination of defects occurs to the full satisfaction of the Customer, a new inspection of the Supply may take place, after which, in the event of a positive outcome, a provisional acceptance report may be drawn up.

- 14.6** If a part of the works is rejected according to Art. 26, provisional acceptance can be declared for the part that is not rejected, at the Customer's discretion.
- 14.7** The Customer's declaration of provisional acceptance does not release the Contractor from its obligations under the Order, but it will be subject to them until final acceptance under art. 16, subject in any case to the Contractor's obligations during the guarantee period as under art. 17.

### **ARTICLE 15**

#### **15.0 TRANSFER OF OWNERSHIP**

- 15.1** Unless otherwise expressly specified in the Order and subject to the provisions of the Art. 14.7 and 26.1, the transfer of ownership of the Supply to the Customer is governed by the applicable provisions of law.
- 15.2** The transfer of ownership of the documents produced by the Contractor and its Sub-Contractors and Sub-Suppliers takes place upon delivery to the Customer.
- 15.3** The transfer of ownership of any materials of foreign origin, for which the Customer provides for customs clearance, will take place at the time of customs clearance; in this case, the Contractor's responsibilities up to final acceptance and those related to guarantee clauses will remain unaffected.

### **ARTICLE 16**

#### **16.0 FINAL ACCEPTANCE**

- 16.1** Unless otherwise provided for in the Order, once all tests necessary for provisional acceptance have been successfully completed, the Customer will proceed with industrial commissioning and final testing ("*performance tests*") as provided for in the Order and/or the Contractual Documents.
- 16.2** Expenses for the execution of *performance tests* will be at the Customer's charge. On the other hand, the Contractor will bear the charges for the compulsory presence on site of its employees for assistance and supervision of the tests.
- 16.3** After final acceptance, a "Final Acceptance Report" signed by the Parties and constituting the sole document of final acceptance will be drawn up.
- 16.4** If the result of one or more *performance tests* is negative, for causes that can be directly or indirectly attributable to the Contractor, the Contractor must, at its own expense, make all replacements, changes or expedients to bring the plant up to the contractually agreed *performance* levels, using specialised personnel if necessary. The expenses to be borne by the Contractor will include, among other things, those relating to the transport of the materials added, modified or replaced, up to the time of rendering the plant correctly functional. The work to be carried out by the Contractor

to remedy the failure to meet the *performance tests* must be carried out in the shortest possible time, compatibly with the operating requirements of the plant.

- 16.5** After a reasonable period of time to be determined from the end of the negative *test*, a second *performance test* will be carried out in the same manner as the previous one. Should the second *performance test* also prove negative, the Customer shall have the right to terminate the Contract pursuant to the Art. 1456 of the Italian Civil Code.
- 16.6** In the case of Maintenance Orders, final acceptance will be deemed to be that of the end of work. If, at a later date, faults occur that can be traced back to the work carried out by the Contractor, the latter will be charged with the repetition of the intervention, in addition to compensation for all damages resulting from the fault.
- 16.7** In any case, the Customer will be entitled to claim damages, none excluded, from the Contractor for failure to pass one or more performance tests, even if the Contractor remedies this situation pursuant to art. 16.4.

## **ARTICLE 17**

### **17.0 GUARANTEES**

- 17.1** The Contractor guarantees to the Customer that the work under the Order will be completed in full compliance with the contractual terms and conditions, in a workmanlike manner, in compliance with the best industry *standards*.
- 17.2** The Contractor will execute all works under the Order using its experience to the best of its ability and guarantees to the Customer that the Supply, in its entirety and in each of its parts, is free from defects, even hidden, with new and first-quality materials, suitable for use, perfectly conforming to the general functional features, as prescribed in the Contractual Documents and to the applicable national and international regulations, with particular but not exclusive reference to the TUS.
- 17.3** Unless otherwise specified in the Order, the warranty period ("*warranty period*") will last 24 (twenty-four) months from the date of final acceptance and in any case within the minimum limits provided for by the laws in force. During this period, the Contractor is obliged to carry out free of charge any modification, fine-tuning or adjustment that the Customer deems necessary so that the work under the Order meets the relevant contractual requirements, and to replace any defective parts.
- 17.4** If during the guarantee period under art. 17.3 the Customer complains about a defect that results from a design or manufacturing error on the part of the Contractor or its Sub-Contractors or Sub-Suppliers, the Contractor must repair, modify or replace all parts identical to the defective parts that could be affected by the same defect, taking into account their use, even if these parts are not defective in themselves, all at its own expense.
- 17.5** All the Contractor's services during the guarantee period must be carried out in the shortest possible time, taking into account the Customer's requirements. It is the Contractor's obligation to take all appropriate initiatives, such as temporary repairs, to

meet the Customer's requirements in the best possible way. If the Contractor fails to intervene, the Customer may proceed directly or through third parties, at the Contractor's expense, with all the interventions it deems opportune to remedy the defects found and mitigate their impact on its own activity, withholding, until final agreement between the Parties, the expenses sustained for this purpose from the amount still due to the Contractor.

- 17.6** If, during the guarantee period, the Supply proves, in whole or in part, to be unusable, for one or more times, for reasons attributable to the Contractor, the guarantee period of the Supply, or the part concerned, shall be automatically extended for the entire period during which the Supply, or the part concerned, was unavailable. For all components of the Supply that are replaced, repaired or modified during the guarantee period, the guarantee period shall run again from the date of completion of the replacement, repair or modification, irrespective of whether or not this has led to the Supply being wholly or partially unavailable.
- 17.7** The Contractor shall bear all charges connected with the services due under the guarantee, including transport costs between the construction and/or repair workshops and the place of erection, as well as the erection and dismantling costs and those of any third-party technicians necessary to detect or remedy the defect.
- 17.8** Excluded from the guarantee are normal wear and tear of the delivery item, its negligence, defective supervision or maintenance, or operating error on the part of the Customer, unless this is due to a deficiency or error in the Contractor's maintenance or operating manuals or other instructions or information provided by the Contractor to the Customer.
- 17.9** The right to compensation for damages, none excluded, suffered by the Customer as a result of the defect that caused the warranty claim shall remain unaffected.
- 17.10** The provisions of this Art. 17 do not derogate from the Art. 1668 and 1669 of the Civil Code.

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**ARTICLE 18****18.0 ORDER AMOUNT - PRICES**

**18.1** The Order fixes the global price of the Supply and any breakdown of this price into partial amounts (in relation to the types of services covered by the Supply), as well as unit prices if applicable. The Order also specifies whether the "amount of the Order" and the "partial amounts", if any, have a flat-rate character or if they are presumed amounts; in any case, all amounts are understood to be exclusive of VAT and inclusive of all other taxes, tax or right with the exception of those that by law are at the Customer's charge.

**18.2** If the Order and partial amounts are defined as presumed (measured or final Orders), they will be understood as "maximum authorised amounts, non-binding for the Customer"; the actual amount will be determined, as specified in the Order, by applying the Contractor's contractually agreed unit prices and/or rates and/or documented cost increases to the actual quantities. The Contractor can proceed with work that exceeds the above maximum authorised amounts only after contractual amendment to adjust the same.

The actual amount of the Order may vary, either upward or downward, as a result of changes in the quantities of the work to be carried out, with respect to what was initially contemplated in the Order. In the event of variation, unit prices can be revised by mutual agreement, according to the actual quantities to be executed and the incidence on them of any fixed costs, without however entitling the Contractor to any other compensation or indemnity whatsoever.

**18.3** By accepting the Order, the Contractor acknowledges the remuneration of all contractual prices, whether they are full (flat rate) or unitary.

The prices therefore cover in their entirety the Contractor's profit, as well as all the expenses, charges and areas pertaining to the completion of the works under the Order, under the terms and conditions of the Contract. They include in particular:

- a) the social security, social insurance and trade union contributions in force;
- b) charges arising from compliance with accident prevention laws and regulations;
- c) security charges;
- d) all main and ancillary expenses and charges and all supplies and services not specifically agreed upon to be borne by the Customer and as such highlighted in the Order.

The contractually agreed unit prices and rates for any work remunerated on an ascertained basis as provided for in Art. 13.14 are inclusive of the costs for the transport of materials and equipment for the execution of the work and are applicable, as far as equipment and personnel are concerned, only to the actual time of use.

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**ARTICLE 19****19 PRICE REVIEW**

**19.1** Unless otherwise provided for in the Order, contractual prices, both global and unitary, are to be understood as fixed and invariable, agreed at random, with the Contractor expressly waiving its right to invoke art. 1664 of the Italian civil code in all cases where this is applicable.

**19.2** When prices can be revised, the Order establishes the applicable formulas, the variable indices (labour, materials and any other components of the consideration) and the relevant official bulletins and/or tables from which the values of said indices can be obtained, the reference date at which the contractual prices will be valid and the method of variation. The Contractor acknowledges that the price revision formulas provided for in the Order are perfectly adequate to compensate for variations in economic conditions.

The price revision accounting for all the work performed under the Order will be unique and will be carried out upon completion of the work.

It is understood that in the event of delays in the completion of the work, the price revision will in any case be calculated with reference to the contractual term provided for in the Order, possibly extended as provided for in art. 12, unless it is not advantageous for the Customer to refer to the actual period of execution of the work.

**ARTICLE 20****20.0 PAYMENTS**

**20.0.1** All payments will be made upon presentation of a regular invoice, within the terms set forth in the Order. Unless otherwise specified, payment terms are fixed at 90 (ninety) days from the date of receipt of the Customer's invoice. Payment to the Contractor is deemed to be effected upon the Customer's transfer Order, to a bank, of the agreed amounts.

**20.0.2** The Order and/or the Technical Specification set out the invoicing schedule for the contractual amount; this schedule specifies, in logical and temporal order:

- a) the "events" the occurrence of which entitles the Contractor to issue an invoice;
- b) the amounts, possibly expressed as a percentage of the Order amount, that the Contractor may invoice upon the occurrence of the events referred to under a);
- c) the dates by which, according to the contractual work execution schedule, the events referred to in a) above are expected to accrue, and with respect to which the issue of invoices cannot in any case be anticipated. If the Contractor issues an invoice before the occurrence of the corresponding contractual event, the contractual payment terms shall in any case run from the date on which the event actually accrues.



**20.0.3** Unless otherwise specified in the Order, payments will be made according to the sequence of the schedule set forth in Art. 20.2; therefore, payment of any part of the price is also subject to the accrual of the events associated with the previous payments.

**20.0.4** The invoicing schedule specified in the Order may be changed during the course of the work, in which case the change shall be formalised as a change to the Order, at the request of either Party, subject to the following conditions:

- a) if the variation depends on a change in the contractual schedule, for reasons falling under Art. 12;
- b) if performance of the services affecting the event of payment is delayed for reasons attributable to the Customer; or
- c) if the anticipation of the accrual of a payment event is expressly authorised in writing by the Customer.

**20.0.5** Each invoice shall be submitted by the Contractor subject to the approval of the Customer's Contract Manager, who will issue the so-called MAP (Performance Approval Form - Invoice Approval) number. The MAP shall not be withheld if the Contractor has properly fulfilled the obligations on which payment of the relevant invoice depends.

**20.0.6** Invoices must be addressed to the Customer, Largo Caduti sul Lavoro, 21, 57025 Piombino (LI), for the attention of the Supplier Accounting Department and must state:

- a) the full number and date of issue of the Order;
- b) the Contractor's code and its VAT number;
- c) the reference to the billing schedule and the payment event to which the invoice refers; and
- d) the MAP number.

Invoices must also be accompanied by:

- e) copies of SALs relating to any activities paid on a measured basis;
- f) detailed statements of any price revisions, with attached copies of the official bulletins from which the index values are derived and any other documentation reasonably requested by the Customer.

## 20.1 CUSTOM ORDERS

**20.1.1** The amounts that can be invoiced by the Contractor, for activities carried out under Custom Orders, will be obtained by applying to the quantities and/or services actually supplied by the Contractor, the unit prices specified in the Order, with the measurement methods contemplated therein.

**20.1.2** Payment of supplies and/or services will be made on the basis of invoices issued against SALs (Statements of Work Progress), at the intervals specified in the Order.

These SALs must, as far as applicable, be accompanied by:

- a) documents required by law to accompany the goods;
- b) proof of hours worked; and
- c) intervention orders/work notes;

signed by the Contract Manager, and shall be paid after deduction of the portion of any advance payment, in the same percentage as the advance payment itself, up to the amount of the advance payment, with any adjustment on the invoice for the last SAL.

## 20.2 PAYMENTS ON ACCOUNT

Any partial payments, prior to final acceptance of the Supply, shall, unless otherwise specified in the Order, be deemed made exclusively as down-payments and, therefore, shall not mean total or partial acceptance, not even provisional, of the Supply; they shall therefore not affect the Contractor's responsibilities of any kind, which remain unaffected.

## 20.3 BANK GUARANTEE AGAINST ADVANCE PAYMENT

**20.3.1** Against the advance payment paid by the Customer, if so agreed in the Order, the Contractor will deliver to the Customer, as a condition for payment of the advance payment itself, an unconditional first demand bank guarantee, to the Customer's liking, drawn up in compliance with Appendix 1 to this General Procurement Document.

**20.3.2** Failure to provide a bank guarantee upon acceptance of the Order or any other date specified in the Order or otherwise agreed between the Parties will entitle the Customer, at its undisputable choice, to terminate the Order pursuant to art. 1456 of the Italian civil code, or to postpone work commencement until the bank guarantee is provided and/or to suspend any payment due under the Order until work completion, subject to and without prejudice to the Customer's right to claim compensation for any damage.

**20.3.3** The amount of the bank guarantee shall be equal to 10% (ten per cent) of the total amount of the Order and in any case not less than the value of any advance payment, unless otherwise specified in the Order.

**20.3.4** The term of the bank guarantee will be as stated in the Order and, in any case, not less than a period that allows the full recovery of the advance payment by the Customer in the form of delivered goods or services provided by the Contractor under the Order. In any case, the Contractor will be obliged, under penalty of sanctions at the Customer's option under art. 20.3.2, to extend the term of the guarantee, as stated in the Order, if at the expiration of this term the Contractor's obligations under the guarantee have not yet been completely and correctly fulfilled; the extension must be for a term that is congruous to cover the complete and correct fulfilment of the obligations in question, and the Contractor must provide for it also in the absence of an express request to this effect from the Customer.

## **20.4 BANK GUARANTEE FOR SUCCESSFUL COMPLETION OF THE ORDER (PERFORMANCE BOND)**

**20.4.1** If so agreed in the Order, the Contractor will deliver to the Customer, to cover its obligations for the correct execution of the Order, an unconditional first demand autonomous bank guarantee, to the Customer's liking, drawn up in compliance with appendix 2 to this General Procurement Document.

**20.4.2** Failure to provide the bank guarantee upon acceptance of the Order or any other date specified in the Order will entitle the Customer to terminate the Order pursuant to art. 1456 of the Italian civil code, or to postpone work commencement until the bank guarantee is delivered and/or to suspend any payment due under the Order until work is completed, subject to and without prejudice to the Customer's right to claim compensation for all consequential damage.

**20.4.3** The amount of the bank guarantee shall be 10% (ten percent) of the total amount of the Order and in any case not less than the value of any advance payment, unless otherwise specified in the Order.

**20.4.4** This bank guarantee will have a term equal to the whole period of execution of the Order and will be released, subject to the Customer's explicit approval, after final acceptance of the Order. In any case, the Contractor will be obliged, under penalty of sanctions, at the Customer's option, as art. 20.4.2, to extend the term of the guarantee, as indicated in the same, if at the expiration of such term the Contractor's obligations under the guarantee have not yet been completely and correctly fulfilled; the extension must be for a term that is congruous to cover the complete and correct fulfilment of the obligations in question, and the Contractor must provide for it also in the absence of an express request in this sense from the Customer.

## 20.5 WARRANTY BOND

To cover the Contractor's guarantee obligations under art. 17, if so agreed in the Order, the Customer will be entitled to withhold an amount equal to 10% (ten percent) of the contract price, including any price revision. This deduction will be made, unless otherwise agreed in the Order, on the last payment instalment (and earlier, if the last instalment is of a lower amount) and will be paid upon fulfilment of guarantee obligations or expiry of the relevant deadline.

The payment of the amount withheld under this Art. 20.5 may be advanced or the withholding will not be made if the Contractor delivers to the Customer an unconditional first demand bank guarantee of equal amount, to the Customer's liking, drawn up in accordance with Appendix 3 to this General Procurement Document.

The said guarantee must have a term equal to the guarantee period under Art. 17. In any case, the Contractor will be obliged to extend the term of the guarantee, as indicated in the same, if at the expiration of said term the Contractor's guarantee obligations under art. 17 are still, even partially, in force; the extension must be for a term that is congruous to cover the exhaustion of the guarantee period under art. 17, and the Contractor must provide for it even in the absence of an express request to this effect from the Customer.

### ARTICLE 21

## 21.0 CREDIT TRANSFER

The assignment or delegation in any form whatsoever of receivables relating to payments due under the Order is forbidden, unless expressly authorised in writing by the Customer. Therefore, any assignment made by the Supplier in breach of the above prohibition shall establish the right to claim damages in favour of the Customer, even if duly notified. In order to make this prohibition enforceable against third-party assignees, the Contractor must state the wording **Non-transferable Credit** in all invoices sent to the Customer, under penalty of rejection and non-payment. Non-fulfilment of this art. 21.0 will entitle the Customer, alternatively to damage compensation, to automatic termination of the Order pursuant to art. 1456 of the Italian civil code, in damage to the Contractor.

### ARTICLE 22

## 22.0 CONTRACTUAL CHANGES (VARIANTS)

**22.1** The Contractor and the Customer may, respectively, propose and request contractual changes by promptly informing the other Party in writing.

- 22.2** The Customer reserves the right to impose changes to the technical terms and conditions of the Order ("changes") at any time by notifying them in writing to the Contractor. The Contractor agrees to comply with them, subject to the right to the corresponding adjustment of the economic terms and conditions of the Order, if due, also taking into account art. 22.8.
- 22.3** The Contractor must offer the Customer the opportunity to benefit from any useful refinement and, in particular, from any new procedure that may be developed during the execution of the Order.
- 22.4** For each variation requested or imposed by the Customer, the Contractor must inform the Customer in writing (for the attention of the Contract Manager), within 3 (three) working days from the request, if it implies changes of a technical nature (including any impact on the Supply's "*performance*") and/or contractual (times and costs) and in this case, quantify, justifying and, if necessary, documenting said changes, with a further written communication to the Customer (for the attention of the Purchase Department and the Contract Manager), within 10 (ten) working days of the change request.

If the above terms of 3 (three) and/or 10 (ten) days have elapsed without the Contractor communicating to the Customer any technical-contractual reserves, or if the Contractor proceeds directly to carry out the variation requested by the Customer, it is expressly agreed that the latter will be considered as fully accepted and taken over by the Contractor to all effects, as an integral part of the Order's terms and conditions and without the Contractor having any right to any compensation, indemnification or reimbursement.

- 22.5** Variations proposed by the Contractor must be submitted to the Customer accompanied by all appropriate technical and contractual assessments so that the Customer can be fully aware of the nature of the variant and its impact on the Order and the Supply. The Contractor will execute the variation only after the Customer has approved in writing the relevant technical evaluation and authorised its execution, it being understood that such technical approval and execution authorisation do not imply automatic acceptance of the relevant economic evaluation.

If the Contractor carries out variations that have not been authorised by the Customer in advance, the Customer can ask for the immediate demolition of the relevant works and the restoration of the conditions provided for in the Order, subject in any case to the Customer's right to compensation for any damage that may be suffered.

On the other hand, if the Customer decides not to avail itself of the aforementioned right and authorises the variant after the fact, this shall in no way be understood as acceptance of any claims on the part of the Contractor for the payment of non-contractual charges.

- 22.6** Agreed variants must be formalised as Order changes issued by the Customer. The Contractor is obliged to keep at the Customer's disposal the complete dossier of all correspondence and documentation regarding the changes, to keep a constantly updated chronological list of the changes that can give rise to Order changes and to send a copy to the Customer at the Customer's request.

- 22.7** If there is no agreement between the Parties as to whether or not the execution of certain work is to be considered as a variant of the Supply, the Contractor is nevertheless obliged to carry out the relevant work, at the Customer's request, formulating its reserves, if necessary, in writing.
- 22.8** It is agreed that no adjustment of the contractual conditions will entitle the Contractor to any adjustment of the contractual conditions if any changes are deemed necessary to correct errors and/or technical defects of any extent, attributable to the Contractor, its Sub-Contractors and Sub-Suppliers, and/or to make the Supply fit for its intended purpose, in compliance with the Contractual Documents, regardless of the technical solutions defined therein as "reference".
- 22.9** Without prejudice to art. 1659 of the Italian civil code, it is expressly agreed that, notwithstanding art. 1660 and 1661 of the Italian civil code, the amount of variants can exceed one-sixth of the Order amount, without the Contractor being allowed to withdraw from the Order or claim special compensation or indemnities over and above the variant amount.

### **ARTICLE 23**

#### **23.0 PENALTIES**

- 23.1** Penalties for delay are applied in the event of non-compliance with the final contractual deadline (completion date) and any intermediate contractual deadlines specified in the Order and extended, if applicable, in accordance with art. 12; penalties will be automatically triggered only if the deadline is exceeded; the Customer will only be responsible for quantification.
- 23.2** The Order establishes whether technical penalties are also applicable, depending on any reductions in performance with respect to the functional requirements, setting their extent and criteria.
- 23.3** Penalty amounts are determined by applying the percentage rates indicated in the Order to the final global price of the Supply, which is understood to be the sum of all final partial prices as they result after final calculations (for amounts recognised on reimbursement or by measure) and including any price revision.
- 23.4** Penalties will be immediately withheld on a provisional basis from the first payment after the occurrence of the event, made known to the Contractor, that has led to the application of the penalty, calculated on the basis of the presumed amounts indicated in the Order, including any price revision accrued at that time, subject to final settlement.

- 23.5** If the Customer decides, at its undisputable discretion, not to apply any accrued penalty or not to immediately make the relevant deduction, this cannot under any circumstance be understood as a waiver by the Customer to apply the penalties provided for in the Order or to make the relevant deduction.
- 23.6** The right of the Customer to obtain compensation for all further damages suffered by the Customer, none excluded, and including higher costs for prolonged assistance at the worksite, is however reserved.

## **ARTICLE 24**

### **24 UNFORESEEABLE CIRCUMSTANCES OR FORCE MAJEURE**

- 24.1** Events of force majeure or unforeseeable circumstances shall be considered as unforeseeable and unexpected events that are such as to affect compliance of the obligations arising from the Order and that are independent of the Parties' will and control, provided that such events are not attributable to the Parties' own default, illicit acts and culpable conduct or omissions.
- 24.2** Strikes shall only be regarded as force majeure events for the purposes of this Art. 24.1 if they are not of a company nature. Lack or shortage of materials may in no case be invoked as an event of force majeure.
- 24.3** The events shall modify the contractual terms concerning the performance of the obligations affected by such events, according to the provisions of Art. 12.3 above. The occurrence and termination of such events shall be communicated by the Party intending to avail itself of this Art. 24 to the other Party, by registered letter or by PEC, within 24 (twenty-four) hours of their occurrence.
- 24.4** The nature and duration of the events shall be documented by appropriate certification issued by the appropriate authorities or bodies, or otherwise duly proven and ascertained between the Parties. In any event, the Party whose performance is delayed by such events shall do everything reasonably possible to permit the prompt removal of the impediments or otherwise mitigate their consequences.
- 24.5** Events of force majeure or fortuitous events cannot be considered as events of force majeure or fortuitous events, even if they have arisen, negative economic circumstances and/or subjective, temporary situations of economic and/or financial difficulty.
- 24.6** It is understood that in the event that the events continue for more than 3 (three) months, the Parties shall examine the measures to be taken in consideration of the delay in the execution of the Order; in the event of failure to agree on such measures, each Party shall be free to withdraw from the Contract, without charges of any kind.

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**ARTICLE 25****25 SUSPENSION OF WORK**

- 25.1** Under no circumstances can the Contractor suspend, partially or totally, the execution of contractual work without the Customer's prior written approval. It is agreed that for any unauthorised suspension, the Customer can terminate the Order pursuant to art. 1456 of the Italian civil code.
- 25.2** The Customer can, at its own discretion, suspend the Order in whole or in part by written notice to the Contractor, who will be obliged to suspend work with immediate effect. Suspension and subsequent resumption must be certified by special minutes.
- 25.3** During periods of suspension, the Worksite must remain completely intact as regards both equipment and materials, unless otherwise requested in writing by the Customer. The terms and conditions for the preservation of materials to be stored and of the Worksite will be agreed between the Parties.
- 25.4** In the case of suspensions of less than 180 (one hundred and eighty) days, the terms and conditions under the Order will not be modified, except for the Customer's granting of extensions to the contractual terms and conditions, if necessary. In the case of suspensions lasting longer than 180 (one hundred and eighty) days, the Parties will meet within the expiration of the 180th (one hundred and eighty) day, to verify any changes to the terms and conditions envisaged in the Order that may be necessary. If no agreement is reached, within the following 30 (thirty) days, each Party may withdraw from the Order by simple written communication to the other Party, without charges, costs or penalties.
- 25.6** The regulations under this Section 25 also apply in the case of suspensions due to measures issued by public authorities, provided that such suspensions have not been caused by causes attributable to the Contractor.
- 25.7** In the event of a work suspension that is appropriate for the proper execution of the Order or that is caused to the Contractor, the contractual deadlines will not be extended.
- 25.8** If the removal of the Contractor's means and personnel from the Worksite has not been requested at the time of or after suspension, the Contractor must resume contractual work as soon as it receives the Customer's written notice to this effect, or within 7 (seven) days from receipt of the above notice in other cases.

**ARTICLE 26****26.0 NON-CONFORMITIES AND DEFECTS OF THE WORKS**

- 26.1** The Customer has the right to reject the Supply at any time if the following conditions exist:



- a) if, following unsatisfactory tests proving that the Supply does not meet the contractual requirements, the Contractor is unable, within the time allowed to him by the Customer, to put the Supply in a condition to meet the contractual requirements; or
- b) if serious defects incompatible with normal operation are discovered before or during the guarantee period.

**26.2** In the event of rejection of the Supply, the Customer may choose between the following solutions:

- a) replace the rejected works, at the Contractor's expense; pending replacement, the Customer can freely and free of charge use the rejected works, under the Contractor's responsibility, with any changes, additions or adaptations to said works agreed with the Contractor and carried out at the Contractor's expense;
- b) not to accept the works in question and to notify, by registered letter with acknowledgement of receipt or by e-mail, the termination of the Contract, pursuant to Art. 28.

**26.3** Once replaced, the rejected items will be made available to the Contractor, who will collect them at its care and expense as soon as possible. In the event of delay, the Customer can have them picked up and delivered to the Contractor by third parties at the Contractor's expense and risk.

## **ARTICLE 27**

### **27.0 WITHDRAWAL FROM THE ORDER**

**27.1** The Customer has the right to terminate the Order at any time, with immediate effect, subject to written notice to the Contractor, for any reason, at its undisputable choice.

**27.2** In the event of termination, the Customer will pay the Contractor, against delivery of the drawings, completed work and materials, an amount, less the amount of payments already made, equal to the work duly executed (and tested by the Customer) up to the date of termination.

**27.3** A similar termination clause shall be inserted by the Contractor in the Sub-orders.

## **ARTICLE 28**

### **28.0 RESOLUTION OF THE ORDER AND WITHDRAWAL**

**28.1** The Customer can terminate the Order, pursuant to art. 1456 of the Italian civil code, if the Contractor does not fulfil exactly and punctually any of the obligations for which this General Procurement Document and its annexes expressly provide for such termination; the Contractor is aware of the importance of the obligations for which termination of the Order is contemplated pursuant to art. 1456 of the Italian civil code,

and of the fact that non-fulfilment of such obligations is so significant for the Customer that it will result in termination due to the Contractor's fault. The Customer can also terminate the Order pursuant to art. 1456 of the Italian civil code in the following cases:

- a) if the Contractor finds itself involved in proceedings from which a violation of the principles and obligations contemplated in the Code of Ethics adopted by the Customer emerges, or may reasonably emerge, connected to the execution of relations between the Parties, or in any case in cases in which the continuation of the relationship, having heard of such proceedings against the Contractor, may reasonably suggest that the Contractor's reliability and integrity are compromised;
- b) if the Contractor makes, for whatever reason, changes to its organisation such as to decrease the patrimonial, financial or technical guarantees presented at the beginning of the contractual relationship;
- c) in the case of sole proprietorships, in the event of the death of the Contractor, unless otherwise agreed with the Contractor's beneficiaries;
- d) in the event of a substantial change in the corporate structure and/or ownership of the Contractor, where a change of control within the meaning of Art. 2359 of the Civil Code shall certainly be considered substantial; and
- e) in the event of "serious delays" with respect to the contractual deadlines, for reasons attributable to the Contractor; in this regard, the Parties agree that any delay such as to entail the application of penalties to the maximum extent provided for shall be considered as "serious delay".

**28.2** Besides the cases under art. 28.1 above, the Order can be terminated due to the Contractor's fault, following the Contractor's failure to remedy its major non-performance within 15 (fifteen) days after the Customer's notice.

**28.3** The Customer can also withdraw from the Order in the event of delays in execution with respect to contractual deadlines or if it turns out, after inspections during work in progress, that the execution of the Order is not proceeding according to contractual terms and conditions and in a workmanlike manner, without any right being due to the Contractor for any reason whatsoever.

**28.4** In any case, the Customer's right to compensation for any and all damage that the Contractor may suffer as a result of the Contractor's breach remains unaffected.

**28.5** In the event of termination or withdrawal, pursuant to art. 28 herein, any accrued penalties will be forfeited to the Customer and the Contractor's obligations and guarantees related to the partial execution of the Order will remain unaffected. The Customer also has the right to proceed with the work under the Order either directly or by means of another company making use, totally or partially, but in any case at the Contractor's risk and damage, of the Worksite, materials and work already prepared. Therefore, the Contractor is obliged, at the Customer's request, to immediately deliver, in the state in which they are found, the drawings, materials (even if still at the

Contractor's and/or Sub-Contractors' or Sub-Suppliers' workshop), equipment and works pertaining to the Order. On completion of work, the Contractor must clear the entire Worksite at its care and expense.

#### **ARTICLE 29**

### **29.0 DISPUTES - PLACE OF JURISDICTION**

For any dispute relating to the Order, the Court of Livorno shall have exclusive jurisdiction.

#### **ARTICLE 30**

### **30.0 APPLICABLE LAW**

All relations between the Parties relating to or in any way connected with the Order shall be subject to Italian law. For all matters not expressly provided for in the Order or in the other Contractual Documents referred to between the Parties, the provisions of the Italian Civil Code concerning procurement contracts and in force for the other legal cases regulated herein shall apply.

#### **ARTICLE 31**

### **31.0 INDUSTRIAL PROPERTY**

- 31.1** All documents, technical drawings, calculation programmes and in general all knowledge and information made available to the Contractor by the Customer, as well as those produced, purchased or otherwise prepared by the Contractor to execute the Order, are and remain the Customer's exclusive property and must be considered as confidential. In particular, but not limited to, all process and operating *know-how*, whether already acquired by the Customer or developed during execution of the Order, will be the Customer's property. The technical documents entrusted to the Contractor and those prepared by the Contractor must be delivered to the Customer upon completion of the Order and must not be reproduced or circulated in any way.
- 31.2** If, during the execution of the Order, inventions are developed by the Contractor, its Sub-Contractors or Sub-Suppliers or by their respective employees, the Contractor must promptly inform the Customer, who reserves the right to register the relevant patents in its name or in the name of third parties designated by the Customer, granting the Contractor a free, irrevocable, non-exclusive and non-transferable licence.

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**ARTICLE 32****32.0 CONFIDENTIALITY**

- 32.1** The Contractor agrees not to disclose to third parties and not to use in any way, for reasons that are not related to the execution of the Order, the technical information on procedures, equipment, drawings, apparatus, machines and other matters that are made available to it by the Customer or that the Contractor becomes aware of during the execution of the Order.
- 32.2** The Contractor's confidentiality obligation will be binding for the entire duration of the execution of the Order and for 5 (five) years thereafter, i.e. as long as the information of which the Contractor has become aware is legitimately in the public domain. In the event of non-observance of the confidentiality obligation, the Contractor will be obliged to indemnify the Customer for all damages, none excluded, that may arise therefrom.
- 32.3** The Contractor is forbidden to carry out any advertising activities in connection with the Customer and the subject-matter of the Order without the Customer's written approval.
- 32.4** The Contractor is responsible towards the Customer for the exact observance of the confidentiality obligations under this art. 32.0 by Sub-Contractors, Sub-Suppliers and their respective employees, representatives, collaborators and consultants.

**ARTICLE 33****33.0 PATENTS OR TRADEMARKS AND RELATED LICENCES**

- 33.1** The Contractor hereby indemnifies the Customer against any liability for infringement of patents and trademarks relating to the use of materials, machinery or working methods employed. Therefore, if the Customer receives a complaint from a third party that the Supply constitutes an infringement of any intellectual property right, or constitutes unfair competition, or otherwise violates the rights of the third party in question, the Customer will notify the Contractor in writing of this situation and the Contractor will be obliged to remedy it:
- a) support any initiative indicated by the Customer in a timely manner, providing it with information and assistance;
  - b) immediately pay all damages and expenses incurred by the Customer (including any *royalties that the Customer is obliged to pay by virtue of the dispute*).
- 33.2** If a court ruling establishes that the Supply or parts of it infringe the patents of others and its partial or total use is forbidden, the Contractor will be obliged to enable the Customer to continue using the Supply or to modify it, subject to contractual requirements and *performance* parity, so that it does not infringe, and to pay any damage suffered. Otherwise, the Customer shall have the right to terminate the Order pursuant to Art. 1456 of the Italian Civil Code.

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**ARTICLE 34****34.0 DISCOVERY ANTIQUES OR OBJECTS OF VALUE**

- 34.1** Objects of historical, artistic, archaeological and palaeontological value that come to light during the execution of the work will belong by right, pursuant to art. 826 of the Italian civil code, to the non-transferable state property. The discovery of valuable objects that do not have the aforementioned characteristics will be attributed according to the criteria indicated in Art. 932 of the Italian Civil Code.
- 34.2** Upon discovery, the Contractor must promptly inform the Customer and the competent Authorities in writing and take all appropriate measures to prevent damage or removal of items. If it is necessary to suspend work to do so, the provisions of Italian law and this General Procurement Document will apply.

**ARTICLE 35****35.0 CERTIFICATIONS****35.1 VALIDITY CLAUSE OF THE ORDER**

Any Order issued by the Customer for activities to be carried out, even only partially, at the Worksite is subject to the non-existence of proceedings or measures foreseen by the laws in force on the prevention of mafia infiltration against the Contractor's representatives (i.e. the owner for sole proprietorships; partners and administrators for partnerships; legal representative and administrators for joint-stock companies; partners and administrators for cooperatives; legal representative and administrators for consortia and consortium companies). To this end, the Contractor undertakes to submit the following documentation (or its equivalent in force from time to time) to the Customer:

- a) declaration in lieu of affidavit, issued and signed (notarized signature) by each of the Contractor's representatives as identified above, drawn up in accordance with the text in Appendix 4;
- b) certificate of the Court attesting, inter alia, that the Contractor is not subject to insolvency proceedings and is fully and freely exercising its rights; and
- c) certificate of registration with the Chamber of Commerce, Industry, Crafts and Agriculture (C.C.I.A.A.) certifying, inter alia, the persons with powers of representation and the fact that the Contractor is an active company.

In addition, the Contractor undertakes to inform the Customer immediately of any change in the corporate/organisational structure that is relevant for the purposes of the above laws (new shareholders and/or directors) and to send the Customer, at the Customer's request and in the shortest possible time, the relevant updated documentation.

It is agreed that in the event of proceedings or measures pursuant to Laws no. 575/65 and 646/82 as amended and supplemented, or in the event of the Contractor's failure to comply with the obligation to submit and/or update the necessary documentation, the Order can be terminated pursuant to art. 1456 of the Italian civil code and the Contractor will have no right to claim from the Customer for any reason whatsoever, subject to the Customer's right for damage.

## 35.2 CERTIFICATION OF SUB-CONTRACTORS

Without prejudice to the conditions and prescriptions on subcontracting as set forth in the text of the Order and/or in the contractual documents, the Customer's authorisation for any Sub-Contractor to access its worksites/establishments is subject to the non-existence of any proceedings or measures provided for by the current laws on the prevention of mafia infiltration against the Sub-Contractor's representatives, as identified in art. 35.1.

To this end, it is specified that any request for authorisation to Subcontract must indicate the scope of the relevant works (type and extent in terms of man-days), be accompanied by the personal data (company name, VAT number, registered/administrative office) of the proposed Sub-Contractor and the following documents relating to the Sub-Contractor itself (or equivalent documents in force from time to time):

- a) certificate of the Court stating, inter alia, that the Sub-Contractor is not subject to insolvency proceedings and is fully and freely exercising its rights;
- b) certificate of registration with the Chamber of Commerce, Industry, Crafts and Agriculture (C.C.I.A.A.) certifying, inter alia, the persons with powers of representation and the fact that the Sub-Contractor is an active company;
- c) declaration in lieu of affidavit, issued and signed (notarized signature) by each of the representatives as identified above, drafted in accordance with the text in Appendix 4.
- d) indication of the collective labour agreements applied to the employees and the Contractor's declaration regarding compliance with the insurance and social security obligations provided for by the law and the contracts.

The Contractor also undertakes to immediately submit to the Customer any updates regarding Sub-Contractors, following changes in their company/organisational structure and/or following the Customer's periodical request, in order to check that they maintain the necessary requirements. All consequences deriving from the Customer's non-authorisation (or withdrawal of previously granted authorisation) of Sub-Contractors' access to its worksites/establishments due to non-submission of the required documents and/or refusal of prefectural certification will be the Contractor's responsibility.

The aforementioned documentation is not required for foreign Sub-Contractors, state-owned companies, Sub-Contractors already certified against work in progress at the Customer.

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**ADDENDUM****GENERAL MANDATORY RULES OF CONDUCT****FOREWORD**

The following 'General Mandatory Rules of Conduct' are supplemented in each Production Unit by rules issued by the individual Production Units.

**ARTICLE A1****A1. CONTRACTOR'S PERSONNEL****A1.1 ACCESS PERMITS**

Access by the Contractor's personnel and any Sub-Contractors to the Customer's Production Units is subject to the Customer's discretionary issue of the relevant permits. Therefore, in order to have access to any Production Unit for the execution of the work under the Order, the Contractor (or Sub-Contractor) must submit to the Supervisory Office (VIG), at least 5 (five) days prior to the start of work, the documents envisaged by the procedures in force at the Production Unit.

The Contractor's personnel must be informed by the Contractor that the access permit is valid for reaching the workplace, but that it is absolutely forbidden to enter or linger in departments and, in any case, places other than those in which the contract is carried out or directly connected with it. The Vigilance Department (VIG) shall provide the Contractor with the "service badges" (i.e. the magnetic "access permit", where the automated access control system is installed), explaining how to use them.

In addition, the Contractor must provide each employee with an identification card in accordance with the current Safety Consolidation Act.

The Contractor must promptly inform the Supervisory Office (VIG) in writing of any changes that may occur among its personnel (changes in quantity and/or qualification, etc.) and return to the Supervisory Office (VIG) the magnetic "service badges" or "access permits" of personnel who have ceased employment with the Contractor for any reason whatsoever or who no longer work at the Worksite.

The personal entry documents will specify, among other things, the duration of the permit, which must be congruent with the contractual period of performance of the work, i.e. with the duration of the existing contract with the worker concerned. Any extension of this duration in connection with the extension of the contractual period of work execution must be requested by the Contractor and authorised by the Purchase Department.

Any extension of this duration in connection with the extension of the employment contract must be notified to the Vigilance Office (VIG).

Lastly, the Contractor shall provide its personnel with work clothes and protective equipment that comply with the regulations in force and the Company provisions, as well as with the Visibility Code that may be applied in the Production Unit concerned by the contracted works.

## **A1.2 RESTRICTIONS ON CONTRACTOR'S PERSONNEL ACCESS PERMITS**

The Customer reserves the right to deny access permission to ex-employees and, in any case, to remove the Contractor's or any Sub-Contractor's personnel from the Production Unit, at its own unquestionable judgement, by written notice.

## **A1.3 MONTHLY SAFETY REPORT**

The Contractor must compile and transmit to the SPP of the Production Unit, for each calendar month, starting from the beginning of the activity, or at the end of the work, if this is of shorter duration, the "Monthly Safety Report" in accordance with the model provided for by the procedures in force at the Production Unit.

## **ARTICLE A2**

## **A2. ENVIRONMENT - INSPECTION - WORK EXECUTION**

The Contractor shall be aware, and shall make any Sub-Contractors and Sub-Suppliers aware, of the environmental conditions of the places where the work will be carried out, both with regard to the risks present therein and with regard to the prevention and emergency measures adopted therein.

In the light of the information received, the Contractor must adapt its organisation and its means in order to achieve the highest technically achievable safety levels, in compliance with the relevant laws in force. In this sense, the specific Operational Safety Plans, which constitute the risk assessment for the activity carried out, must also be adjusted.

In any case, the Contractor shall:

1. required to know the specific risks related to the environment and the activities carried out within the industrial site and with the consequent prevention and protection and emergency management measures prepared by the Customer;
2. required to know the safety organisation, procedures and regulations of the Customer;
3. plan and implement all necessary preventive and protective measures, both collective and individual, within its competence, based on its knowledge of the site where it is to work;
4. immediately report any deficiencies in the prevention systems in place within the Plant to the department head;



5. cooperate with the Customer and other companies that may be present in the same workplace, in the planning and implementation of prevention and protection measures, also in application of the provisions of the Single Document for the Evaluation of Interference Risks (DUVRI); and
6. provide the necessary information, education and training for their workers.

Further and specific information, also in terms of particular risks and specific safety procedures, may be provided directly by the departmental corporate structures.

### **ARTICLE A3**

#### **A3. CIRCULATION OF VEHICLES**

The Contractor may operate its own vehicles in the Production Unit if authorised by the Supervisory Office (VIG). For this purpose, at the Contractor's request and subject to delivery of the documents envisaged by the procedures in force at the Production Unit, the Surveillance Office (VIG) will deliver the special traffic stamps that must be applied, clearly visible, on the vehicles themselves.

For internal traffic, the regulations of the Highway Code apply, insofar as applicable and if not expressly derogated from, and any other regulations issued by the Customer.

For the handling of materials and transport of persons in the common areas of the Production Unit, the Contractor undertakes to use efficient and suitable vehicles that comply with the provisions of the Highway Code and are carefully maintained.

As far as the circulation of vehicles within the departments is concerned, this is only permitted for vehicles equipped with flashing lights, for the loading and unloading of materials and for the time strictly necessary for these activities.

Infringement of the above rules will result in the immediate withdrawal of the vehicle and/or person's internal traffic permit.

### **ARTICLE A4**

#### **A4. MACHINERY AND EQUIPMENT**

The Contractor, in order to introduce its own machinery and equipment into the Production Unit, must submit to the Vigilance Office (VIG) a packing list of the same, (using the model provided for by the procedures in force at the Production Unit.

For the exit of machinery or equipment, the Contractor must deliver to the Vigilance Office (VIG) the relevant list, drawn up in the same manner as for entry.

The Customer reserves the right to refuse the release of machinery and equipment that are not listed or, in any case, do not have the same characteristics as entered machinery and equipment.

The Contractor shall have no claim whatsoever on the machinery and equipment in its possession that are not covered by a regular document of entry into the Works; in the absence of the aforementioned documentation, said machinery and equipment shall be deemed to be the Customer's property.

The Contractor must not bring into the Works any machinery and equipment not relevant to the work at the Works. The Contractor is not authorised to construct equipment inside the Works.

The Customer reserves the right to check at any time the stocks and movements of the Contractor's machinery and equipment.

## **ARTICLE A5**

### **A5. MATERIALS SUPPLIED BY THE CONTRACTOR**

A5.1 The Contractor's (and/or its Sub-Contractors' and/or Sub-Suppliers') supply materials may be stored:

- ◆ directly to the 'footer';
- ◆ in the Service Area possibly made available by the Customer;
- ◆ delivered to the Customer on "consignment account", subject to a specific written agreement between the Contractor and the Customer, who will, at the Contractor's expense, provide for the safekeeping of the materials in a covered area at its own warehouses.

In any case, the materials must indicate:

- ◆ the number and date of the Order; and
- ◆ the destination.

On the other hand, in the case of materials that are not to be used in the execution of the work that is the object of the Order, but for which direct delivery to the Customer is contractually envisaged, the relevant delivery notes must be addressed to the Customer.

Each individual bill may contain only one type of destination; bills for materials must be issued separately from those for equipment and means of work.

Any charges resulting from the shipment of materials in a manner deviating from the above shall be borne by the Contractor.

A5.2 On completion of the work, the Contractor must deliver to the Contract Manager the materials that, by contract, are intended for the Customer, among which must be included all residual common use materials (bolts, fittings, valves, cables, etc.).

The Contract Manager shall issue the entry voucher to the warehouse or destination to scrap, according to the procedures in force in the Production Unit.

- A5.3 At the end of the work, the Contractor may, subject to the approval of the Contract Manager, take out of the Production Unit only those specific, individually recognisable materials with a serial number or "to drawing" of its own supply, which are left over.

For the exit from the Works of residual materials, the Contractor must compile a list, complete and detailed as already done for the entry.

The list must be signed by the Contract Manager and handed over to the Supervisory Office (VIG) on the way out.

- A5.4 The introduction into the Works of substances, preparations or materials that are classified as hazardous under current legislation is subject to the Contractor's fulfilment of all legal obligations.

The introduction of radioactive substances, radiogenic equipment and explosive agents is subject to prior authorisation by the SPP.

#### **ARTICLE A6**

### **A6. MATERIALS SUPPLIED BY THE CUSTOMER**

The materials supplied by the Customer, only when clearly provided for in the Order, will be collected by the Contractor, at its care and expense, at the warehouses and depots of the Production Unit, with special "picking vouchers" issued by the Contract Manager.

The Contractor must record in a special register the materials taken against each Order, noting the details of the withdrawal vouchers and the quantities used.

On completion of the work, it must notify the Contract Manager of the surplus and arrange for its return.

If the Contractor wishes to be provided with materials of the Customer that are not envisaged in the Order or with services of the Customer that are not envisaged in the Order (water, compressed air, methane, etc.), the Contractor must submit a specific written request.

The request may be accepted at the Customer's sole discretion, since the Customer is not obliged, after the contract has already been concluded, to make materials and services available to the Contractor.

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**ARTICLE A7****A7. MISCELLANEOUS ON MATERIALS**

The Customer reserves the right to check, at any time, the stocks and movements of materials supplied by it and by the Contractor.

The Contractor shall provide the supervisory bodies with the necessary assistance during checks and inspections.

Scrap or other usable materials resulting from the demolition of plants and secondary raw materials remain the exclusive property of the Customer and must be stored in the areas indicated by the Contract Manager, unless otherwise agreed in the contract.

Materials from excavations and demolitions that are to be disposed of at authorised dumps will be analysed by the Contractor from time to time and, depending on their nature, sent to a suitable disposal plant.

**ARTICLE A8****A8. WORK SAFETY REGULATIONS****A8.1 Knowledge of the Italian language**

The Contractor guarantees that it has verified that all personnel, whether directly employed by it or working under subcontracts, have knowledge of the Italian language.

**A8.2 Information, education and training of personnel**

Every worker in the Production Unit must have the necessary basic information about the risks and the resulting prevention and protection measures:

1. to the specificities of their work activities;
2. to the specificities of the environment in which it is called upon to operate.

With regard to the specificity of its work activities, each company or self-employed worker must provide the necessary activities, in accordance with the provisions of the regulations in force.

However, solely for the purpose of supplementing, and with the aim of achieving ever higher levels of security, the Customer organises:

1. compulsory training courses for all workers on general plant risks and specific risks in the different production areas, the prevention measures adopted and emergency management;

2. compulsory training courses for all supervisors dedicated to the in-depth study of Plant procedures and/or regulations, with analysis of accidents, incidents and *near accidents* related to their inattention.

Attendance at these courses, which must be repeated annually, is compulsory and a prerequisite for entry into the Establishment.

#### A8.3 Personal protective equipment

Third party employers must provide their personnel with all Personal Protective Equipment (PPE) necessary to protect them from the specific and residual risks present in their specific work activities and in the activities of steel plants, including those with an integral cycle. The personnel must also be adequately trained in the use of the aforementioned devices and trained with respect to the obligation to use them whenever necessary.

- A8.4 The Customer shall keep at the Contractor's disposal the Risk Assessment Document drawn up pursuant to Legislative Decree 81/2008 in force, containing the identification, analysis and assessment of risks, the consequent execution procedures, the safety provisions and the equipment useful to ensure compliance with the accident prevention and health protection regulations.

- A8.5 Before work commences, the Contractor must draw up its own Operational Safety Plan, which constitutes the risk assessment for the contracted activity, taking into account the information on the specific risks existing in the environment where the work is carried out and on the prevention and emergency measures already adopted by the Customer, as well as the information contained in the DUVRI.

The aforementioned Operational Safety Plan must be prepared in accordance with the current Legislative Decree 81/2008.

In the case of Sub-Contracts, the Contractor shall, in particular, take care of the coordination of the activities of its Sub-Contractors and ensure that these activities are compatible with each other, avoiding the risks arising from overlapping between the activities of the different companies.

In this context, it is the Contractor's specific obligation to ensure the transmission of any instructions received from the Customer to the Sub-Contractors.

- A8.6 The Contractor must deliver a copy of the Operational Safety Plan to the Customer's Prevention and Protection Service.

- A8.7 The Contractor will be the sole responsible towards the Customer for the fulfilment of all obligations in the matter of safety and hygiene at work and therefore acknowledges, as of now, in the event of non-compliance with any of the above obligations, the Customer's right to terminate the Order pursuant to art. 1456 of the Italian civil code, as provided for in this General Procurement Document, and to claim damages.

- A8.8 The Contractor shall be responsible for the functionality and use of the materials and equipment in any case used by it.

- A8.9 The Customer, in implementation of its obligation to coordinate protection and prevention measures, can organise specific meetings or inspections that the Contractor and its Sub-Contractors must attend. Non-participation or non-compliance with the decisions taken at meetings will entitle the Customer to suspend work.
- A8.10 The Contractor, for the purpose of ascertaining its technical-professional suitability, must submit the self-certification pursuant to Legislative Decree 81/2008, which will be attached to the Contract.

The Contractor must also deliver to the Customer the Single Document of Contributory Regularity (DURC). In the event that the duration of the Contract exceeds the period of validity of the DURC, the latter must be updated every 3 (three) months. Failure to deliver the DURC on the quarterly due dates will result in the suspension of the work activity.

## **ARTICLE A9**

### **A9. CONCLUSIONS**

A9.1 In the event of conflict or doubts as to the clauses of this contract, subject to art. 5.4 above concerning contractual documents, and notwithstanding art. 1370 of the civil code, they cannot be interpreted against the Customer's interest and/or to its detriment, given the contractual good faith applied by the Customer in the drafting and application of this document. In all other cases that are not expressly provided for, the provisions of the civil code shall apply.

Customer

Contractor